

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF NOVEMBER 26, 2001**

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

JAMES ET AL. CASES*

HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter "the Inter-American Court," "the Court" or "the Tribunal") of November 24, 2000, in which it decided:

1. To order the State of Trinidad and Tobago to maintain the Provisional Measures ordered by the Inter-American Court of Human Rights on 14 June 1998, 29 August 1998, 25 May 1999, 27 May 1999, 25 September 1999 and 16 August 2000 in favour of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chot[a]lal, 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, Ganga[d]een Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krish[e]ndath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh so as not to hinder the processing of their cases before the [I]nter-American system of human rights protection.

2. To require the State of Trinidad and Tobago to submit, on or before 15 February 2001, detailed information concerning the proceedings of Anderson Noel, Christopher Bethel, Kevin Dial, Andrew Dottin and Anthony Johnson before the domestic courts.

3. To require the State of Trinidad and Tobago to submit information, on or before 15 February 2001, on the status of the cases of all the persons protected by the Provisional Measures ordered by the Inter-American Court of Human Rights, so that the Court may consider whether the State of Trinidad and Tobago has complied with its Orders in order to include such information in its report to the next General Assembly of the Organization of American States.

4. To urge the State of Trinidad and Tobago to comply with the Orders of the Inter-American Court of Human Rights of 14 June 1998, 29 August 1998, 25 May 1999, 27 May 1999, 25 September 1999 and 16 August 2000 and, after its report of 15 February 2001, to continue to report every two months on the status of the appeals and scheduled executions of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chot[a]lal, George Constantine, Rodney Davis, Natasha De

* Judges Máximo Pacheco-Gómez and Oliver Jackman informed the Court that, for reasons beyond their control, they were unable to be present in part and in whole during the Tribunal's LIII Ordinary Period of Sessions, respectively. For these reasons, they did not take part in the deliberation and signature of this Order.

Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Ganga[d]een Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krish[e]ndath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh.

5. To require the Inter-American Commission on Human Rights to send its observations on the reports of the State of Trinidad and Tobago to the Inter-American Court of Human Rights within six weeks of their receipt.

6. 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 the cases of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chot[a]lal, 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, Ganga[d]een Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krish[e]ndath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh.

2. The communication of October 18, 2001, which was received in the Secretariat of the Court on October 19 of the same year, in which the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted to the Tribunal, pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") and Article 25 of the Court's Rules of Procedure (hereinafter "the Rules of Procedure" or "the Rules"), a request for the amplification of the Provisional Measures adopted by the Court in the *James et al.* Cases, to include Balkissoon Roodal (Case No. 12.342), Sheldon Roach (Petition No. P12.346), Arnold Ramlogan (Petition No. P12.355), Beemal Ramnarace (Petition No. P12.377) and Takoor Ramcharan (Petition No. P0197/2001), whose petitions or complaints are currently pending before the Commission against the Republic of Trinidad and Tobago (hereinafter "the State" or "Trinidad and Tobago").

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

take all measures necessary to preserve the lives and physical integrity of Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan so as not to hinder the processing of their cases before the Inter-American system.

4. The arguments for the amplification of the Provisional Measures presented by the Commission are based on the following:

- a) there are five additional petitions pending before the Commission received between November 2000 and April 2001, concerning events alleged to have occurred, in whole or in part, before the denunciation of the Convention by the State and that indicate that Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan have been sentenced to the death penalty for the crime of murder in Trinidad and Tobago;

- b) in each of the five cases, the petitioners alleged to the Commission that the State has violated specific rights under the American Convention and the American Declaration of the Rights and Duties of Man;
- c) the Commission requested precautionary measures in each of these five cases pursuant to Article 29(2) of its Rules of Procedure, with no response from the State; and
- d) the Commission has not had the opportunity to complete its examination of these complaints and to issue decisions in all of these cases, and, given these circumstances, it considers that the execution of these five individuals would render any eventual decision of the Commission moot, in terms of the efficacy of potential remedies, causing irreparable harm to the individuals to whom these sentences and complaints relate.

