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**FINAL WRITTEN ARGUMENTS OF THE INTER-AMERICAN
COMMISSION ON HUMAN RIGHTS ON**

MERITS AND REPARATIONS

IN THE CASE OF:

HILAIRE, CONSTANTINE AND BENJAMIN *ET AL.*

AGAINST

THE REPUBLIC OF TRINIDAD AND TOBAGO

I. INTRODUCTION

These final written arguments are submitted to the Inter-American Court of Human Rights (hereinafter the "Honorable Court") on behalf of the Inter-American Commission on Human Rights (hereinafter the "Commission") in the Case of Hilaire, Constantine and Benjamin *et al.* against the Republic of Trinidad and Tobago (hereinafter the "State" or "Trinidad and Tobago"). They respond to the February 21, 2002 communication of the Honorable Court, CDH-11.816/089, received by the Commission on the same date, informing the Commission of the instructions by the President of the Honorable Court that the Commission submit its final written arguments in respect of the Case of Hilaire, Constantine and Benjamin *et al.* v. Trinidad and Tobago within 30 days of receipt of the Court's communication, pursuant to Operative paragraph 5 of the January 18, 2002 Order issued by the President of the Honorable Court.

In the present case, the Commission claims that Trinidad and Tobago has failed to respect the rights and freedoms of George Constantine, Wenceslaus James, Haniff Hilaire, Denny Baptiste, Clarence Charles, Keiron Thomas, Anthony Garcia, Wilson Prince, Darrin Roger Thomas, Mervyn Edmund, Samuel Winchester, Rodney Davis, Gangadeen Tahaloo, Noel Seepersad, Alfred Frederick, Natasha De Leon, Vijay Mungroo, Phillip Chotalal, Naresh Boodram, Joey Ramiah, Nigel Mark, Wilberforce Bernard, Steve Mungroo, Krishendath Seepersad, Allan Phillip, Narine Sooklal, Amir Mowlah, Mervyn Parris, Francis Mansingh, Wayne Matthews, Martin Reid and Peter Benjamin (hereinafter "the victims"), recognized under the American Convention on Human Rights (hereinafter the "American Convention" or the "Convention"). The victims were sentenced to death in Trinidad and Tobago. Their sentences have not been carried out yet because of this contentious proceeding and because of this Honorable Court's order for provisional measures

encompassing these victims. In one case, however, a victim, Joey Ramiah, was executed in 1999 in breach of an order from this Honorable Court. In another case, a victim, Wayne Matthews, had his sentence commuted.

In its Applications, in its Memorial on Reparations, and in its oral arguments before the Honorable Court, the Commission has raised six principal claims in connection with the criminal proceedings of some or all of the victims. These claims, particularized below, relate to the mandatory nature of the death penalty, the process for granting amnesty, pardon or commutation of sentence in Trinidad and Tobago, the delays in certain victims' criminal proceedings, the deficiencies in certain victims' treatment and conditions of detention, the due process violations in the some of the victims' pre-trial, trial and appeal processes, and the denial to certain victims of legal aid to effectively pursue domestic remedies for violations of their rights. As a consequence of these violations, the Commission has argued that several forms of reparations are appropriate and necessary in some or all of the cases, including commutation of sentence, referral by the President of Trinidad and Tobago of certain cases to the Court of Appeal of Trinidad and Tobago to review the safety of the victim's convictions in accordance with the requirements of Article 8 of the Convention, compensation, the adoption of certain legislative measures, and reimbursement for the expenses reasonably incurred by the victims' representatives.

The Commission notes that in the course of this proceeding, the Republic of Trinidad and Tobago has failed to present any evidence or arguments to contest the allegations of the Commission or the victims' representatives on the merits or on reparations. As a consequence, the Commission invites the Honorable Court to, where appropriate, invoke Rule 37(2) of its Rules of Procedure whereby, in circumstances when a respondent does not answer a claim by stating whether it accepts the facts and claims or whether it contradicts them, the Court may consider accepted those facts that have not been expressly denied and the claims that have not been expressly contested.

