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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 65/2022**

Precautionary Measure No. 425-22  
**Individualized Afro-descendant persons from  
peasant communities of St. Ann regarding Jamaica<sup>1</sup>**

November 24, 2022

Original: English and Spanish

**I. INTRODUCTION**

1. On June 4, 2022, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received a request for precautionary measures filed by Malene Alleyne from *Freedom Imaginaries* (“the applicant”) on behalf of Afro-descendant families from peasant communities in the region of St. Ann (“the persons proposed as beneficiaries”). The request urges the Commission to require that Jamaica (“the State” or “Jamaica”) adopt the necessary measures to protect the rights to health, personal integrity, and life of the persons proposed as beneficiaries, who are currently in a situation placing them at risk due to the impacts of bauxite mining activities within their communities and acts of violence.

2. Pursuant to Article 25(5) of its Rules of Procedure, the IACHR requested information from the State on July 14, 2022, and reiterated the request for information on September 26, 2022. To date, the State has not submitted its observations. The applicant submitted additional information on July 26 and October 3, 2022, as well as on November 18 and 20, 2022.

3. Having analyzed the submissions of fact and law presented in this matter, the Commission considers that the information provided shows *prima facie* that the identified Afro-descendant persons<sup>2</sup> are in a serious and urgent situation, given that their rights to health, personal integrity, and life are at serious risk. Consequently, the Commission requests that Jamaica: a) take the necessary measures to protect the rights to life, personal integrity, and health of the Afro-descendant persons identified as beneficiaries in the St. Ann region, with a cultural, gender-based, and age-appropriate perspective, including the following: i. carry out the necessary medical diagnoses to define the corresponding medical care; ii. guarantee adequate, timely, and specialized medical care, according to the medical conditions; and iii. guarantee access to contaminant-free water; b) adopt the necessary measures to prevent threats, harassment, and other acts of violence against the beneficiaries; c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and d) report on the actions taken to investigate the events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

**II. SUMMARY OF FACTS AND ARGUMENTS**

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<sup>1</sup> In accordance with Article 17.2.a of the IACHR Rules of Procedure, Commissioner Margarette May Macaulay, a Jamaican national, did not participate in the debate or deliberation of this matter.

<sup>2</sup> The persons are the following: 1) Cyril Anderson, his wife Marcia Anderson, his daughter Shauna Lee Anderson, his son L.A. and his cousin L.J.; 2) Boblet Campbell, her sons A.W., J.H., T.H., M.F. and Prince Flemmings; 3) Nigel Campbell Senior and his sons Z.C., Eriziah Campbell and Nigel Campbell Junior; 4) Lawford Fletcher, his father David Fletcher, his mother Isabella Fletcher and his sisters Maude and Elizabeth Fletcher; 5) Victoria Grant, her daughters Simone Grant, Euphemia Johnson and her six grandchildren; 6) Linsford Hamilton, his wife Monica Hamilton, his daughter Lamoya Hamilton and his grandchildren L.C. and M.B.; 7) A.B., S.B. and R.E.; 8) Beverly Levermore, her husband Dennis Levermore and grandson D.L.; 9) Merlina Rowe and her granddaughter A.L.; 10) Jenisha Cunningham Wallace, her sons Ackeen Allen, D.B., A.B. and N.A., and nieces and nephews G.B, I.B, J.B, and T.B.; 11) Edlin Walton and his wife Sonia Walton; and 12) Jamar Watt.

## A. Information provided by the applicant

4. The applicant stated that the request is filed on behalf of families and “similarly situated inhabitants of Afro-descendent peasant communities in St. Ann”, who live near the bauxite mining operations. In this regard, the applicant submits declarations and testimonies signed by the proposed beneficiaries identified in this resolution. Considering the information provided, some of the affected communities are *Barnstaple*<sup>3</sup>; *Bryan Castle/Mountain*<sup>4</sup>; *Caledonia*<sup>5</sup>; *Endeavour*<sup>6</sup>; *Gibraltar*<sup>7</sup>; *Madras*<sup>8</sup>; and *Somerton*<sup>9</sup>. These are deep rural communities, where most of the proposed beneficiaries are farmers and rely on rainwater to obtain drinking water.

5. According to the applicant, since the 1940s, open-cast mining has been imposed on St. Ann’s Afro-descendant peasantry. Currently, the mining activities are being carried out by “Noranda Jamaica Bauxite Partners II and/or Noranda Jamaica Bauxite Partners (Noranda)”, of which the Government is a majority owner. In the past few years, these mining operations have expanded across the proposed beneficiaries’ communities through Special Mining Leases (SML), particularly “SML 165”,<sup>10</sup> “SML 172”,<sup>11</sup> and “SML 173”.<sup>12</sup> Supposedly, the proposed beneficiaries’ communities are in and around the ecologically sensitive area traditionally known as “Cockpit Country” but outside of the boundary of the recently designated “Cockpit Country Protected Area” (CCPA), where no mining is allowed.