5. The Order of the President of the Court (hereinafter "the President") of October 25, 2001, 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 Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan so that the Court may examine during its LIII Regular Session the pertinence of the request of the Inter-American Commission on Human Rights to amplify the Provisional Measures adopted in the James *et al.* Cases.
- 2. To require the Republic of Trinidad and Tobago to submit an urgent communication to the Inter-American Court of Human Rights by November 5, 2001 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 during its LIII Regular Session.
- 3. To submit the request of the Inter-American Commission on Human Rights, this Order, and the urgent communication that will be presented by the Republic of Trinidad and Tobago for the consideration of the Inter-American Court of Human Rights during its LIII Regular Session.

6. The failure of the State to provide information in relation to operative paragraphs 2 and 3 of the Court's Order of November 24, 2000 (*supra* 1) and to operative paragraph 2 of the President's Order of October 25, 2001 (*supra* 5.)

CONSIDERING:

- 1. That Trinidad and Tobago has been a State Party to the American Convention from May 28, 1991 (day in which it accepted the jurisdiction of the Court) until May 26, 1999.
- 2. That the State gave notice of its denunciation of the Convention to the Secretary General of the Organization of American States on May 26, 1998, and that, pursuant to Article 78(1) of the said Convention, the denunciation became effective on May 26, 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, in whole or in part, prior to the effective date of denunciation, which may constitute a violation of the said Convention.

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 such provisional measures it deems pertinent, pursuant to Article 63(2) of the Convention.

6. That the aforementioned Order of the President of October 25, 2001 was issued in conformity with the provisions of the American Convention, the Court's Rules of Procedure and the information presented in this case.

7. That, even though the Commission has not completed its examination of Case No. 12.342 and of petitions P12.346, P12.355, P12.377, and P0197/2001, it has advised the Court that "[e]ach of the petitions raises several claims relating to the criminal proceedings against the alleged victims which, if proven, tend to establish violations of the American Convention."

8. 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, consequently, based upon the State's procedural obligations under the Convention in relation to the processing of the Provisional Measures of protection and therefore does not imply a prejudgment on the merits. As a result, the Court will study the request of the Commission in light of the existence of a situation of extreme gravity and urgency and the necessity to avoid irreparable damage to persons, elements to be taken into account in conformity with Article 63(2) of the Convention.

9. That the information filed by the Commission provides grounds for the conclusion 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 personal integrity of the alleged victims.

10. That the States Parties to the Convention should comply in good faith (*pacta sunt servanda*) with the provisions of the Convention, including those relative to the operation of the two supervisory organs of the American Convention. Considering that the Convention's fundamental objective is to guarantee the effective protection of human rights (Articles 1(1), 2, 51 and 63(2)), States Parties must refrain from taking actions that may cause irreparable harm to persons by reason of the gravity of the possible consequences of said acts.

11. 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[.]

12. That, should the State execute the alleged victims, it would create an irremediable situation and would be incompatible with the object and purpose of the Convention.

13. That the State's denunciation of the Convention, pursuant to Article 78 of said instrument, does not affect the jurisdiction of either the Court or the Commission to consider the alleged acts, occurring in whole or in part, before May 26, 1999, the day in which the State's denunciation of the Convention entered into force.

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 ratify the Order of the President of the Inter-American Court of Human Rights of October 25, 2001.

2. To require Trinidad and Tobago to adopt all measures necessary to preserve the life and personal integrity of Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan, so as not to hinder the processing of their cases before the Inter-American system for the protection of human rights.

3. To require the State of Trinidad and Tobago to report every thirty days on the implementation of the Provisional Measures ordered in favour of Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace, and Takoor Ramcharan and to require the Inter-American Commission on Human Rights to submit its observations on these reports to the Inter-American Court of Human Rights within fifteen days of receipt.

4. 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 Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan.

Antônio A. Caçado Trindade
President

Hernán Salgado-Pesantes

Alirio Abreu-Burelli

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Caçado Trindade
President

Manuel E. Ventura-Robles
Secretary