The Commission also wishes to confirm that it has received the extensive final written submissions of the representatives of the victims dated March 22, 2002 and lodged with the Honorable Court in this proceeding, and that the Commission endorses and adopts those submissions, generally and as specifically referred to in the following allegations.

II. CLAIMS ON THE MERITS

A. Mandatory Nature of the Death Penalty

The most significant claim raised in this matter pertains to the mandatory nature of the death sentences imposed upon each of the victims concerned, which has imperiled their most valuable right, their right to life.

The Commission submits that the evidence adduced before the Honorable Court, as recounted by the victims' representatives in their final written allegations,¹ has established that once each of the 32 victims was found guilty of the crime of murder, the law in Trinidad and Tobago imposed the death penalty automatically, without any judicial determination of whether the death penalty was a permissible or appropriate punishment, in light of such factors as the victim's character or record, the nature or gravity of the particular offense, or the subjective

¹ See Final Written Submissions of the Victims' Representatives, paras. 2 to 4.20.

factors which may have motivated the victim's conduct. On this basis, the Commission contends that the process to which the victims have been subjected would deprive them of their most fundamental right, their right to life, without any consideration of their personal circumstances or those of their offenses such as the victim's mental capacity or the nature of their participation in the crime. The pertinence of such circumstances to the proper evaluation of criminal punishment was in turn well illustrated through the testimony of Dr. Nigel Eastman as well as the written expert report of Ms. Scharlotte Holdman dated January 11, 2002 and lodged with the Honorable Court by communication dated January 25, 2002. It is the Commission's submission that imposing the death penalty in this manner is both inhumane and unfair, results in the arbitrary deprivation of life and, as such, constitutes a violation of Articles 4(1), 5(1) and (2) and 8(1) of the American Convention.

In particular, the evidence has demonstrated that the use of the mandatory death penalty by Trinidad and Tobago results in the imposition of death sentences on all persons convicted of murder, despite the fact that it is well-recognized that the crime of murder can be perpetrated in the context of a wide variety of mitigating and aggravating circumstances, with varying degrees of gravity and culpability.² This process therefore eliminates a reasoned basis for sentencing a particular individual to death, and fails to allow for rational and proportionate connections between individuals offenders, their offenses, and the punishment imposed on them. Prevention of arbitrariness requires a reasoned and judicially supervised sentencing process, which allows for the differentiation of each specific case. Implementing the death penalty absent such measures therefore results in the arbitrary deprivation of life, within the ordinary meaning of that term and in the context of the object and purpose of Article 4 of the American Convention.

Similarly, by reason of its compulsory nature, mandatory sentencing for the death penalty precludes any effective review by a higher court as to the propriety of a sentence of death in the circumstances of a particular case, and therefore cannot be reconciled with the fundamental principle of due process under Articles 4 and 8 of the American Convention that requires strict observance *and review* of the procedural requirements governing the imposition or application of the death penalty.³

In addition, the Commission has submitted that, by depriving a person of his or her right to life based solely upon the category of crime for which the offender is found guilty and without regard for the offender's personal circumstances or the circumstances of the particular offense, the mandatory death penalty violates the essential respect for the dignity of the individual that underlies the American Convention generally and Article 5 of the Convention in particular. On this basis, it is contended that sentencing the petitioners to death in this manner violated their rights to humane treatment under Articles 5(1) and 5(2) of the Convention.

Finally, the evidence relating to the compulsory manner in which death sentences were imposed upon the victims in these cases makes clear that an offender is deprived of any opportunity to make representations or present evidence as to whether the death penalty is a permissible or appropriate form of punishment and precludes any effective review by a higher court of a decision to sentence an individual to death. Accordingly, mandatory sentencing for the death penalty cannot be reconciled with the terms of Article 8 of the American Convention and its underlying principles, which require both a chance to assert individual circumstances

² See Commission's Application In *Constantine et al.*, pp. 72-73; Commission's Application In *Benjamin et al.*, pp. 50-51.