6. Several proposed beneficiaries<sup>13</sup> have received from Noranda the amount of JMD \$8,500 (approx. USD \$57) every three months for the dust nuisance, particularly those living in Gibraltar and Caledonia, which are communities already mined out or nearly mined out. However, the proposed beneficiaries consider this amount to be insufficient to compensate for the harm caused to their health and livelihoods and is not enough to cover medical expenses. Furthermore, they have continued to suffer the effects and impacts of bauxite mining operations.

7. Within the context described above, the proposed beneficiaries face imminent risk due to mining activities in the middle of their settlements including their homes, farms, churches, and schools.<sup>14</sup> *Firstly*, the request alleged that exposure to bauxite dust has caused serious and negative impacts to the proposed beneficiaries overall health, reporting medical conditions and illnesses such as the following:

- (i) ***Cyril Anderson and his family (from Bryan Castle/Mountain)***: Because of the dust pollution Cyril and his family suffer from asthma symptoms. He must travel to St. Ann’s

<sup>3</sup> Residing community to the proposed beneficiary Lawford Fletcher and his family; and Jamar Watt.

<sup>4</sup> Residing community to the proposed beneficiaries Cyril Anderson and his family.

<sup>5</sup> Residing community to the proposed beneficiaries Nigel Campbell and his family.

<sup>6</sup> Residing community to the proposed beneficiaries Boblet Campbell and her family; and A.B. and her family.

<sup>7</sup> Residing community to the proposed beneficiaries Victoria Grant and her family; Merlina Rowe and her family; and Edlin Walton and his wife.

<sup>8</sup> Residing community to the proposed beneficiaries Linsford Hamilton and his family; and Jenisha Cunningham Wallace and her family.

<sup>9</sup> Residing community to the proposed beneficiaries Beverly Levermore and her family.

<sup>10</sup> In 2004, “SML 165” was granted to Noranda, allowing it to mine 17,733 hectares of land in St. Ann until 2030. Presumably, in 2015, Noranda built an illegal haul road beyond SML 165, within the area traditionally known as “Cockpit Country” near Bryan Castle, triggering protests from local communities.

<sup>11</sup> In 2017, “SML 172” was granted to Noranda without any Environmental Impact Assessment (EIA) protocols or public participation. In the past few years, Noranda has reportedly used SMLs 172 and 165 to rapidly expand mining westward across the communities of Caledonia, Endeavour, Gibraltar, Somerton and Tobolski, which are currently facing irreversible social and environmental harm.

<sup>12</sup> In 2018, presumably in an illegal manner, Noranda was granted “SML 173” to expand mining to the remaining part of West St. Ann. However, a final EIA was not published, and public participation did not take place until 2021. On February 7, 2022, an environmental permit was granted to Noranda to mine 1,333 hectares of lands including the communities of Richmond Pen, Barnstable, Broadleaf, Bryan Castle-Mountain, Caledonia, Industry Pen and other adjacent communities, which will be imminently mined.

<sup>13</sup> Cyril Anderson; Beverly Levermore; Merlina Rowe; and Jennisha Cunningham.

<sup>14</sup> The applicant informed that during field visits to SML 165 and 172 between December 2021 and April 2022, mining sites in Endeavor, Somerton, and Gibraltar were observed near residents’ backyards, and community schools.

Bay, over one hour away, to receive medical treatment because there are no medical facilities in his community.

- (ii) ***Boblet Campbell and her family (from Endeavour):*** She and her children suffer from swollen nostrils, running nose, difficulty breathing, recurrent symptoms of allergic rhinitis and rhinosinusitis. Ms. Campbell has not been able to take her one-year-old baby to the doctor because of the cost and the absence of medical facilities in her community.
- (iii) ***Victoria Grant and family (from Gibraltar):*** Ms. Grant refers to the death of her husband, Alfred, on January 2022, from acute coronary syndrome, congestive cardiac failure, and hypertension chronic obstructive pulmonary disease (COPD), due to his continuous exposure to bauxite dust. She also claims that her grandchildren suffer respiratory symptoms such as coughing, sneezing, difficulty breathing, and watery eyes. She reports that there are no medical facilities in Gibraltar. Therefore, she must travel one hour away to Browns Town.
- (iv) ***Linsford Hamilton and family (from Madras):*** He reports suffering from life-threatening illnesses such as congestive cardiac failure, bad lungs, frequent pneumonia, difficulty breathing, racing heart, and would even spit out blood. His five-year-old grandson was diagnosed with asthma. His mother has bleeding sinusitis; and his wife suffers from severe sinusitis. All the health conditions related to bauxite dust exposure. Because there are not any medical facilities in his community, Mr. Hamilton must travel about 50 minutes to Browns Town to fill prescriptions and about one and a half hours to another parish, St. James, to receive specialized medical treatment.
- (v) ***A.B and her family (from Endeavour):*** Her two-year-old daughter suffers from wheezing, sneezing, stuffy nose, and difficulty breathing, which she claims is due to the bauxite mining near her house. She claims there are no adequate medical facilities in her community, which means she must travel outside of the community to receive medical attention.
- (vi) ***Beverly Levermore and her family (from Somerton):*** She and her family report sinus symptoms, watery eyes, coughing, sore throats, and bronchitis. Her husband also struggles with shortness of breath and wheezing, due to the bauxite dust. She reports that there are no medical facilities in the community, which means they must travel to Browns Town, over one hour away on bad roads, or to St. Ann's Bay Hospital, even farther away, to receive medical attention.
- (vii) ***Merlina Rowe and her granddaughter (from Gibraltar):*** Her granddaughter suffers from running nose and coughs because of the dust, especially when at school. She informs that there are no medical facilities in their community.
- (viii) ***Jenisha Cunningham Wallace and her family (from Madras):*** She and her family have asthma symptoms, triggering coughing, swollen nostrils, wheezing, and difficulty breathing,<sup>15</sup> due to bauxite dust. They also suffered from stomach pains and watery, green stool, caused by water borne bacteria. She claims about the absence of medical facilities in Madras.

