

**ORDER OF THE PRESIDENT
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF MAY 27, 1998**

**PROVISIONAL MEASURES REQUESTED BY THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
IN THE MATTER OF THE REPUBLIC OF
TRINIDAD AND TOBAGO**

JAMES, BRIGGS, NOEL, GARCIA AND BETHEL CASES

HAVING SEEN:

1. The communication of May 22, 1998, in which the Inter-American Commission on Human Rights (hereinafter "the Commission") submitted to the Inter-American Court of Human Rights (hereinafter "the Court"), pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") and Article 25 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), a request for provisional measures on behalf of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel, in connection with Cases 11.814, 11.815, 11.854, 11.855 and 11.857, respectively, currently before the Commission against the Republic of Trinidad and Tobago (hereinafter "the State" or "Trinidad and Tobago").

2. The aforesaid communication, in which the Commission requested the Court to call upon

the Republic of Trinidad and Tobago to stay the executions of the individuals on death's row in the five cases at issue until such time as the Commission has had the opportunity to examine and decide these cases pursuant to the Convention and the Commission's Regulations.

3. The facts mentioned in the Commission's request, which are summarized as follows:

- a) The cases, 11.814, 11.815, 11.854, 11.855, and 11.857, were presented before the Commission between October 7 and December 17, 1997. The alleged victims in each of the five cases at issue have been sentenced to death and requested the adoption of precautionary measures in order to suspend the dates of their imminent executions until after the Commission has had the opportunity to set forth its opinions;
- b) in each of the five cases, the alleged victims claim before the Commission that the State has violated specific rights of the American Convention to their detriment;
- c) in each of the five cases, the Commission adopted the precautionary measures requested by the petitioner and notified the State of this decision. However, the State did not respond to the requests for precautionary measures and, in a latter statement, alleged that the Commission does not have jurisdiction either by its acts or omissions to prevent in any way a sentence, authorized by the Constitution and laws of Trinidad and Tobago and pronounced by a Court of

competent jurisdiction, from being carried into effect and declared that it was at liberty to carry out the death sentences according to its domestic laws; and

- d) according to the Commission's request, the executions of the five alleged victims are planned for June 1998.

4. The working agenda of the Court, according to which the XL Regular Session will be held from June 8 to 19, 1998, at its seat in San Jose, Costa Rica.

CONSIDERING:

1. That Trinidad and Tobago has been a State Party to the American Convention since May 28, 1991, and that it accepted the jurisdiction of the Court on the same day.

2. That Article 63(2) of the Convention provides that:

[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

3. That the State's failure to respond to the Commission's request to adopt precautionary measures in the five cases is an exceptional circumstance which has led the Commission to submit the present request to the Court.

4. That, according to the allegations of the Commission, it has not had the opportunity to examine the complaints. Consequently, the situation as described by the Commission in its request constitutes a *prima facie* case of extreme gravity and urgency which could result in irreparable damage to persons.

5. That Article 25(4) of the Rules of Procedure provides that:

[i]f the Court is not sitting, the President, in consultation with the Permanent Commission and, if possible, with the other judges, shall call upon the government concerned to adopt such urgent measures as may be necessary to ensure the effectiveness of any provisional measures subsequently ordered by the Court at its next session.

6. That the execution of the death penalty in the cases of the five petitioners would necessarily affect the Court's consideration of the Commission's request, by rendering moot the object of any eventual decision in their favor. It is imperative to note that this does not imply a declaration on the merits of the request, but simply acknowledges the possibility of such a decision, which leads to the conclusion that the stay of the executions of the petitioners is necessary to guarantee the integrity of the Inter-American system for the protection of human rights.

7. That the cases included in the Commission's request have not been submitted to the Court, and, therefore, any consideration given will not imply a decision on (1) the merits of the existing controversy between the Commission and the State and (2) the interpretation of the Convention and its relationship with the Constitution of Trinidad and Tobago. Thus, by adopting urgent measures, this Presidency is only ensuring that the Court may carry out effectively its conventional mandate.

8. That, given the aforementioned reasons, it is pertinent to require Trinidad and Tobago to adopt such urgent measures as may be necessary to preserve the lives of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, and Christopher Bethel, so that the Court may study the request of the Commission during its XL Regular Session.

9. That it is appropriate to require the State to inform the Court on the urgent measures it has taken in compliance with this Order, as well as its observations on the Commission's request and to submit such information for the consideration of the Court during its XL Regular Session.

NOW THEREFORE:

**THE PRESIDENT OF THE INTER-AMERICAN COURT
OF HUMAN RIGHTS**

in consultation with the Court and pursuant to Article 63(2) of the American Convention on Human Rights and Article 25(4) of the Rules of Procedure,

DECIDES:

1. To require the Republic of Trinidad and Tobago to take all measures necessary to preserve the lives of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel, so that the Court may examine the pertinence of the provisional measures requested by the Inter-American Commission on Human Rights.

2. To require the Republic of Trinidad and Tobago to inform the Inter-American Court of Human Rights by June 5, 1998, on the measures taken in compliance with this Order, as well as its observations on the measures requested by the Inter-American Commission on Human Rights so that this information can be studied by the Court.

3. To submit the request of the Inter-American Commission on Human Rights, this Order, and the report that will be presented by the Republic of Trinidad and Tobago for the consideration of the Inter-American Court of Human Rights during its XL Regular Session, to be held from June 8 to 19, 1998.

Hernán Salgado-Pesantes
President

Manuel E. Ventura-Robles
Secretary

So ordered,

Hernán Salgado-Pesantes
President

Manuel E. Ventura-Robles
Secretary