³ I/A Court H.R., Advisory Opinion OC-3/83 of September 8, 1983 "Restrictions to the Death Penalty (Articles 4(2) and 4(4) of the American Convention on Human Rights)", Ser. A No. 3 (1983), para. 55.

pertinent to their criminal culpability and punishment, as well as a meaningful review through an appeal of their conviction and sentence.

As was urged during the merits hearing before the Honorable Court in this matter, the position advocated by the Commission as to the incompatibility of the mandatory death penalty with fundamental human rights protections is consistent with the determinations of other international and domestic supervisory bodies that have considered this question, including most recently the Judicial Committee of the Privy Council in the case *Reyes v The Queen*.⁴ The Commission also respectfully submits that a finding to the effect that the mandatory death penalty violates the Convention on the grounds presented would be entirely consistent with this Honorable Court's previous determinations on the death penalty. According to this jurisprudence, the imposition of the death penalty is subject to the most rigorous enforcement of judicial guarantees and procedural requirements whose compliance must be strictly observed and reviewed.⁵ Also according to the Court, certain considerations involving the person of the defendant which may bar the imposition or application of the death penalty must be taken into account.⁶ It is plain from the evidence adduced that the death penalty in Trinidad and Tobago, by reason of its mandatory nature, cannot be reconciled with these minimum prerequisites established by the Court for the imposition of capital punishment.

2. Prerogative of Mercy

The Commission contends that the procedure in the Republic of Trinidad and Tobago for granting amnesties, pardons or commutation of sentence fails to conform to the requirements of Article 4(6) of the American Convention and thereby violated each of the 32 victims' rights under this provision. According to the testimonial and documentary evidence presented, as detailed by the victim's representatives in their final written observations,⁷ a committee of the Executive is charged with considering and making recommendations to the government as to whether an offender sentenced to death ought to benefit from the President's discretionary power of pardon. According to the domestic law applied in the circumstances of the present cases, the victims had no right to apply for amnesty, pardon or commutation of sentence, to be informed of the time when the Committee will meet to discuss the offender's case, to make oral or written submissions to the Committee, or to receive a decision from the Committee a reasonable period of time prior to his or her execution.

The Commission argues that the exercise of the Prerogative of Mercy in this manner is not consistent with the requirements of Article 4(6) of the Convention which, when read together with the State's obligations under Article 1(1), encompasses certain minimum procedural guarantees for condemned prisoners, in order for the right to be effectively respected and enjoyed. These protections include the right on the part of condemned prisoners to apply for amnesty, pardon or commutation of sentence, to be informed of when the competent authority will consider the offender's case, to make representations, in person or by counsel, to the competent authority, and to receive a decision from that authority within a

⁴ *Reyes v. The Queen* [2002] UKPC 11, Decision of 11 March 2002 (Judicial Committee of the Privy Council).

⁵ See Advisory Opinion OC-3/83, *supra*, paras. 55-58; I/A Court H.R., Advisory Opinion OC-16/99 of October 1, 1999 "The Right to Information on Consular Assistance in the Framework of the Guarantees of Due Process of Law", Ser. A No. 16 (1999), para. 136.

⁶ Advisory Opinion OC-3/83, *supra*, para. 55.

⁷ See Final Written Submissions of the Victims' Representatives, paras. 5-5.18.

reasonable period of time prior to his or her execution. The evidence establishes that the victims in the present cases have been deprived of the benefits of these minimal protections and accordingly have been the victims of violations of Article 4(6) of the Convention.

3. Trial within a Reasonable Time

In the Commission's submission, the evidence before the Honorable Court demonstrates that Trinidad and Tobago is responsible for several violations of the American Convention in relation to the delay in bringing the victims in 24 of the cases presently before the Court to trial on the murder charges against them. As particularized by the victims' representatives in their final written submissions,⁶ the evidence presented in this proceeding has indicated that each of the cases in which the issue of delay has been raised involved a cumulative pre-trial delay of more than two years, that none of the cases has been disposed of between arrest and final appeal in less than four years, and that some of the victims were held in pre-trial detention for close to seven years and experienced delays of almost 12 years between their arrests and their final appeals. The Republic of Trinidad and Tobago has offered no explanation or justification to the Honorable Court for these delays, and indeed the evidence, including the testimony of Mr. Desmond Allum, S.C., confirms the absence of any domestic law in Trinidad and Tobago prohibiting such delays in criminal proceedings.⁹ Also significant in this regard is Mr. Desmond's evidence indicating that pre-trial release is prohibited under Trinidad and Tobago law in cases involving murder.