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<sup>15</sup> The applicant annexed two medical reports concerning Ms. Cunningham's children.

- (ix) **Edlin Walton and his wife (from Gibraltar):** He and his wife report having sinus symptoms and wheezing from the dust of the mining operation. To receive medical treatment, they must travel to Browns Town because there are no medical facilities in their community.
- (x) **Lawford Fletcher and his family (from Barnstaple):** His family is in a precarious health situation. His mother, 85 years old, passed from COVID-19 and his father and sibling are very ill and currently have been diagnosed with cancer. They must travel to other locations to receive specialized medical care.

8. Concerning these health related issues, Dr. Alford Jones, community doctor from Brown Towns, who has treated several proposed beneficiaries, affirmed on July 2022, that “the advent of bauxite mining in Gibraltar and surrounding communities in St. Ann has seen an increase in several medical conditions as well as exacerbations of others”, including upper respiratory tract infections, bronchial asthma, chronic obstructive pulmonary disease (COPD), acute-chronic rhinitis, acute-chronic sinusitis, skin conditions (eczema and impetigo), and exacerbation of heart failure.<sup>16</sup> On this same matter, the applicant considered that the proposed beneficiaries’ medical conditions are consistent with several studies on the negative health impacts of the major pollutants produced during bauxite mining. The studies reported that that bauxite mining activities contributed to respiratory illnesses and there was an increasing trend of asthma and upper respiratory infections.<sup>17</sup>

9. Another study, published in 2020 by the Jamaica Environment Trust (JET), concerning the impact of the Bauxite-Alumina Industry, showed that residents who live in the proximity of bauxite mining areas have frequently and consistently complained of asthma in children, allergies, damage to roofs, contaminated water supplies, damaged personal property, lack of soil fertility, impacts on crops, and dust.<sup>18</sup> Similarly, in 2007, a study conducted by Dr. Patrece Charles on “the reported respiratory illnesses in communities within the parish of Clarendon and its association with environmental conditions, particularly bauxite activity”, which found that the average levels of PM10 and PM2.5 exceeded the national acceptable average (of 50µm/m3) up to six miles from the bauxite processing plants. The particulate matter measured within the study area had aluminum and sodium particles, both associated with bauxite mining and processing.

10. In relation to the above, the applicant explained that bauxite dust is inhalable (respirable) and is defined as dust particles less than 10µm in diameter or Particulate Matter of PM10 and PM2.5. The World Health Organization (WHO) has warned that there is “no safe level” for PM10 and PM2.5 because these particles can deposit deep in the respiratory system and cause increased hospital admissions and even premature death. Therefore, most susceptible groups including persons with pre-existing lung or heart disease, as well as elderly people and children, are particularly vulnerable. Considering the forgoing, the applicant highlighted that most health conditions suffered by the proposed beneficiaries are associate or come as direct result of the dust nuisance in their communities, greatly affecting children, elderly persons, and persons with underlying conditions.

11. Particularly, in the case of the children, most of them are known to be struggling with symptoms such as asthma, rhinitis, sinusitis, and diarrhea due to chronic dust exposure at their homes. For example, the proposed beneficiary Boblet Campbell, explains that she and all her children including her one-year-old baby suffer from swollen nostrils, running nose and difficulty breathing, as a well as recurring symptoms of allergic

<sup>16</sup> Annexed to the request is a certification dated July 4, 2022, from Dr. Alford H. Jones about the “Adverse Health Effects of Bauxite Mining in the Gibraltar/Madras Area of St. Ann.

<sup>17</sup> The applicant refers to country specific studies in Guinea and Malaysia between 2015 and 2018.

