

Court orders Bolivia to reform sexual violence laws

Elliott Hodgkin
09 February 2023



Credit: Shutterstock/Devin Beaulieu

The Inter-American Court of Human Rights (IACHR) has ordered Bolivia to overhaul parts of its legislation in an effort to end systemic sexual violence and discrimination against sexual abuse survivors. Latin Lawyer spoke to the Hughes Hubbard & Reed LLP lawyers that worked on the case about its significance for Bolivia and the rest of Latin America.

On 19 January, the IACHR handed down its decision in the *Brisa de Angulo Losada v Bolivia* case. The court found that the state had not sufficiently investigated or conducted criminal proceedings into a case of sexual abuse against adolescent Brisa de Angulo Losada over 20 years ago. By failing to conduct a thorough investigation, Bolivia violated de Angulo's rights to personal integrity and access to justice without age- or gender-based discrimination, the IACHR ruled.

De Angulo was represented by a team of lawyers from US law firm Hughes Hubbard, including partners Diego Durán de la Vega and Elizabeth Solander, and associates Alexander Bedrosyan, Alyssa Johnson and Shayda Vance. They provided pro bono legal advice on the case since 2015. Bárbara Jiménez-Santiago, a human rights lawyer at Equality Now – an international advocacy group that fights for women and girls' human rights – also provided key legal advice.

The IACHR's decision last month also came with a lengthy list of reparations that require Bolivia to improve its treatment of sexual violence survivors. The state will have to modernise its criteria for sexual abuse offences against minors, which will include defining incestuous sexual violence as a separate crime. It will also have to introduce protocols that appropriately investigate such cases and ensure that survivors receive appropriate care and safeguarding. Among other things, this will entail training staff in the justice system and forensic medical examiners.

The reparations further require Bolivia to roll out educational programmes aimed at preventing sexual violence in society and empowering minors to identify and report such abuse.

Latin Lawyer spoke to de Angulo's legal representatives, as well as other Bolivian lawyers, to find out how justice for one survivor of sexual abuse will have a global impact.

Where it started

Between 2001 and 2002, 16-year-old de Angulo, who is originally from Colombia, was repeatedly raped by a male family member. The abuse took place over an eight-month period at her family home in the central Bolivian city of Cochabamba. De Angulo – now a trained lawyer, psychologist and founder of A Breeze of Hope Foundation – tried three times to bring her abuser

to justice before the Bolivian courts, but he was never convicted.

Her situation is far from uncommon in Bolivia, where it is estimated that one in three girls are sexually abused before turning 18.

Work begins

De Angulo's determination never waned and she finally filed her case at the Inter-American Commission on Human Rights in 2010 while studying in the US. To get the case going, she needed lawyers and turned to Equality Now in 2014.

A year later, the Hughes Hubbard team joined forces with de Angulo and Equality Now after one of the firm's former attorneys – Scott Christensen – learned about her situation. The lawyers at Hughes Hubbard first embarked on an arduous task of gathering evidence of crimes that had taken place 14 years prior. They also attended numerous thematic hearings at the IACHR to research human rights developments in the region and design their case strategy.

Central to the work was honing the list of reparations that de Angulo had included in her initial filing at the commission, which called for legal changes and training of officials.

"We basically wrote our wish list when we were working on this," says Durán of the reparations, which were presented at a hearing at the IACHR in May last year.

"We were cautiously optimistic," he adds, "as the court rarely goes as far as telling a state what to do with its internal law, especially its criminal law".

The IACHR's jurisdiction is authorised by the American Convention on Human Rights, which has been adopted by 25 Latin American and Caribbean countries. Despite its broad coverage, the court is highly selective and takes on an average of just 20 cases a year.

One reparation, however, that was glaringly absent from the list was financial compensation for de Angulo. In a break from convention, particularly in abuse cases, de Angulo told the team of lawyers that she did not want to make an individual claim for damages.

"It was very difficult to hear as a human rights lawyer, as we want the [Bolivian] state to apologise and make amends," says Jiménez-Santiago from Equality Now. But Durán recalls de Angulo telling him: "I want the court focusing on the important stuff, which is: how do we avoid this from happening again?"