It is the Commission's contention that this practice in Trinidad and Tobago is inconsistent with the right to be tried within a reasonable time under Articles 7(5) and 8(1) of the American Convention, as interpreted in inter-American jurisprudence, including decisions of this Honorable Court.¹⁰ These circumstances also disclose a violation of Article 2 of the Convention, to the extent that Trinidad and Tobago has failed to take the legislative or other measures necessary to give effect under its domestic law to the right to be tried within a reasonable time under Articles 7(5) and 8(1) of the Convention.

4. Conditions of Detention

The evidence presented before the Honorable Court, which, as reviewed by the victims' representatives in their final written submissions,¹¹ included affidavits by the various victims, the oral testimony and written report of Ms. Gaiety Pargass and the expert report of Baroness Vivien Stern and Dr. Andrew Coyle, has, in the Commission's submission, established manifest violations of the rights of the victims to humane treatment under Article 5 of the American Convention. In particular, the evidence has demonstrated that during their pre-trial detention, the victims concerned suffered serious overcrowding and were often forced to sleep standing up or on the floor. During both their pre-trial and post-conviction incarceration, the victims were held in cells for 23 or more hours per day with no integral sanitation, no natural or adequate light, and poor ventilation. During their post-conviction detention, the victims have been held in solitary confinement, have been given outings for

⁶ See Final Written Submissions of the Victims' Representatives, paras. 6-6.20.

⁹ See also Commission's Memorial on Reparations, p. 17; Commission's Application in *Constantine et al.*, Exh. 34; Commission's Application in *Benjamin et al.*, Exh. 18.

¹⁰ See e.g. I/A Court H.R., *Suarez Rosero Case*, Judgment of 12 November 1997, Ser. C No. 35, paras. 70-72.

¹¹ See Final Written Submissions of the Victims' Representatives, paras. 7-7.6.

fresh air and exercise infrequently, have been denied educational and recreational facilities, and have been provided with inadequate medical treatment. Moreover, certain victims have suffered violence at the hands of prison officials. It is also highly pertinent that many of the victims have been required to endure these conditions for prolonged periods of time pending the final determinations of their criminal proceedings.

In the Commission's submission, these conditions of detention, when considered in light of the lengthy periods of time for which these victims have been held in pre-trial and post-conviction detention, fail to satisfy the standard of humane treatment prescribed under the American Convention. This position is supported by the standards articulated in decisions of this Honorable Court¹² as well as other international governmental supervisory bodies.¹³ On this basis, the Commission submits that Trinidad and Tobago has failed in its obligation to guarantee to the victims their right to live in conditions that are compatible with their personal dignity and, in all of the circumstances, has subjected the victims to cruel, inhuman or degrading punishment or treatment, contrary to Articles 5(1) and 5(2) of the American Convention.

5. Right to a Fair Trial

The Commission and the victims' representatives have contended and have presented evidence¹⁴ to the effect that, in the cases of Martin Reid, Peter Benjamin, Keiron Thomas, and Narine Sooklal, the State is responsible for violations of four victims' rights to due process under Article 8 of the American Convention, in connection with the trial or appeal stages of the proceedings against them. The Commission refers to and relies upon the particulars of its allegations in this regard as set out in its applications and brief on reparations in this case.¹⁵

Of particular significance to the reparations requested in this matter, the Commission has alleged that the criminal trials of Martin Reid and Peter Benjamin were occasioned by significant due process violations that give rise to serious questions as to the soundness of their convictions.¹⁶ Specifically, the Commission contends that the Republic of Trinidad and Tobago is responsible for violating Mr. Reid's right under Article 8(2)(c) of the Convention to adequate time and means for the preparation of his defense by failing to disclose a highly probative witness statement to the victim prior to or during his trial. The Commission also argues that the Republic of Trinidad and Tobago is responsible for violating Mr. Benjamin's right to a fair trial under Article 8(1) of the Convention by failing to provide him with an adequate opportunity to challenge his conviction based upon highly probative and potentially exculpatory ballistics evidence.