<sup>18</sup> This multidisciplinary study on the impact of the Bauxite-Alumina Industry, included a chapter on public health impacts written by Dr. Patrece Charles, a public health specialist. Dr. Charles’ methodology involved the review of community complaints reported in the media and the review of three studies of the health impacts on communities in the parish of Clarendon.

rhinitis, which are a direct result of the dust nuisance in their community. It was also noted that children are also being exposed to noise and dust pollution in their communities' schools due to the proximity to mining sites. For example, the proposed beneficiary A.L., who attends school in Gibraltar, reports that the dust is a constant bother during her classes and causes her to cough and have a runny nose.

12. In a similar situation, the proposed beneficiaries with underlying conditions or elderly, have reported persistent symptoms, requiring frequent medical attention, getting progressively worse, and even passing away from their illness, due to continuous exposure to bauxite dust. Such was the case of Alfred Grant, the proposed beneficiary Victoria Grant's late husband, who died in January 2022 from acute coronary syndrome, congestive cardiac failure and hypertension chronic obstructive pulmonary disease (COPD). Presumably, the dust aggravated Mr. Grant respiratory symptoms (coughing, heavy wheezing and difficulty breathing), which led him to respiratory distress and subsequently being hospitalized; however, his conditions worsened overtime until he stopped breathing and died.

13. *Secondly*, the applicant stated that the proposed beneficiaries' health will continue to deteriorate without intervention and some illnesses will likely go untreated due to the lack of adequate and timely medical attention as well as specialized medical diagnoses. As described by the proposed beneficiaries, they must travel over one hour to other location to receive basic healthcare and treatment, considering that there are no medical facilities in their communities.<sup>19</sup> Moreover, to receive specialized medical attention, they must go to another parish such as St. James or St Andrews. The nearest health center is in Watt Town (in St. Ann Parish), however, a doctor comes to that facility only once a week and if someone has a severe exacerbation of, for example, bronchial asthma or COPD, the Watt Town facility is not equipped to deal with such an emergency. In the case of the community of Gibraltar, a nurse comes to the church every third Wednesday to check on mothers and children but cannot provide a comprehensive medical care for all residents. Also, public transportation is not provided to these communities, therefore, the proposed beneficiaries depend on their own means of transportation to access to medical care. Given this situation, if they require immediate medical attention, the proposed beneficiaries are likely to suffer with no effective intervention.

14. In addition to the above, no health impact studies nor medical diagnoses have been conducted from State authorities concerning the proposed beneficiaries' health issues and illnesses. Allegedly, the State has refused to generate basic environmental information about health impacts of its bauxite mining operations, and the effects on people's rights.

15. *Thirdly*, the applicant alleged that, because mining operations occur near or within the proposed beneficiaries' communities, there is a constant production of bauxite dust that contaminates rainwater catchments. These catchments are their main source of drinking water due to the lack of running water in the communities. The proposed beneficiaries manifested that the water they catch has a red, or brownish color. For example, the proposed beneficiaries Joseph Lowers and Stanley Bembridge claimed seeing "red dirt" in the water filter and having to drink the dirty water. In some cases, they must travel between one and two hours to buy water in the supermarket, to acquire drinking water for their families. Given the continuous consumption of contaminated water, some of the proposed beneficiaries have experienced stomach-related illnesses. On a similar note, the applicant also reported the loss of crops on several of the proposed beneficiaries' lands caused by mining activities. Their crops have been affected either because were destroyed or are no longer growing in the area, which compromises their food security and financial subsistence. Such is the case of the proposed beneficiary Alty Currie, who claims bauxite dust killed his coconut and banana trees, and affected other crops, which he relies on to sell in the market. For the proposed beneficiaries Evelyn Johnson and her family, Lenord

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<sup>19</sup> According to the applicant, the proposed beneficiaries travel to Brown Town or to a hospital in St. Ann's Bay to receive medical attention.

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Lawrence and his family, and Rowel Walker, their subsistence depends on farming and fear that mining will threaten food security.

16. *Fourthly*, the applicant reported acts of violence such as harassment and physical aggression being carried out against the proposed beneficiaries by police authorities, due to their activism and “anti-mining” stance. For example, in the case of the proposed beneficiary Nigel Campbell, he alleged several acts of violence and harassment against him and his family by Watt Town police officers, because of his participation in protests and his activism against mining operations. According to Mr. Campbell, in August 2016, he was pepper sprayed and beaten by Watt Town police officers, and his then 15-year-old son, Nigel Campbell Junior was shot by the officers, during their participation in a protest against the contamination of the public water catchment by mining-derived fugitive dust. Later, in 2019, Watt Town police officers came to Nigel Campbell Senior’s home, pepper sprayed, beat, and arrested him, then charged him with possession of an offensive weapon and resisting arrest. The judge found Mr. Campbell not guilty and told the police to desist from disturbing him. Again in 2021 and July 2022, Watt Town police officers fined and accused Mr. Campbell’s son, Eriziah Campbell, for presumably stealing a bike, but he was released after checking his bike paper. Finally, a case was filed on August 2022, on behalf of Mr. Campbell and his son Nigel Campbell Junior due to the incident in 2016 protest.

