

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF AUGUST 29, 1998**

**PROVISIONAL MEASURES REQUESTED BY THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

BÁMACA VELÁSQUEZ CASE

HAVING SEEN:

1. The proceedings in the Bámaca Velásquez case before the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") and the transcript of the statement made by Mr. Santiago Cabrera-López during the public hearing the Court held at its seat on June 16, 17 and 18, 1998, on the merits of the case.

2. The petition of June 24, 1998, in which the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission"), pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Article 25 of the Rules of Procedure of the Court, submitted to the Court a request that it "adopt effective security measures to protect the life and physical integrity of Santiago Cabrera. The Government of Guatemala and the person for whom protection is being requested should mutually agree upon the protective measures so as to ensure their effectiveness and relevance. " As grounds for its request, the Commission informed the Court that:

[Mr.] Cabrera testified [before the Inter-American Court] on facts that clearly implicated specific State agents in human rights violations. However, the suspect State agents have neither been brought to trial nor are they in custody and, although summoned by the Court, did not appear. The freedom with which they are able to operate is a threat to the safety of the above-named witness. [Mr.] Cabrera lives in Guatemala and returned to his home there immediately upon conclusion of the hearings at the Court. [Mr.] Cabrera has asked the Commission to petition the Court to protect his life and integrity.

3. The June 30, 1998 Order of the President of the Inter-American Court of Human Rights (hereinafter "the President"), wherein he decided:

1. To request the State of Guatemala to adopt forthwith such measures as are necessary to protect the integrity of Mr. Santiago Cabrera-López, so that the Court might examine the pertinence of the provisional measures requested by the Inter-American Commission on Human Rights.

2. To request the State of Guatemala to submit a report by July 17, 1998, on the measures taken pursuant to the President's Order and its view on the measures requested by the Inter-American Commission on Human Rights so that information might be brought to the Court's attention.

3. To request the Inter-American Commission on Human Rights to present its observations on the initial report submitted by the Guatemalan State within one month from the date on which the report is transmitted to it.

4. To submit to the Inter-American Court of Human Rights, for consideration at its forty-first regular session, the petition from the Inter-American Commission on Human

Rights, this Order, the report presented by the Guatemalan State and the Commission's observations thereon.

4. The report of the Guatemalan State (hereinafter "the State" or "Guatemala"), dated August 21, 1998, wherein it gave account of the measures it had taken to locate Mr. Cabrera-López and provide him with protection, pursuant to the President's Order. The State also submitted a copy of a communication addressed to the Court, dated July 9, 1998. On August 25, 1998, the Secretariat of the Court (hereinafter "the Secretariat") informed Guatemala that the July 9 note had only then been received.

5. The Commission's brief of August 24, 1998, requesting that the Court expand the measures adopted in the instant case to include Alfonso Cabrera-Viagres, María Victoria López, Blanca Cabrera, Carmenlinda Cabrera, Teresa Aguilar-Cabrera, Olga Maldonado and Carlos Alfonso Cabrera. In that brief, the Commission stated and requested the following of the Court:

That it remind Guatemala that all measures necessary to effectively protect the life and integrity of Santiago Cabrera-López are to be adopted forthwith.

That it request the State to expand the measures ordered to include those needed to effectively protect the life and integrity of the [above-named] family members who live with Santiago Cabrera-López, in the same place -two houses built on a lot located 200 meters from the police station in the municipality of Concepción de Chiquirichapa, El Quiche, 15 kilometer (sic) from Quetzaltenango, Guatemala [.]

Based on the information available and in order to make the requested measures effective, the Commission would suggest that the security measures be kept in place for 6 months, after which time they should be reviewed in order either to lift them or to extend them, depending on the circumstances of the persons being protected; that around-the-clock police protection be ordered, posted in front of the property of the persons in question, and that a liaison officer be named for communications between the Concepción de Chiquirichapa police station and COPREDEH.

That the State be required to inform the Honourable Court of the specific measures it adopts to protect the above-named persons, within a reasonable period from the time of this communication.

Should the Court find that additional testimony and/or documents would be useful, that a public hearing be ordered for the purpose.

CONSIDERING THAT:

1. Guatemala became a State Party to the American Convention on May 25, 1978, and accepted the binding jurisdiction of the Court on March 9, 1987.

2. Article 63(2) of the Convention provides that the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration,

[I]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons [...] With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

3. Article 25 of the Rules of Procedure of the Court stipulates that:

At 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 as it deems pertinent, pursuant to Article 63(2) of the Convention.

4. The request for provisional measures is in regard to the Bámaca Velásquez case now before the Court.

5. The situation that the Commission described with respect to Santiago Cabrera-López, Alfonso Cabrera-Viagres, María Victoria López, Blanca Cabrera, Carmenlinda Cabrera, Teresa Aguilar-Cabrera, Olga Maldonado and Carlos Alfonso Cabrera is one of extreme gravity and urgency and thus fits the preconditions stipulated in Article 63(2) of the Convention, necessitating the adoption of provisional measures to avoid irreparable damage to said persons.

6. The Court has examined the facts and circumstances that were the basis for the June 30, 1998 Order of the President, which it ratifies inasmuch as it is consistent with law and the merit of the petition.

7. Guatemala has the obligation to investigate the facts that motivated the request seeking provisional measures, in order to identify the responsible parties and impose the proper punishment.

NOW, THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

exercising the authority conferred on it by Article 63(2) of the American Convention and Article 25 of its Rules of Procedure.

RESOLVES:

1. To ratify the June 30, 1998 Order of the President of the Inter-American Court of Human Rights and, accordingly, to request Guatemala to maintain the measures necessary to protect the life and integrity of Mr. Santiago Cabrera-López, to avoid irreparable damage to his person.

2. To request Guatemala to adopt the measures necessary to protect the life and integrity of Alfonso Cabrera-Viagres, María Victoria López, Blanca Cabrera, Carmenlinda Cabrera, Teresa Aguilar-Cabrera, Olga Maldonado and Carlos Alfonso Cabrera.

3. To call upon Guatemala to investigate the facts in the matter and report on the situation of the persons in question.

4. To require Guatemala, as of the date of notification of this order, to file reports every two months on the provisional measures adopted in the instant case, and to require the Inter-American Commission on Human Rights to present its observations on those reports within six weeks of receiving them.

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