**FOLLOW-UP FACTSHEET OF REPORT No. 97/03**

**CASE 11.193**

**GARY T. GRAHAM, NOW KNOWN AS SHAKA SANKOFA**

**(United States)**

1. **Summary of Case**

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| **Victim (s):** Shaka Sankofa (formerly Gary Graham)  **Petitioner (s):** International Human Rights Law Clinic, American University, Washington College of Law  **State:** United States  **Merits Report No.:** [97/03](http://cidh.org/annualrep/2003eng/USA.11193.htm), published on December 29, 2003  **Admissibility Report No.:** [51/00](http://cidh.org/annualrep/2000eng/ChapterIII/Admissible/USA11.193.htm), adopted on June 15, 2000  **Precautionary Measures:** [Granted on February 4, 2000](http://www.cidh.org/medidas/2000.eng.htm)  **Themes:** Death Penalty / Right to Life / Right to a Fair Trial / Judicial Protection / Domestic Effects / Rights of the Child.  **Facts:** This case refers to Shaka Sankofa (formerly known as Gary Graham) who was sentenced to death in October 1981 in the state of Texas, United States, in proceedings that violated his due process and fair trial rights including that he was denied effective legal assistance as well as a forum for any legal body to review identification and other evidence that suggested that he was innocent of the crime for which he was condemned. Mr. Sankofa was executed on June 22, 2000.  **Rights violated:** The Commission concluded that the State was responsible for violations of Articles XVIII and XXVI of the American Declaration in the trial, conviction and sentencing to death of Shaka Sankofa; that by executing Mr. Sankofa based upon these criminal proceedings, the State was responsible for a violation of Mr. Sankofa’s fundamental right to life under Article I of the American Declaration; and, that the State acted contrary to an international norm of *jus cogens* as encompassed in the right to life under Article I of the America Declaration by executing Mr. Sankofa for a crime that he was found to have committed when he was 17 years of age. |

1. **Recommendations**

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| **Recommendations** | **State of compliance in 2020** |
| 1. Provide the next-of-kin of Shaka Sankofa with an effective remedy, which includes compensation. | Pending compliance |
| 2. Review its laws, procedures and practices to ensure that violations similar to those in Mr. Sankofa’s case do not occur in future capital proceedings. | Pending compliance |
| 3. Review its laws, procedures and practices to ensure that capital punishment is not imposed upon persons who, at the time his or her crime was committed, were under 18 years of age. | Total compliance |

1. **Procedural Activity**
2. In 2020, the IACHR requested updated information on compliance from the State on August 18. The State presented said information on September 16.
3. The IACHR requested updated information on compliance from the petitioner on August 18, 2020, and the petitioners presented said information on October 6, 2020.
4. **Analysis of the information presented**
5. The Commission considers that the information presented by the State and the petitioners in 2020 is irrelevant to update on the follow-up of the case given that it is repetitive of the information presented in previous years, without presenting new information on measures taken recently to comply with at least one of the recommendations issued in Merits Report No. 97/03.
6. In this sense, because of the lack of updated information on the level of compliance with the recommendations, the IACHR reiterates the analysis of compliance and the conclusions made in its 2019 Annual Report.

1. **Analysis of compliance with the recommendations**
2. **With regards to the first recommendation**, in 2011, the State informed that neither domestic nor international law requires it to provide remedies to the families of persons whose execution was legal at the time it was carried out.[[1]](#footnote-1) In 2020, the State reiterated its earlier responses, without presenting new information on actions adopted to comply with this recommendation.
3. In 2009, the petitioners informed that they had ended their representation of the victim’s family because they were unable for many years to contact them. Accordingly, the petitioners indicated that they were not in a position to inform on compliance with this recommendation.[[2]](#footnote-2) In 2019 and 2020, the petitioners informed that they had lost contact with the victim’s family, reason why they cannot present updated information about the compliance with the recommendations.
4. The Commission reminds the State that it is a principle of international law that any breach of an international obligation resulting in harm gives rise to the duty to adequately redress such harm.[[3]](#footnote-3) In accordance with the jurisprudence of the inter-American system, victims of human rights violations have the right to adequate compensation for the harm suffered, which must be concretized through individual measures aimed at restoring, compensating and rehabilitating the victim, as well as satisfaction and guarantees of non-repetition.[[4]](#footnote-4) Further, a State cannot modify or disregard this obligation by relying on its domestic law.[[5]](#footnote-5) Based on this, the Commission finds that Recommendation 1 is pending compliance.
5. **Regarding the second recommendation**, in 2011, the State reiterated that it declines this recommendation.[[6]](#footnote-6) In 2020, the State reiterated its earlier responses regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.
6. In 2009, the petitioners informed that they were unaware of any efforts taken by the United States to review its procedures and practices to ensure that violations similar to those in Mr. Shankofa’s case do not occur in future capital proceedings.[[7]](#footnote-7) In 2019 and 2020, the petitioners informed that they had lost contact with the victim’s family, reason why they cannot present updated information on the case.
7. The Commission recalls that the American Declaration is recognized as constituting a source of legal obligation for OAS Member States, including in particular those States that are not parties to the American Convention on Human Rights.[[8]](#footnote-8) Pursuant to article 31(1) of the Vienna Convention on the Law of Treaties, Member States are required to apply good faith efforts comply with the recommendations of supervisory bodies such as the Inter-American Commission.[[9]](#footnote-9) Based on this, the Commission finds that Recommendation 2 is pending compliance.
8. **With regards to the third recommendation**, in 2005, the State informed that on March 1, 2005, the Supreme Court of the United States held in *Roper v. Simmons*[[10]](#footnote-10) that the Eighth and Fourteenth Amendments to the Constitution of the United States prohibit the imposition of thedeath penalty on persons who were under the age of 18 at the time the crimes for which they were sentenced were committed.[[11]](#footnote-11)
9. In 2009, the petitioners informed the Commission of the precedent set in *Roper v. Simmons*.[[12]](#footnote-12)
10. The Commission takes special note of the Supreme Court decision in *Roper v. Simmons* which held that the Eighth and Fourteenth Amendments to the Constitution of the United States prohibit the imposition of the death penalty on individuals who were under the age of 18 at the time of commission of the crime. Based on this, the Commission finds that Recommendation 3 is totally complied.