17. In a similar situation, in July 2022, the proposed beneficiary Jamar Watt was arrested by a police officer after he assisted one of the community elders in Barnstaple, who was discussing with Noranda representatives about ownership of the land. On that occasion, Mr. Watt intervened and complained to the Noranda representatives about the impacts of mining on their livelihoods, land, and food. During his arrest, the officer pulled him by his pants, put him in the police truck and took him before Court. He stated that he does not fully understand the charges filed against him but considers them related to his intervention in the private matter with Noranda.

18. Most recently in August 2022, the proposed beneficiary Boblet Campbell was threatened by a community member to burn down her house because of her involvement in the constitutional case filed on July 2022, regarding the impacts of mining operations. In that regard, the applicant fears further retaliations against the proposed beneficiaries due to their participation in the judicial proceedings.

19. *Finally*, the applicant considered that the State has failed to adopt protective measures to safeguard the proposed beneficiaries’ rights.<sup>20</sup> As a result of the foregoing, the proposed beneficiaries have filed various complaints to the State authorities about the alleged situation, including through legal actions, landmark protests, petitions, and complaints to the government, to Noranda and to the press; they have also visited government ministries and agencies to demand protective measures. Nevertheless, the applicant alleged that all legal and judicial remedies for economic, social, cultural, and environmental rights are either non-existent or inaccessible because they are prohibitively expensive; or are plagued by unwarranted delay; or are faced with significant obstacles, including an overwhelming lack of access to information. Additionally, as to non-judicial remedies, the proposed beneficiaries informed that Noranda has no formal grievance mechanism, meaning they are subjected to “an ad hoc, non-transparent complaints process”.

20. Notwithstanding, on January 2021, the Southern Trelawny Environmental Agency filed a constitutional claim seeking a declaration that “SML 173” breaches the right to enjoy a healthy and productive environment, among other rights, and an injunction restraining Noranda from starting any exploring, mining, or other activity pursuant to the lease. Despite this claim, on February 7, 2022, the National Resources

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<sup>20</sup> The applicant referred to measures related to the lack of medical facilities within their communities or specialized medical diagnoses related to industry pollution; the lack of air quality standards for some of the most serious industry-related pollutants linked to the proposed beneficiaries’ illnesses; the lack of water quality monitoring or decontamination of public water catchments, to ensure access to drinking water; no measures to guarantee the proposed beneficiaries access to subsistence recourse and ensure their right to food; and no measures to guarantee the life and physical integrity of the proposed beneficiaries against possible acts of violence or harassment on the part of members of the police or third parties.

Conservation Authority granted environmental permits to Noranda to mine 1,333 hectares of lands exclusively on the St. Ann. Thereafter, on March 29, 2022, the claimants in the constitutional case against “SML 173” filed a request for an injunction to bar Noranda from any mining activity until the case is heard. However, on July 22, 2022, the Supreme Court of Jamaica refused the request of interim injunction against mining in “SML 173”.

21. More recently in July 2022, nine of the proposed beneficiaries<sup>21</sup> filed a constitutional case and application for an interim injunction against Noranda’s mining operations. According to the applicant, the State claimed that the evidence provided by the claimants regarding the health effects is unsubstantiated and “failed to provide any evidence of the effects of bauxite mining on community health”. Regarding the absence of adequate health facilities in claimants’ communities, the State did not refute the allegations affirming that “the claimants lament the various health challenges and juxtapose that with the lack of adequate health facilities, which is not a function a bauxite mining as alleged or at all”. It was also reported that a strike out application hearing is to take place; however, the hearing has been adjourned on three occasions and was reportedly scheduled for December 2022. The constitutional case will be heard until November 2023.

22. Considering the context described, the proposed beneficiaries believe that their chronic exposure to bauxite dust pollution; the resulting deterioration of their health; the contamination of water and food sources; and the State’s lack of intervention and failure to adopt measures to mitigate the alleged risks, creates a serious and urgent risk to their rights to life, personal integrity, and health. They also claim that domestic remedies are incapable of addressing the urgent situation, which places them in a state of vulnerability.

## **B. Information provided by the State**

23. The IACHR requested information to the State on July 14, 2022, and reiterated its request on September 26, 2022. Nevertheless, the State has not submitted its observations.

## **III. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY AND IRREPARABLE HARM**

24. The precautionary measures mechanism is part of the Commission’s function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 18(b) of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Commission’s Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm.

25. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.<sup>22</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>23</sup> To do this, the IACHR shall assess the

<sup>21</sup> Victoria Grant; Linsford Hamilton; Cyril Anderson; Merlina Rowe; Beverly Levermore; Alty Currie; Boblet Campbell; Lawford Fletcher; and Edline Walton.

