Concurring Opinion of Judge de Roux-Rengifo[1]

The legal crux of the present case centers on Article 4(2) of the American Convention, which provides that "the death penalty […] may only be imposed for the most serious crimes." Thirty-one of the thirty-two victims have not been—and hopefully will not be—executed. In other words, they have not yet been deprived of their lives. However, the right that they have been granted by Article 4(2) has nevertheless been breached because of the application of a law (the Offences Against the Person Act of Trinidad and Tobago) that leads to the imposition of the death penalty for crimes that do not fall into the category of "most serious." The Court has avoided examining the personal situation of every victim, or rather, abstained from evaluating the possibility that some of those condemned to death could have committed crimes which are considered the "most serious," because the aforementioned law has been applied to all of them, and this necessitates, without question, a declaration of a violation of Article 2 of the Convention. Therefore, in order to declare with certainty that the State violated Article 4(2) with respect to all thirty-two victims in this case, the Court had to link the violation of that norm to Article 2.

I find, on the other hand, that the violation of Article 4(1) occurred in close connection with that of Article 4(2). The State violated the first of these provisions precisely because it violated the second, and the manner in which it did so.

Article 4(1) establishes that "no one shall be arbitrarily deprived of his life." Consequently, if it is found that a State has infringed the aforementioned right, it is necessary to show in what way the deprivation of life of the person or persons involved was arbitrary.

The arbitrariness of the State's conduct in this case consisted of the fact that it violated Article 4(2) of the Convention, in conjunction with Article 2, as stated above. It was therefore a violation of Article 4(2), which rendered the death penalty arbitrary and led to the infringement of Article 4(1).

It would have been relevant that the so-called "considerations" section of the judgment would explicitly address all of the relationships described between the provisions referred to above (the fact is that the judgment preferred to mention only some of these relationships, and only tangentially). Above all, this would have required the merging of paragraphs 1 and 2 of the resolving section into a single section, declaring that the State violated, to the detriment of the victims in the case, Article 4(1) in conjunction with Article 4(2), and both of those in conjunction with Article 2 of the American Convention.

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[1] This Opinion was written in Spanish language and translated into English by the Secretariat of the Inter-American Court of Human Rights.

Carlos Vicente de Roux Rengifo
Judge

Manuel E.Ventura Robles
Secretary