

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 15/2021**

Precautionary Measure No. 78-09
Ronald Tiwarie regarding Trinidad and Tobago
February 12, 2021

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures in question. In making this decision, the IACHR observes that the death sentence imposed on Mr. Ronald Tiwarie was commuted in 2010. Moreover, no information has been provided by the parties for approximately 12 years, and the petition, related to the present measure, was archived in 2019.

II. BACKGROUND INFORMATION

2. On April 3, 2009, the IACHR granted precautionary measures in favor of Mr. Ronald Tiwarie, who was deprived of his liberty while awaiting the execution of a death sentence for the purported commission of a crime in 2001. The precautionary measures request was filed jointly with a petition on the alleged violation of the rights set forth in Articles I, II, XVIII and XXVI of the American Declaration. The petition, which was pending before the Commission, alleged, among other issues, irregularities in Mr. Tiwarie's processing and conviction. Upon analyzing the available information, the Commission requested the State of Trinidad and Tobago to refrain from executing the death sentence until it had the opportunity to decide upon the applicant's claim regarding the alleged violation of the American Declaration¹.

III. INFORMATION PROVIDED DURING THE TIME THE MEASURES WERE IN FORCE

3. On May 9, 2013, the IACHR requested information from the parties with a view to analyzing whether this precautionary measure should remain in force. Neither party replied. On January 21, 2021, the IACHR reiterated the request for information made to the beneficiary's representation, but no response has been received to date.

IV. ANALYSIS OF THE REQUIREMENTS OF SERIOUSNESS, URGENCY AND IRREPARABLE HARM

4. The precautionary measures mechanism is part of the Commission's function of overseeing Member State compliance with the human rights obligations set forth in the OAS Charter and, in the case of the Member States that have yet to ratify the American Convention on Human Rights, the American Declaration. These general oversight functions are set forth in Article 18 of the Statute of the IACHR, and the precautionary measures mechanism is provided for in Article 25 of the Commission's Rules of Procedure. In accordance with the latter Article, the Commission grants precautionary measures in serious and urgent situations, in which these measures are necessary to prevent irreparable harm.

5. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective. As regards the protective nature, these measures seek to avoid irreparable harm and preserve

¹Available at: <http://www.cidh.org/medidas/2009.eng.htm>

the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are being considered by the IACHR. Regarding the process of decision making and, according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a) “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the Inter-American System;
- b) “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c) “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

6. With regard to the foregoing, Article 25.7 of the Commission's Rules of Procedure establishes that “the decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” In addition, Article 25.9 sets forth that “the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force.” In this regard, the Commission shall evaluate whether the serious and urgent situation and risk of irreparable harm that caused the granting of these precautionary measures persist. The Commission shall further consider if new situations that might meet the requirements set forth in Article 25 of the Rules of Procedure have subsequently arisen.

7. As a preliminary matter, the Commission recalls that in 2009, the present measures were granted in response to Mr. Ronald Tiwarie’s request for the State of Trinidad and Tobago to refrain from carrying out the death sentence until the IACHR had the opportunity to decide on the petitioner’s claim regarding the alleged violation of the American Declaration. In this regard, the Commission recalls that such precautionary measures were granted from a precautionary standpoint in relation to a petition.

8. Furthermore, the Commission notes that the petition was registered under number P-382-09. Upon reviewing the petition docket, the Commission recalls that on February 21, 2019, the parties were notified of its decision to archive the file in accordance with Article 48.1.b of the American Convention and Article 42 of the Commission's Rules of Procedure. In the framework of the petition, the Commission did not receive information from the parties hereto.

9. While the review of procedural requirements when granting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more rigorous evaluation². In this sense, the burden of proof and argument increases as time goes by and there is no imminent risk³. The Inter-American Court has indicated that the passage of a reasonable period of time without threats or intimidation, added to the lack of imminent risk, may lead to the lifting of international protection measures⁴.

10. Upon requesting information from the State on the actions taken to implement the precautionary measures granted, the Commission observes that no response has been received. In this regard, the Commission recalls, following the Inter-American Court, that failure to comply with the State duty of reporting on all the measures adopted in compliance with its decisions is especially serious, given the

²/A Court H.R. Provisional measures regarding Mexico. Order of February 7, 2017, paras. 16 and 17. Available (in Spanish) at: http://www.corteidh.or.cr/docs/medidas/fernandez_se_08.pdf

³ibid.

⁴ibid.

legal nature of these measures that seek to prevent irreparable damage to people in serious and urgent situations⁵. The duty to inform constitutes a dual obligation that requires, for its effective fulfillment, the formal submission of a document on time, and the specific, accurate, current and detailed material reference to the issues on which said obligation fall⁶.