<sup>22</sup> See in this regard: I/A Court H.R. Matter of the Yare I and Yare II Capital Region Penitentiary Center. Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Order of July 6, 2009, considerandum 16.

<sup>23</sup> See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. Bámaca Velásquez Case. Provisional Measures regarding Guatemala. Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. Case of Fernández Ortega et al. Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]. IACHR, Matter of Six migrant children regarding Trinidad and Tobago (PM-1100-20), Resolution No. 93/2020 of

problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.<sup>24</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations.<sup>25</sup> In the process of reaching a decision, according to Article 25(2) of its 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.

26. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.<sup>26</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments.<sup>27</sup> This is better suited to be addressed by the Petition and Case system. The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.<sup>28</sup>

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December 9, 2021; IACHR, Matter of Community of Cuninico and another regarding Peru (PM-120-16), Resolution No. 52/2017 of December 2, 2017; IACHR, Matter of Native Community “Tres Islas” of Madre de Dios regarding Peru. Resolution No. 38/2017 of September 8, 2017.

<sup>24</sup> See in this regard: I/A Court H.R. Matter of Milagro Sala. Request for Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish]; I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. Matter of the Criminal Institute of Plácido de Sá Carvalho. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish]. IACHR, Matter of Erica Sheppard regarding the United States (PM-551-21), Resolution No. 57/2021 of July 29, 2021; IACHR, Matter of Julius Jones regarding the United States (PM-1041-21), Resolution No. 90/2021 of November 17, 2021; IACHR, Matter of Christa Pike regarding the United States (PM-1080-20). Resolution No. 95/2020 of December 11, 2020.

<sup>25</sup> See in this regard: I/A Court H.R. Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considerandum 7; I/A Court H.R. Matter of “El Nacional” and “Así es la Noticia” newspapers. Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, considerandum 23; I/A Court H.R. Matter of Luis Uzcátegui. Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considerandum 19.

<sup>26</sup> See in this regard: I/A Court H.R. Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures. Order of the Inter-American Court of Human Rights of August 23, 2018, considerandums 13 and 14 [only in Spanish]; I/A Court H.R. Matter of the children and adolescents deprived of their liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006, considerandum 23.

<sup>27</sup> IACHR. Resolution 2/2015. Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico. January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measure No. 96-21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33.

<sup>28</sup> In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons.” See in this regard: I/A Court H.R. Matter of James et al. regarding Trinidad and Tobago. Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998, considerandum 6; I/A Court H.R. Case of Barrios Family v. Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of April 22, 2021, considerandum 2 [only in Spanish].



27. As a preliminary matter, with regard to the universe of proposed beneficiaries, the Commission notes that the applicant requested precautionary measures in favor of a broad group of persons in Jamaica. In particular, it is noted that they requested protection on behalf of Afro-descendant persons and families living in St. Ann's farming communities, which are reportedly close to bauxite mining operations. Upon analyzing the information available from the applicant, the Commission considers it necessary to recall the provisions of Article 25(4)(b) of its Rules of Procedure. This subsection establishes that requests for precautionary measures must contain "a detailed and chronological description of the facts that support the request and any other available information".

28. When applying that procedural provision to this request, the Commission identifies that it has detailed information regarding only the following group of persons: (1) Cyril Anderson, his wife Marcia Anderson, his daughter Shauna Lee Anderson, his son L.A and his cousin L.J; (2) Boblet Campbell, his sons A.W, J.H, T.H, M.F and Prince Flemmings; (3) Nigel Campbell Senior and his sons Z. C, Eriziah Campbell and Nigel Campbell Junior; (4) Lawford Fletcher, his father David Fletcher, his mother Isabella Fletcher and sisters Maude and Elizabeth Fletcher; (5) Victoria Grant, daughters Simone Grant, Euphemia Johnson and her six grandchildren; (6) Linsford Hamilton, his wife Monica Hamilton, his daughters Lamoya Hamilton and his grandchildren L.C. and M.B; (7) A.B., S.B. and R.E.; (8) Beverly Levermore, her husband Dennis Levermore and grandson D.L.; (9) Merlina Rowe and granddaughter A.L; (10) Jenisha Cunningham Wallace, her children Ackeen Allen, D.B., A.B. and N.A., and nephews and nieces G.B., I.B., J.B. and T.B.; (11) Edlin Walton and his wife Sonia Walton; and (12) Jamar Watt. In this sense, the Commission considers the identified Afro-descendant persons as the proposed beneficiaries in this request, with respect to whom it will analyze compliance with the requirements set forth in Article 25 of its Rules of Procedure.

29. Regarding the remaining persons and families not included in this resolution, the Commission recalls that, under the terms of Article 1(1) of the American Convention, the State must respect and guarantee their rights regardless of the instant precautionary measures. Should new events occur or updated and detailed information on their situation become available, the applicant may request precautionary measures in favor of these persons, in accordance with Article 25 of the Rules of Procedure, whenever she deems it appropriate.

30. With regard to the requirement of seriousness, the Commission considers that it has been met. The Commission, in reaching this determination, observes the following factual elements alleged by the applicant and not disproved by the State, who did not respond despite the two requests for information made under the terms of Article 25 of the Rules of Procedure:

- The identified persons reportedly live in farming communities in St. Ann and near bauxite mining operations;
- The mining operations purportedly are open-pit and have been active in the area since the 1940s, expanding in size only recently;
- Mining activities allegedly produce bauxite dust, which is inhalable. Dust particles are less than 10 µm in diameter or PM10 and PM2.5 particulate matter (see *supra* para. 10);
- PM10 and PM2.5 particulate matter is likely to cause or increase existing respiratory problems affecting particularly vulnerable groups;
- Documentary support was presented regarding the relationship between bauxite mining activities and the impact on the health of people living near such activities. Therefore, the following is identified: (1) a statement from the area doctor dated July 2022 in which he refers to the impact studies of bauxite mining activities on the respiratory system of the community's people (see *supra* para. 8); (2) a 2020 *Jamaica Environment Trust (JET)* study that refers to the health impact on people residing near areas

with bauxite mining activities (see *supra* para. 9); (3) research in 2007 by a doctor who conducted a study on the relationship between bauxite mining activities and respiratory diseases in nearby communities, such as Clarendon (see *supra* paras. 8 and 9);

- The identified Afro-descendant persons are reportedly exposed to dust from bauxite mining activities near their communities, affecting their water sources (see *supra* paras. 7 and 15);
- The identified Afro-descendant persons and their families, as appropriate, are allegedly suffering from serious respiratory problems and have difficulties in obtaining timely medical attention, either because of the distances to access a medical center, the lack of adequate medical facilities, or the absence of these facilities in the communities to treat the respiratory problems they have been suffering (see *supra* paras. 7 and 13);
- The heart and respiratory diseases reported by the applicant are: cough, eye irritation (watery eyes), nasal congestion, inflammation of the nostrils, sneezing, sore throat, difficulty breathing, asthma, accelerated heart, bronchitis, pneumonia, sinusitis, allergic rhinitis, rhinosinusitis, bleeding (spitting up blood), respiratory involvement, chronic obstructive pulmonary disease (COPD), acute coronary syndrome, congestive heart failure, coronary heart disease, and cancer;
- One member of an identified family reportedly died in January 2022 from heart and respiratory conditions, which worsened over time until his death (see *supra* para. 12);
- In addition, other members identified in other two groups of Afro-descendant persons have been subjected to violence because of their critical position against bauxite mining activities and domestically driven legal actions (see *supra* paras. 16-18). Most recently, in August 2022, Boblet Campbell was threatened by another member of the community that her house might be burned down because of her participation in a constitutional action in July 2022 (see *supra* para. 18).

31. Furthermore, the Commission notes that the applicant has indicated that the authorities have refused to provide basic environmental information on the health impacts of bauxite mining operations in the region. In this regard, they indicated that no official studies on the impact of health and medical diagnoses by the state authorities were available (see *supra* para. 14). The Commission has no observations from the State that may disprove the allegations made by the applicant and regrets its failure to respond, despite the repeated requests for information pursuant to the terms of Article 25 of the Rules of Procedure.

32. Moreover, the Commission notes that the allegations made by the applicant are in line with the information provided by the World Health Organization on particulate matter and its impact on human health. The World Health Organization has indicated the following regarding particulate matter:

PM is a common proxy indicator for air pollution. It affects more people than any other pollutant. The major components of PM are sulfate, nitrates, ammonia, sodium chloride, black carbon, mineral dust and water. It consists of a complex mixture of solid and liquid particles of organic and inorganic substances suspended in the air. While particles with a diameter of 10 microns or less, ( $\leq$  PM<sub>10</sub>) can penetrate and lodge deep inside the lungs, the even more health-damaging particles are those with a diameter of 2.5 microns or less, ( $\leq$  PM<sub>2.5</sub>). PM<sub>2.5</sub> can penetrate the lung barrier and enter the blood system. Chronic exposure to particles contributes to the risk of developing cardiovascular and respiratory diseases, as well as of lung cancer.<sup>29</sup>

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<sup>29</sup> World Health Organization. Ambient (outdoor) air pollution. September 22, 2021. Available on: [https://www.who.int/news-room/factsheets/detail/ambient-\(outdoor\)-air-quality-and-health](https://www.who.int/news-room/factsheets/detail/ambient-(outdoor)-air-quality-and-health)

33. Regarding the effects on people's health and daily and long-term morbidity or mortality, the World Health Organization has indicated the following:

There is a close, quantitative relationship between exposure to high concentrations of small particulates (PM10 and PM2.5) and increased mortality or morbidity, both daily and over time. Conversely, when concentrations of small and fine particulates are reduced, related mortality will also go down – presuming other factors remain the same. This allows policy-makers to project the population health improvements that could be expected if particulate air pollution is reduced.