¹² See e.g. *Suarez Rosero Case*, *supra*, para. 98.

¹³ See Commission's Memorial on Reparations, p. 16.

¹⁴ See Final Written Submissions of the Victims' Representatives, paras. 8-8.3.

¹⁵ See Commission's Application in *Constantine et al.*, pp. 109-11; Commission's Application in *Benjamin et al.*, pp. 78-80.

¹⁶ Commission's Application in *Constantine et al.*, pp. 98-99, Exh. 11(a), (e), (d), (g); Commission's Application in *Benjamin et al.*, pp. 79-80, Exh. 1(a), (e), (d).

6. Access to Judicial Protection

The Commission and the victims' representatives have submitted that the Republic of Trinidad and Tobago is responsible for violations of the rights of the victims in 11 cases presently before the Court under Articles 8(1) and 25 of the American Convention by failing to make legal aid effectively available to the victims to pursue Constitutional Motions in the domestic courts in connection with the criminal proceedings against them. The evidence presented in support of the applications in these matters¹⁷ has demonstrated that these victims are indigent and therefore lack the resources to retain legal representation by their own means. In addition, the evidence indicates that, while legal aid appears to be potentially available in Trinidad and Tobago to pursue Constitutional Motions as a matter of law, as a matter of fact legal aid is rarely, if ever, granted to condemned prisoners to pursue Constitutional Motions in death penalty cases. The record also reveals that in some circumstances, applications for legal aid have not been responded to, and that the timing of warrants of execution provides a further obstacle to effective access to Constitutional Motions, whereby the State reads warrants of execution a few days prior to the execution.

The Commission has submitted that in the circumstances of the present cases, particularly in light of their nature as capital matters, the State is obliged to make legal aid available to the victims to pursue Constitutional Motions, in fact as well as in law. This obligation flows from both Article 8 and Article 25 of the American Convention which, when read together with the obligation in Article 1(1), must be understood as the right of every individual to go to a tribunal when any of his rights have been violated, to obtain a judicial investigation conducted by a competent, impartial and independent tribunal that will establish whether or not a violation has taken place and will set, when appropriate, adequate compensation.

By failing to make legal aid available to the victims to pursue Constitutional Motions in relation to their criminal proceedings, the State has effectively barred recourse for the victims to a competent court or tribunal in Trinidad and Tobago for protection against acts that potentially violate their fundamental rights under Trinidad and Tobago's Constitution and under the Convention. Moreover, in capital cases, where Constitutional Motions relate to the procedures and conditions through which the death penalty has been imposed and therefore relate directly to the right to life and to humane treatment of a defendant, the right to judicial protection of these most fundamental rights must be guaranteed through the effective provision of legal aid for Constitutional Motions. The State cannot be said to have afforded such protection to the victims in the cases noted above, and as a consequence has failed to fulfil its obligations under Articles 8(1) and 25 of the Convention as regards the victims in these cases.

III. REPARATIONS

With regard to the reparations sought in the present proceeding, the Commission reiterates and relies upon the detailed submissions contained in its memorial on reparations lodged with the Honorable Court in December 2001. In summary, in accordance with Article 63(1) of the American Convention, the Commission has respectfully requested that the Honorable Court declare the international responsibility of the Republic of Trinidad and

¹⁷ See Commission Application in *Constantine et al.*, p. 112 and Exh. 41, 42; Commission's Application in *Benjamin et al.*, pp. 81-82, Exh. 25, 26.