11. In this regard, and bearing in mind what has been established by the Inter-American Court, the Commission recalls that procedural activity by the beneficiary's representation in the framework of this proceeding is necessary in order to timely analyze the relevant observations. Also necessary is, in general, the submission of specific and detailed information to evaluate whether the precautionary measures should remain in force⁷. Otherwise, the Commission lacks sufficient elements to sustain that these precautionary measures should remain in force. As indicated by the Inter-American Court, the beneficiaries' representatives who wish to keep the measures in effect must present evidence to justify their reasons⁸.

12. In this regard, despite repeated requests for information, the Commission observes that neither party has provided information within a period of approximately 12 years. In such circumstances, the Commission considers that it lacks concrete and current information to identify a serious and urgent situation of risk of irreparable harm to the beneficiary's rights, in accordance with Article 25 of the Commission's Rules of Procedure. Since no information is found to support the requirements of seriousness, urgency, and risk of irreparable harm, and taking into account the temporary and exceptional nature of the precautionary measures⁹, the Commission decides to lift this matter. In reaching this decision, the Commission also takes into consideration that, according to public information, the death sentence imposed on Mr. Ronald Tiwarie was commuted in 2010 to a life sentence¹⁰.

13. Lastly, and in connection to what has been established by the Inter-American Court in various matters¹¹, the lifting of measures by no means implies that the State has effectively implemented the precautionary measures ordered, nor does it imply that the State is relieved of its general protection obligations within the framework of which the State is especially obliged to guarantee the rights of persons at risk and must promote the necessary investigations to clarify the facts, followed by the established consequences. In addition, based on the Inter-American Court assessment, the lifting or declaration of non-compliance with precautionary measures in no way presupposes a potential decision on the merits of a case if it were to become known to the Inter-American System through a petition, nor does it constitute a prejudgment of any responsibility of the State for the incidents reported¹².

⁵I/A Court H.R. Matter of Communities of Jiguamiandó and Curvaradó regarding Colombia. Provisional Measures. Order of the Inter-American Court of Human Rights of February 6, 2019. Considerandum 16; and Case of Luisiana Ríos et al. (Radio Caracas Televisión - RCTV). Provisional Measures. Order of the Inter-American Court of Human Rights of September 12, 2005. Considerandum 17.

⁶Ibid.

⁷I/A Court H.R. Case of Coc Max et al. Guatemala. Provisional Measures. Order of the Inter-American Court of Human Rights of February 6, 2019. Considerandum 12. Available (in Spanish) at: http://www.corteidh.or.cr/docs/medidas/coc_se_02.pdf

⁸I/A Court H.R. Matter of Luisiana Ríos et al. regarding Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of August 22, 2018. Considerandum 3. Available (in Spanish) at http://www.corteidh.or.cr/docs/medidas/rios_se_10.pdf

⁹I/A Court H.R., Matter of Adrián Meléndez Quijano et al. Provisional Measures regarding El Salvador. Order of the Inter-American Court of August 21, 2013, para. 2013, para. 22, and Matter Galdámez Álvarez et al. Provisional Measures regarding Honduras. Order of the Inter-American Human Rights of November 23, 2016, para. 24.

¹⁰GUARDIAN, Diego killer escapes hangman, March 4, 2010. Available at: <https://www.guardian.co.tt/article-6.2.330329.c6245bf7ad>

¹¹See: I/A Court H.R. Case of Velásquez Rodríguez. Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of January 15, 1988, Considerandum 3, and Matter of Giraldo Cardona et al. Provisional measures regarding Colombia. Order of the Inter-American Court of Human Rights of January 28, 2015, Considerandum 40.

¹²See: I/A Court HR. Matter of Guerrero Larez. Provisional measures regarding Venezuela. Order of the Inter-American Court of Human Rights of August 19, 2013, Considerandum 16, and Matter of Natera Balboa. Provisional measures regarding Venezuela. Order of the Inter-American Court of Human Rights of August 19, 2013, Considerandum 16.

V. DECISION

14. In light of the above, the Commission hereby decides to lift these precautionary measures.

15. The Commission requests that the Executive Secretariat of the IACHR notify the State of Trinidad and Tobago and the applicants of this resolution.

16. Approved on February 12, 2021 by: Joel Hernández García, President; Antonia Urrejola Noguera, First Vice President; Flávia Piovesan, Second Vice President; Margarete May Macaulay; Esmeralda Arosemena de Troitiño; Edgar Stuardo Ralón Orellana, and Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary