

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF JUNE 14, 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, and its annexes, 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 (hereinafter "the alleged victims"), in connection with Cases 11.814, 11.815, 11.854, 11.855 and 11.857, respectively, currently pending before the Commission against the State of Trinidad and Tobago (hereinafter "the State" or "Trinidad and Tobago"). In the aforesaid communication, the Commission petitioned the Court

to request the Republic of Trinidad and Tobago to stay the executions of the individuals on "death 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.

and set out the facts, which are summarized below:

- a) the alleged victims have been sentenced to death by the State;
- b) the Cases, 11.814, 11.815, 11.854, 11.855, and 11.857, were presented to the Commission on behalf of the alleged victims between October 7 and December 17, 1997; in all of them the petitioners requested the adoption of precautionary measures in order to stay the imminent executions of the alleged victims until after the Commission had duly considered and decided their cases;
- c) in each of the five cases, the petitioners allege to the Commission that the State has violated specific rights of the American Convention to the detriment of the alleged victims;
- d) in each of the five cases, the Commission adopted and notified the State of the precautionary measures requested by the petitioners. However, the State did not respond to the requests for precautionary measures; and

e) the Commission has stated that it has at its disposal information to support the presumption that the executions of the five alleged victims are planned for June, 1998.

2. The Order of the President of the Court (hereinafter "the President") of May 27, 1998, in which he adopted urgent measures and decided:

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 8 to 19, June 1998.

3. The observations of Trinidad and Tobago on the provisional measures requested by the Commission, presented on June 5, 1998, in which the State gave the reasons why, in its opinion, the execution of the alleged victims could not be stayed.

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. This jurisdiction, based on Article 62(3) of the Convention, provides that the Court is empowered to hear "*all cases concerning the interpretation and application of the provisions*" of the Convention and, specifically, extends to the present matter, which refers to the application of Article 63(2) of the American Convention, according to which:

[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.

2. That pursuant to Article 25 (1) of the Rules of Procedure:

[a]t any stage of the proceedings involving cases of extreme gravity and urgency and when necessary to avoid irreparable damage to persons, the Court may, at the request of a party or on its own motion, order whatever provisional measures it deems appropriate, pursuant to Article 63(2) of the Convention.

3. That the aforementioned Order of the President was issued in conformity with the provisions of the Convention and the Rules of Procedure and the information presented in the matter.

4. That, even though the Commission has not completed its consideration of Cases 11.814, 11.815, 11.854, 11.855 and 11.857, it has advised the Court that

"[i]n each case the petitioner made a prima facie case alleging that the State violated one or more articles of the American Convention to the detriment of the defendant."

5. That the Cases included in the Request have not yet been submitted to the Court and the consideration of the issues at hand is, therefore, based not upon the merits of said Cases but upon the State's procedural obligations as a Party to the American Convention.

6. That States Parties must respect the provisions of the American Convention in good faith (*pacta sunt servanda*), including those that facilitate proceedings before the protective bodies of the Inter-American system and ensure the fulfillment of the goals of those provisions. In view of this, and of the Convention's fundamental objective of guaranteeing the effective protection of human rights (Articles 51 and 63(2)), States Parties must not take any action that will frustrate the *restitutio in integrum* of the rights of the alleged victims.

7. That Article 29 of the American Convention provides that:

[n]o provision of this Convention shall be interpreted as:

a. permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein.

8. That, should the State execute the alleged victims, it would create an irremediable situation and this conduct would be incompatible with the object and purpose of the Convention by disavowing the authority of the Commission and adversely affecting the very essence of the Inter-American system.

9. That the information presented by the Commission and the State allows the Court to conclude that a situation of "*extreme gravity and urgency*" exists, and it becomes imperative to order the State to adopt, without delay, the provisional measures necessary to preserve the life and physical integrity of the alleged victims, and to inform the Court about these measures no later than June 30, 1998.

10. That it is convenient to hear the arguments of the State and the Commission with regard to this matter in a public hearing.

NOW THEREFORE

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

pursuant to the authority conferred by Article 63(2) of the American Convention on Human Rights and Article 25 of the Rules of Procedure,

RESOLVES:

1. To order Trinidad and Tobago to take all measures necessary to preserve the life and physical integrity of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel, so as not to hinder the processing of their cases before the Inter-American system.
2. To order Trinidad and Tobago to submit a report by June 30, 1998, on the measures taken in compliance with this Order, and to require the Inter-American Commission on Human Rights to submit its observations on this report within fifteen days of its receipt.
3. To summon Trinidad and Tobago and the Inter-American Commission on Human Rights to a public hearing on this matter at the seat of the Court on August 28, 1998, at 10:00 a.m.

Hernán Salgado-Pesantes
President

Antônio A. Cançado Trindade

Máximo Pacheco-Gómez

Oliver Jackman

Alirio Abreu-Burelli

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Hernán Salgado-Pesantes
President

Manuel E. Ventura-Robles
Secretary