Tobago for the violations of the American Convention, as outlined above, in respect of some or all of the victims in the present cases, namely:

1. violating the rights of the 32 victims in Case Nos. 11.787 (George Constantine), 11.814 (Wenceslaus James), 11.816 (Haniff Hilaire), 11.840 (Denny Baptiste), 11.851 (Clarence Charles), 11.853 (Keiron Thomas), 11.855 (Anthony Garcia), 12.005 (Wilson Prince), 12.021 (Darin Roger Thomas), 12.042 (Mervyn Edmund), 12.043 (Samuel Winchester), 12.052 (Martin Reid), 12.072 (Rodney Davis), 12.073 (Gangadeen Tahaloo), 12.075 (Noel Seepersad), 12.076 (Wayne Matthews), 12.082 (Alfred Frederick), 12.093 (Natasha De Leon), 12.111 (Vijay Mungroo), 12.112 (Phillip Chotalal), 12.129 (Naresh Boodram and Joey Ramiah), 12.137 (Nigel Mark), 12.140 (Wilberforce Bernard), 12.141 (Steve Mungroo), 12.148 (Peter Benjamin), 12.149 (Krishendath Seepersad), 12.151 (Allan Phillip), 12.152 (Narine Sooklal), 12.153 (Amir Mowlah), 12.156 (Mervyn Parris) and 12.157 (Francis Mansingh) under Articles 4(1), 5(1), 5(2) and 8(1) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by sentencing these victims to mandatory death penalties.
2. further violating the rights of victim Joey Ramiah in Case No. 12.129 (Naresh Boodram and Joey Ramiah) under Articles 4(1), 5(1) and 5(2) of the Convention, in conjunction with a violation of Article 1(1) of the Convention, by executing Mr. Ramiah pursuant to a mandatory death sentence and while his complaint was pending before the Inter-American human rights system.
3. violating the rights of the 32 victims in Case Nos. 11.787 (George Constantine), 11.814 (Wenceslaus James), 11.816 (Haniff Hilaire), 11.840 (Denny Baptiste), 11.851 (Clarence Charles), 11.853 (Keiron Thomas), 11.855 (Anthony Garcia), 12.005 (Wilson Prince), 12.021 (Darin Roger Thomas), 12.042 (Mervyn Edmund), 12.043 (Samuel Winchester), 12.052 (Martin Reid), 12.072 (Rodney Davis), 12.073 (Gangadeen Tahaloo), 12.075 (Noel Seepersad), 12.076 (Wayne Matthews), 12.082 (Alfred Frederick), 12.093 (Natasha De Leon), 12.111 (Vijay Mungroo), 12.112 (Phillip Chotalal), 12.129 (Naresh Boodram and Joey Ramiah), 12.137 (Nigel Mark), 12.140 (Wilberforce Bernard), 12.141 (Steve Mungroo), 12.148 (Peter Benjamin), 12.149 (Krishendath Seepersad), 12.151 (Allan Phillip), 12.152 (Narine Sooklal), 12.153 (Amir Mowlah), 12.156 (Mervyn Parris) and 12.157 (Francis Mansingh) under Article 4(6) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by failing to provide these victims with an effective right to apply for amnesty, pardon or commutation of sentence.
4. violating the rights of the 24 victims in Case Nos. 11.787 (George Constantine), 11.816 (Haniff Hilaire), 11.840 (Denny Baptiste), 11.851 (Clarence Charles), 12.005 (Wilson Prince), 12.021 (Darin Roger Thomas), 12.042 (Mervyn Edmund), 12.072 (Rodney Davis), 12.073 (Gangadeen Tahaloo), 12.075 (Noel Seepersad), 12.076 (Wayne Matthews), 12.082 (Alfred Frederick), 12.093 (Natasha De Leon), 12.111 (Vijay Mungroo), 12.112 (Phillip Chotalal), 12.137 (Nigel Mark), 12.140 (Wilberforce Bernard), 12.141 (Steve Mungroo), 12.149 (Krishendath Seepersad), 12.151 (Allan Phillip), 12.152 (Narine Sooklal), 12.153 (Amir Mowlah), 12.156 (Mervyn Parris) and 12.157 (Francis Mansingh) to be tried within a reasonable time and to a fair trial under Articles 7(5) and 8(1) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by reason of the delays in the victims' criminal proceedings.
5. violating the rights of the 24 victims in Case Nos. 11.787 (George Constantine), 11.840 (Denny Baptiste), 11.851 (Clarence Charles), 12.005 (Wilson Prince), 12.021 (Darin Roger Thomas), 12.042 (Mervyn Edmund), 12.072 (Rodney Davis), 12.073 (Gangadeen Tahaloo), 12.075 (Noel Seepersad), 12.076 (Wayne Matthews), 12.082 (Alfred Frederick), 12.093 (Natasha De Leon), 12.111 (Vijay Mungroo), 12.112 (Phillip Chotalal), 12.137 (Nigel Mark), 12.140 (Wilberforce Bernard), 12.141 (Steve Mungroo), 12.149 (Krishendath Seepersad), 12.151 (Allan Phillip), 12.152 (Narine Sooklal), 12.153 (Amir Mowlah), 12.156 (Mervyn Parris) and 12.157 (Francis Mansingh) under Article 25 of the Convention, together with the State's obligations under Article 2 of the Convention, all in conjunction with violations of Article 1(1) of the Convention, by failing to adopt legislative or other measures necessary to give effect to the right to be tried within a reasonable time under Articles 7(5) and 8(1) of the Convention.
6. violating the rights of the 21 victims in Case Nos. 11.853 (Keiron Thomas), 11.855 (Anthony Garcia), 12.021 (Darin Roger Thomas), 12.043 (Samuel Winchester), 12.072 (Rodney Davis), 12.073 (Gangadeen Tahaloo), 12.075 (Noel Seepersad), 12.076 (Wayne Matthews), 12.082 (Alfred Frederick), 12.111 (Vijay Mungroo), 12.112 (Phillip Chotalal), 12.129 (Naresh Boodram and Joey