Her choice had a powerful effect on the court's analysis of the case, with Judge Rodrigo Mudrovitsch commending de Angulo's "moving detachment" from her own situation in his [concurring opinion](#).

Conceptual issues

While the team approached the IACHR with cautious optimism, there were concerns over the hostile stance of Bolivian law towards sexual abuse survivors and the psychological toll this could take on de Angulo.

"Despite leadership changes in Bolivia over the years, it's clear that women's rights have never been a priority," says Jiménez-Santiago.

Lindsay Sykes, a partner at local firm PPO Abogados, points out that the Bolivian government has made some attempts to improve the state's treatment of women. This includes the Comprehensive Law to Guarantee a Life Free of Violence to Women of 2013 and the Law for the Protection of Victims of Femicide, Infanticide and Rape of Infants, Girls, Boys or Adolescents, which was enacted last year.

"But a case like [de Angulo's] shows that this is obviously not an easy thing to eradicate," Sykes adds.

A key obstacle is that the statutory definition of "rape" is not universal, although the internationally accepted standard applies to any non-consensual sexual conduct. However, Bolivian law determines that sexual abuse occurs as a result of force and threats. According to a study conducted by Equality Now in support of de Angulo's case, this is also the situation in 22 other countries in Central and South America.

There is also the concept of *estupro*, which is a separate crime that defines the rape of a minor above the age of 14 – the legal age of consent in Bolivia. Bolivian courts hand out significantly less severe punishments for *estupro*, largely because the law claims that the minor gives their consent through seduction or deceit.

De Angulo regularly faced these attitudes when dealing with Bolivia's justice system. During a trial in 2003, for example, the

Fourth Sentencing Court of Cochabamba noted its doubts that de Angulo would have been intimidated by her abuser **given her "strong personality"**.

Hughes Hubbard associate Vance also details how the Bolivian courts called to examine de Angulo to see if she "fit the profile" of a rape survivor. But the lawyer explains that this type of evidence was key in proving to the IACHR the extent of Bolivia's deep-seated prejudice towards sexual abuse survivors. For that reason, Vance says it was essential for the list of reparations to demand the incorporation of *estupro* into the statutory definition of rape.

Global impact

The Hughes Hubbard and Equality Now team admit they were shocked when the IACHR ruled not only that Bolivia was responsible for failing to protect de Angulo's human rights, but that the country would have to implement almost every reparation that they had demanded.

"Even though this is a regional human rights body, human rights rulings have a way of becoming universal, so we hope that this decision creates change in Bolivia and that it will have a ripple effect in the Americas," says Hughes Hubbard associate Johnson.

"This has created citable inter-American human rights jurisprudence – that's a very powerful advocacy tool," adds Durán.

The IACHR has also said that it will hold a hearing a year from its ruling to ensure that Bolivia is adequately following up with the reparations. Through her foundation, de Angulo wants to play an integral role in helping the government and society reach these goals.

"This is a unique opportunity for Bolivia because Brisa – as a survivor, a legal expert and someone who has been advocating in this space in Bolivia for 20 years – knows exactly what needs to change," says Solander.

While advocacy work will play a valuable role in changing the landscape, Santiago-Jiménez emphasises that strong pro bono programmes will be key to ensuring survivors get their day in court.

"The system has a lot of delays and is very bureaucratic, which can be extremely discouraging for someone who's trying to file this kind of claim," adds PPO's Sykes. "So, this gives Bolivian law firms a good opportunity to step up and make an impact."

Latin Lawyer contacted the Office of the Attorney General of Bolivia for comment but did not hear back before publishing.

Counsel to Brisa de Angulo

Hughes Hubbard & Reed LLP

Partners Diego Durán de la Vega and Elizabeth Solander, and associates Alexander Bedrosyan, Alyssa Johnson and Shayda Vance in New York

Equality Now

Bárbara Jiménez-Santiago

The Hughes Hubbard team would also like to credit the following for their involvement:

Rosa Celorio

Scott Christensen

Shelby Quast

Beth Stephen

Elliott Hodgkin

Author | News Reporter

elliott.hodgkin@latinlawyer.com

Latin Lawyer