1. **Level of compliance of the case**
2. Based on the foregoing, the Commission concludes that the level of compliance of the case is partial. Consequently, the Commission will continue to monitor Recommendations 1 and 2.
3. The Commission calls the State to adopt actions to implement the recommendations issued in Merits Report No. 97/03 and to provide it with detailed and up-to-date information about these actions. At the same time, the IACHR invites the petitioners to renew its efforts to reestablish contact the victim’s family members, and to present information about measures adopted by the State to comply with the Commission’s recommendations.
4. **Individual and structural results of the case**
5. This section highlights the individual and structural results of the case that have been informed by the parties.
6. **Individual results of the case**

* No individual results have been informed by the parties.

1. **Structural results of the case**

*Non-Repetition Measures*

* On March 1, 2005, the Supreme Court of the United States held in *Roper v. Simmons* that the Eighth and Fourteenth Amendments to the Constitution of the United States prohibit the imposition of thedeath penalty on persons who were under the age of 18 at the time the crimes for which they were sentenced were committed.

1. IACHR, 2011 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2011/Chap3D.doc), para. 583. [↑](#footnote-ref-1)
2. IACHR, 2011 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2011/Chap3D.doc), para. 580. [↑](#footnote-ref-2)
3. IACtHR, [Case of La Cantuta Vs. Peru, Judgement of November 29, 2006](http://www.corteidh.or.cr/docs/casos/articulos/seriec_162_ing.pdf). Series C No. 162, paras. 199-200. [↑](#footnote-ref-3)
4. IACHR, [Principal Guidelines for a Comprehensive Reparations Policy](http://www.cidh.org/pdf%20files/Lineamientos%20Reparacion%20Administrativa%2014%20mar%202008%20ENG%20final.pdf), 19 February 2008, OEA/Ser/L/V/II.131, doc. 1, para. 1; UNGA, [Resolution 60/147 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](http://legal.un.org/avl/pdf/ha/ga_60-147/ga_60-147_ph_e.pdf), 16 December 2005. A/RES/60/147. [↑](#footnote-ref-4)
5. IACtHR, [Case of La Cantuta Vs. Peru, Judgement of November 29, 2006](http://www.corteidh.or.cr/docs/casos/articulos/seriec_162_ing.pdf). Series C No. 162, para. 200. [↑](#footnote-ref-5)
6. IACHR, 2011 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2011/Chap3D.doc), para. 583. [↑](#footnote-ref-6)
7. IACHR, 2011 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2011/Chap3D.doc), para. 580. [↑](#footnote-ref-7)
8. IACtHR, [Advisory Opinion OC-10/89 Interpretation of the Declaration of the Rights and Duties of Man within the Framework of Article 64 of the American Convention on Human Rights](http://www.corteidh.or.cr/docs/opiniones/seriea_10_ing1.pdf), July 14, 1989, Ser. A No. 10 (1989), paras. 35-45. [↑](#footnote-ref-8)
9. IACHR, [Case 12.873, Merits Report No. 44/14, Edgar Tamayo Arias](http://www.oas.org/en/iachr/decisions/2014/USPU12873EN.pdf) (United States), para. 214; IACHR, [Case 12.626, Report No. 80/11, Jessica Lenahan (Gonzales) et al. (United States)](http://www.oas.org/en/iachr/decisions/2011/USPU12626EN.doc), paras. 115-120; IACHR, [Towards the Closure of Guantanamo](http://www.oas.org/en/iachr/reports/pdfs/Towards-Closure-Guantanamo.pdf), 2015, paras. 16-23; IACHR, [Case 12.586, Report No. 78/11, John Doe et al. (Canada)](http://www.oas.org/en/iachr/decisions/2011/CAPU12586EN.doc), para. 129. [↑](#footnote-ref-9)
10. Supreme Court of the United States, [Roper v. Simmons](https://supreme.justia.com/cases/federal/us/543/551/), 543 U.S. 551 (2005). [↑](#footnote-ref-10)
11. IACHR, 2011 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2011/Chap3D.doc), para. 586. [↑](#footnote-ref-11)
12. IACHR, 2011 Annual Report, [Chapter III, Section D: Status of compliance with the recommendations of the IACHR](http://www.oas.org/en/iachr/docs/annual/2011/Chap3D.doc), para. 580. [↑](#footnote-ref-12)