- Ramiah), 12.137 (Nigel Mark), 12.140 (Wilberforce Bernard), 12.141 (Steve Mungroo), 12.149 (Krishendath Seepersad), 12.152 (Narine Sooklal), 12.153 (Amir Mowlah), 12.156 (Mervyn Parris) and 12.157 (Francis Mansingh) under Articles 5(1) and 5(2) of the Convention, the rights of the victim in Case No. 12.157 (Francis Mansingh) under Article 5(4) of the Convention, and the rights of the victims in Case Nos. 12.149 (Krishendath Seepersad) and 11.816 (Haniff Hilaire) under Article 5(6) of the Convention, all in conjunction with violations of Article 1(1) of the Convention, by reason of the victims' treatment and conditions of detention during their criminal proceedings.
7. violating the rights of the victims in Case No. 12.052 (Martin Reid) under Articles 8(1) and 8(2)(c) of the Convention and Case No. 12.148 (Peter Benjamin) under Article 8(1) of the Convention, in conjunction with violations of Article 1(1) of the Convention, as a consequence of serious defects in the fairness of the trials that led to their convictions.
 8. violating the rights of the victims in Case Nos. 11.853 (Keiron Thomas) and 12.152 (Narine Sooklal) under Articles 8(1) and 8(2) of the Convention, in conjunction with violations of Article 1(1) of the Convention, based upon errors in their pre-trial or appeal proceedings.
 9. violating the rights of the 11 victims in Case Nos. 11.787 (George Constantine), 12.005 (Wilson Prince), 12.042 (Mervyn Edmund), 12.052 (Martin Reid), 12.073 (Gangadeen Tahaloo), 12.075 (Noel Seepersad), 12.093 (Natasha De Leon), 12.112 (Phillip Chotalal), 12.140 (Wilberforce Bernard), 12.153 (Amir Mowlah) and 12.156 (Mervyn Parris) under Articles 8 and 25 of the Convention, in conjunction with violations of Article 1(1) of the Convention, by failing to make legal aid effectively available to these victims to pursue Constitutional Motions in the domestic courts in connection with their criminal proceedings.