Small particulate pollution has health impacts even at very low concentrations – indeed no threshold has been identified below which no damage to health is observed. Therefore, the WHO Global guideline limits aimed to achieve the lowest concentrations of PM possible.<sup>30</sup>

34. On a similar note, in its report concerning Indigenous Peoples, Communities of African Descent and Extractives industries,<sup>31</sup> the Inter-American Commission pointed out on the adverse effects on the health of ethno-racial peoples due to chemical and toxic materials used for the extraction of minerals, without the necessary treatment measures. The implementation of such projects could cause serious pollution related to slop of toxic substances in environments and rivers traditionally used by ethno-racial peoples for their physical survival.

35. The Commission notes that the situation described by the applicant has been brought to the attention of the State authorities, including the filing of constitutional appeals in 2021 and 2022 alleging, among other aspects, the absence of adequate medical care and impacts on the proposed beneficiaries' health (see *supra* para. 20 and 21). Nonetheless, it is worrisome that to date there has been no response from the State on the alleged situation, nor on the steps and actions taken to mitigate it. It also has no information that, after the time elapsed, the constitutional appeals have been resolved despite the seriousness of the presented information.

36. Based on the foregoing, taking into consideration the specific characteristics of the instant matter, the Commission believes that the sum of elements available in the record, analyzed from the *prima facie* standard applicable to the precautionary measures mechanism, is sufficient to consider that the identified Afro-descendant persons living in the communities in St. Ann, are particularly at risk regarding their rights to life, personal integrity, and health.

37. Regarding the urgency requirement, the Commission considers that it is met, given that, if the situation described above continues, the proposed beneficiaries are likely to be exposed to a greater imminent impact on their rights. The above taking into account the serious harm to their health; the lack of access to timely and specialized medical care; and the acts of violence purportedly exercised by police authorities and third parties. In addition, the Commission has no concrete information from the State to assess the measures and actions that are being taken to mitigate the alleged risk factors, particularly with respect to the life, personal integrity, and health of the proposed beneficiaries. In these circumstances, the adoption of urgent measures to protect the rights of these people is justified.

38. As regards the requirement of irreparable harm, the Commission considers that it is met, since the possible impact on the rights to life and personal integrity constitutes, due to their own nature, constitutes the maximum situation of irreparability.

<sup>30</sup> *Idem*.

<sup>31</sup> IACHR, *Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities*. December 31, 2015, para. 274. Available at <https://www.oas.org/en/iachr/reports/pdfs/ExtractiveIndustries2016.pdf>

#### **IV. BENEFICIARIES**

39. The Commission declares the following Afro-descendant persons to be beneficiaries in the proceeding at hand: (1) Cyril Anderson, his wife Marcia Anderson, his daughter Shauna Lee Anderson, his son L.A. and his cousin L.J.; (2) Boblet Campbell, her sons A.W., J.H., T.H., M.F. and Prince Flemmings; (3) Nigel Campbell Senior and his sons Z.C., Eriziah Campbell and Nigel Campbell Junior; (4) Lawford Fletcher, his father David Fletcher, his mother Isabella Fletcher and his sisters Maude and Elizabeth Fletcher; (5) Victoria Grant, her daughters Simone Grant, Euphemia Johnson and her six grandchildren; (6) Linsford Hamilton, his wife Monica Hamilton, his daughter Lamoya Hamilton and his grandchildren L.C. and M.B; (7) A.B., S.B. and R.E.; (8) Beverly Levermore, her husband Dennis Levermore and grandson D.L.; (9) Merlina Rowe and her granddaughter A.L.; (10) Jenisha Cunningham Wallace, her sons Ackeen Allen, D.B., A.B. and N.A., and nieces and nephews G.B., I.B., J.B. and T.B.; (11) Edlin Walton and his wife Sonia Walton; and (12) Jamar Watt, who are duly identified in these proceedings.

#### **V. DECISION**

40. The Inter-American Commission considers that this matter meets *prima facie* the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, it requests that Jamaica:

- a) take the necessary measures to protect the rights to life, personal integrity, and health of the Afro-descendant persons identified as beneficiaries in the St. Ann region, with a cultural, gender-based, and age-appropriate perspective, including the following: i. carry out the necessary medical diagnoses to define the corresponding medical care; ii. guarantee adequate, timely, and specialized medical care, according to the medical conditions; and iii. guarantee access to contaminant-free water;
- b) adopt the necessary measures to prevent threats, harassment, and other acts of violence against the beneficiaries;
- c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and
- d) report on the actions taken to investigate the events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

41. The Commission requests that the Government of Jamaica inform the Commission, within a period of 20 days, as from the date of this communication, on the adoption of the precautionary measures that have been agreed upon and to periodically update such information.

42. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected under the applicable instruments.

43. The Commission instructs its Executive Secretariat to notify this resolution to the State of Jamaica and the applicant.

44. Approved on November 24, 2022, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary