

**ORDER OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
OF 27 MAY 1999**

**PROVISIONAL MEASURES ORDERED BY THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
IN THE MATTER OF THE REPUBLIC OF TRINIDAD AND TOBAGO**

**JAMES *ET AL.* CASE**

**HAVING SEEN:**

1. The proceedings in the James *et al.* Cases, in which the Inter-American Court of Human Rights (hereinafter "the Court") has ordered provisional measures in favour of twenty-eight persons sentenced to death in the Republic of Trinidad and Tobago (hereinafter "the State" or "Trinidad and Tobago," ) on whose behalf petitions were submitted to the Inter-American Commission on Human Rights (hereinafter "the Commission").
2. The Order of the Court of 25 May 1999, in which it decided:

**1. *With respect to the Provisional Measures adopted by the Court on 29 August 1998:***

(a) To maintain the Provisional Measures ordered by the Inter-American Court of Human Rights on 29 August 1998, in favour of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste. With respect to Anthony Briggs, to maintain the Provisional Measures ordered in his favour until such time as the Court, having previously considered the reports concerning the present status of his Case, issues a decision on this matter.

(b) To urge the State of Trinidad and Tobago to comply with the Order of the Court of 29 August 1998, and henceforth report every fifteen days on the status of the appeals and scheduled executions of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste, and to require the Inter-American Commission on Human Rights to send its observations on these reports to the Inter-American Court of Human Rights within two days of their receipt.

(c) To urge the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste.

**2. *With respect to the Commission's request for amplification of the Provisional Measures in favour of 20 persons:***

(a) To ratify the Order of the President of the Inter-American Court of Human Rights of 11 May 1999.

(b) To order the Republic of Trinidad and Tobago to take all measures necessary to preserve the lives of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester, so as not to hinder the processing of their Cases before the Inter-American system.

(c) To require the State of Trinidad and Tobago to include in the fortnightly Reports to which reference is made in operative paragraph 1.b of this Order, information on the status of the appeals and scheduled executions of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester, and to require the Inter-American Commission on Human Rights to include its remarks on this information in its observations.

(d) To require the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester.

3. The communication of the Commission of 25 May 1999, in which it submitted to 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 amplification of the Provisional Measures ordered by the Court in the instant Cases, to include Peter Benjamin (Case No. 12.148), Kevin Dial, Andrew Dottin (Case No. 12.145), Anthony Johnson (Case No. 11.718), Amir Mohlaw (Case No. 12.153), Allan Phillip (Case No. 12.151), Krishandath Seepersad (Case No. 12.149) and Narine Sooklal (Case No. 12.152), whose Cases are currently pending before the Commission.

4. The aforesaid communication, in which the Commission requested the Court to order

the State [to] take the measures necessary to preserve the lives and physical integrity of the above named 8 individuals until such time as the Commission has had the opportunity to examine and decide their cases in accordance with the norms and procedures specified in the American Convention and its Regulations, and until the situation of extreme gravity and urgency no longer persists in relation to these individuals.

5. The arguments presented by the Commission, to the effect that:
- a. there are 7 petitions pending before the Commission involving 8 persons subject to "mandatory death sentences" under Trinidad and Tobago law, and indicating that their Cases have not been submitted for examination under any other procedure of international investigation or settlement to any other international organisation and that domestic remedies have been exhausted;
  - b. in each Case, the petition states facts that tend to establish a violation of the rights guaranteed under the Convention, and some of them challenge the compatibility of the mandatory nature of the death penalty in Trinidad and Tobago with the State's obligations under the Convention, as well as the adequacy of due process afforded to the persons who have been sentenced to death;
  - c. pursuant to Article 29(2) of its Regulations, the Commission requested precautionary measures in each of these Cases;
  - d. the State's denunciation of the Convention, pursuant to Article 78 of the said instrument, becomes effective on or about 26 May 1999;
  - e. the Commission has not had the opportunity to complete its examination of these complaints and to issue the relevant decisions, and that, given these circumstances, it considers that the execution of the 8 persons would render any eventual decision of the Commission moot, in terms of the efficacy of potential remedies, causing irreparable harm to the persons to whom the sentences and complaints relate.

**CONSIDERING:**

1. That Trinidad and Tobago has been a State Party to the American Convention since 28 May 1991, and that it accepted the jurisdiction of the Court on the same day.
2. That the State gave notice of its denunciation of the Convention to the Secretary General of the Organisation of American States on 26 May 1998, and that, pursuant to Article 78(1) of the said Convention, the denunciation becomes effective on 26 May 1999.
3. That, pursuant to Article 78(2) of the American Convention, the denunciation does not have the effect of releasing the State from its obligations with respect to acts occurring prior to the effective date of denunciation which may constitute a violation of the said Convention, such as the facts concerning the instant Cases.
4. That Article 63(2) of the Convention provides:
 

[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.

5. 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.
6. That the Commission is considering the Cases referred to in the Commission's request, and has informed the Court that "in each of these cases, the petition states facts that tend to establish a violation of the rights guaranteed under the Convention."
7. That the Cases included in the Request for amplification have not been submitted to the Court and the consideration of the issues at hand is, therefore, based upon the State's procedural obligations as a Party to the American Convention, rather than on the merits of each Case. Therefore, the Court will consider the request of the Commission in the light of the elements to be taken into account in conformity with Article 63(2) of the Convention, that is, the existence of a situation of extreme gravity and urgency and the necessity to avoid irreparable damage to persons.
8. That, under the instant circumstances, the information presented by the Commission provides *prima facie* grounds for the Court to conclude that a situation of "extreme gravity and urgency" exists, making it imperative to order the State to adopt, without delay, the Provisional Measures necessary to preserve the life and physical integrity of the alleged victims.
9. That the States Parties to the Convention should comply in good faith (*pacta sunt servanda*) with all of the provisions of the Convention, including those relative to the operation of the two supervisory organs of the Inter-American system; and, that in view of the Convention's fundamental objective of guaranteeing the effective protection of human rights (Articles 1(1), 2, 51 and 63(2)), States Parties must refrain from taking actions that may frustrate the *restitutio in integrum* of the rights of the alleged victims.
10. 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 recognised in this Convention or to restrict them to a greater extent than is provided for herein.
11. That, should the State execute the alleged victims, it would create an irremediable situation incompatible with the object and purpose of the Convention, would amount to a disavowal of the authority of the Commission, and would adversely affect the very essence of the Inter-American system.

**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,

**DECIDES:**

1. To amplify the provisional measures ordered in the *James et al.* Cases and to order the Republic of Trinidad and Tobago to take all measures necessary to preserve the lives of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal, so as not to hinder the processing of their Cases before the Inter-American system.

2. To require the State of Trinidad and Tobago to include in the fortnightly Reports to which reference is made in operative paragraph 1.b of the Order of the Court of 25 May 1999 (*supra* Having Seen 1), information on the status of the scheduled executions of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal, and to require the Inter-American Commission on Human Rights to include its remarks on this information in its observations.

3. To require the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal.

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