In addition the Commission has requested various other forms of reparations that in its submission are appropriate and necessary to address the consequences of the violations, namely:

1. Direct that the Republic of Trinidad and Tobago commute the death sentences of the victims in 28 cases that are the subject of this proceeding, Case Nos. 11.787 (George Constantine), 11.814 (Wenceslaus James), 11.816 (Haniff Hilaire), 11.840 (Denny Baptiste), 11.851 (Clarence Charles), 11.853 (Kelron Thomas), 11.855 (Anthony Garcia), 12.005 (Wilson Prince), 12.021 (Darrin Roger Thomas), 12.042 (Mervyn Edmund), 12.043 (Samuel Winchester), 12.072 (Rodney Davis), 12.073 (Gangadeen Tahaloo), 12.075 (Noel Seepersad), 12.082 (Alfred Frederick), 12.093 (Natasha De Leon), 12.111 (Vijay Mungroo), 12.112 (Phillip Chotalal), 12.129 (Naresh Boodram), 12.137 (Nigel Mark), 12.140 (Wilberforce Bernard), 12.141 (Steve Mungroo), 12.149 (Krishendath Seepersad), 12.151 (Allen Phillip), 12.152 (Narine Sooklal), 12.153 (Amir Mowlah), 12.156 (Mervyn Parris) and 12.157 (Francis Mansingh), and to verify that the death sentence of the victim in Case No. 12.076 (Wayne Matthews) has been commuted as previously undertaken by the State following the proceedings before the Commission.
2. Direct that the Republic of Trinidad and Tobago grant the victims in Case Nos. 12.052 (Martin Reid) and 12.148 (Peter Benjamin) effective remedies which include the exercise by the President of Trinidad and Tobago of his discretion to refer these cases to the Court of Appeal of Trinidad and Tobago to review the safety of their convictions in accordance with the due process protections prescribed under Article 8 of the Convention.
3. Direct that the Republic of Trinidad and Tobago provide appropriate and adequate compensation in connection with the execution of the victim Joey Ramiah in Case No. 12.129 (Naresh Boodram and Joey Ramiah) on June 4, 1999.
4. Direct that the Republic of Trinidad and Tobago adopt such legislative or other measures as may be necessary to ensure that
 - (a) the death penalty is not imposed in a manner inconsistent with the rights and freedoms guaranteed under the Convention, and in particular that it is not imposed through mandatory sentencing.
 - (b) the right under Article 4(6) of the Convention to apply for amnesty, pardon or commutation of sentence is given effect for condemned prisoners in Trinidad and Tobago.

(c) the conditions of detention in which the victims are held comply with the minimum standards governing the humane treatment of prisoners as required by the American Convention, and Article 5 thereof in particular.

(d) the rights to trial within a reasonable time under Articles 7(5) and 8(1) of the Convention are given effect in Trinidad and Tobago, including effective recourse to a competent court or tribunal for protection against acts that violate those rights.

(e) the right to a fair hearing under Article 8(1) of the Convention and the right to judicial protection under Article 25 of the Convention are given effect in Trinidad and Tobago in appropriate cases through access to legal aid to pursue Constitutional Motions.

5. Direct that the Republic of Trinidad and Tobago pay reasonable compensation to the representatives of the victims for the expenses generated by the presentation of the victims' cases before the Inter-American Court, as the representatives have requested in their allegations on reparations.

IV. CONCLUSION

As the evidence proffered in support of the merits and reparations of this case has indicated, this proceeding raises crucial issues concerning victims whose treatment throughout the criminal processes against them has contravened the human rights norms and principles of the inter-American system. Not only have the victims been subjected to unconscionable delays and inhumane conditions of detention, but the laws and procedures through which they have been condemned to death fail to comply with basic international norms of humanity and fairness. Further and more generally, the case reveals fundamental deficiencies in Trinidad and Tobago's obligation to give domestic legal effect to the rights and freedoms under the American Convention. And as the victims have been precluded from seeking protection from the domestic courts in Trinidad and Tobago, this Honorable Court remains the only forum in which these most grave issues can be given the proper and thorough consideration that they deserve.

The Commission closes its allegations in this proceeding by reiterating the historic and consequential nature of the case now under consideration by the Honorable Court. It presents a significant opportunity for the Court to articulate new standards and clarify existing international legal standards governing criminal law and procedure, and at the same time to provide meaningful relief to a substantial number of victims who have otherwise been denied effective protection of their most fundamental human rights.