

ORDER THE
INTER-AMERICAN COURT OF HUMAN RIGHTS¹
OF MAY 22, 2014
PROVISIONAL MEASURES REGARDING BRAZIL
MATTER OF THE PENITENTIARY COMPLEX OF CURADO²

HAVING SEEN:

1. The brief of the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission," or "the Commission") of March 31, 2014, and its attachments, wherein it filed a request for provisional measures before the Inter-American Court of Human Rights (hereinafter "the Inter-American Court," "the Court," or "the Tribunal"), pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") and 27 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), in order for the Court to require the Federal Republic of Brazil (hereinafter "Brazil" or "the State") to adopt, without delay, the measures necessary to protect the life and personal integrity of those deprived of liberty in the prison 'Profesor Aníbal Bruno,' as well as any other person in that establishment, located in the city of Recife, State of Pernambuco, Brazil. On April 9, the Commission provided said request in its Portuguese version.
2. The note of April 10, 2014, wherein the Secretariat of the Court (hereinafter "the Secretariat"), pursuant to instructions of the President of the Court (hereinafter "the President"), requested the State to submit, by no later than April 21, 2014: i) the observations it considers relevant regarding the request for provisional measures, and ii) any other documentation that it deems relevant for the Court to consider the request of the Inter-American Commission with all the necessary information.
3. The communication of April 16, 2014, wherein Brazil requested an extension until May 2, 2014, to submit its observations.
4. The note of April 16, 2014, wherein the Secretariat, pursuant to instructions of the President, granted the extension until April 25, 2014.
5. The brief of April 29, 2014, wherein the State provided its observations to the request of the Inter-American Commission. The attachments of the communication were received by the Secretariat of the Court on May 5, 2014.

¹ Judges Roberto F. Caldas and Diego García-Sayán did not participate in the hearing and deliberation of this Order.

² According to information provided by the State, since February 7, 2012, the Prison Professor Aníbal Bruno has been divided into three units, which were renamed *Presídio Juiz Antonio Luiz Lins de Barros (PJALLB)*, *Presídio Marcelo Francisco de Araújo (PAMFA)* and *Presídio Frei Damião of Bozzano (PFDB)*, all functioning independently. The Complex was named "Curado Complex". Based on the foregoing, the Court will refer to said complex in this Order, based on the understanding that it encompasses the physical structure which consisted of the old Professor Aníbal Bruno Prison, object of the precautionary measures of the Inter-American Commission.

6. The communication of May 22, 2014, wherein the Inter-American Commission reported on new alleged facts of violence that occurred in the months of March and May 2014, in the prison.

7. The alleged facts that form the basis of the provisional measures filed by the Inter-American Commission, namely:

a) The Commission adopted precautionary measures in this matter on August 4, 2011, after receiving information, among others, about the 55 violent deaths that took place in said prison as of 2008, the alleged acts of torture and prison riots that took place in July 2011, which resulted in 16 injured inmates. This information was received by the Commission between June and July 2011, provided by the organizations *Justiça Global*, *the International Human Rights Clinic at Harvard University*, *Pastoral Carcerária de Pernambuco*, *Serviço Ecumênico de Militância nas Prisões*, and *Pastoral Carcerária Nacional*;

b) The precautionary measures were extended on October 8, 2012, in order to also protect "the staff and visitors at the prison" in light of the information provided regarding the occurrence of prison riots and acts of violence that have resulted in one death and two injured persons, even during visiting hours;

c) As background information, the Commission filed information on the various facts presented below:

1. since January 2013, six inmates have died violently on January 19, June 3, June 19, October 15, December 3, 2013, and February 1, 2014;
2. on September 14, 2013, and on March 28, 2014, the petitioners reported over 50 complaints of violence (30 complaints on September 14, 2013, 20 complaints between said dates and February 18, 2014, and four complaints on March 28, 2014) to the detriment of those persons deprived of liberty that allegedly include: beatings, electric shock, use of dogs to bite and/or cause injury, death threats, attempted murder with knives and daggers, indiscriminate use of rubber bullets and tear gas by prison guards, 'chaveiros,' and other inmates, and other domestic and sexual violence against inmates, individually and collectively;
3. the use of 'chaveiros' with disciplinary authority and security control functions, backed by State officials. The 'chaveiros' would have had control over various cells and cellblocks, and even had the keys to these. As a result of the abovementioned, the 'chaveiros' restricted some inmates, such as gays, bisexuals and transsexuals, from freely moving through the halls of the prison;
4. the alleged attacks against visitors by prison staff;
5. the alleged taking of prison officers as hostages by at least 35 inmates on January 26, 2013. The petitioners reported that an officer was injured by a firearm;
6. between January and October 2013, 55 disturbances or riots occurred in which prison staff used firearms and grenades. A report of the Executive Secretariat of Resocialization certified the use of such weapons;

7. the lack of sufficient State agents to assure safety and security in the prison;
8. the alleged possession, fabrication, and exchange of knives and firearms amongst prisoners;
9. the complaints of sexual exploitation of minors admitted into the prison with fake identification and who were forced to have sexual relations with prisoners;
10. more than 100 cases of lack of medical care. Moreover, there was a lack of doctors, rehabilitation technicians, and lack of adequate nutrition. Also, in various cells there were inmates with tuberculosis and lepra, without the State adopting appropriate measures;
11. the alleged overcrowding, with 6,456 inmates present on September 14, 2013, and 6,444 on February 28, 2014, for a prison with capacity for 1,514 persons;
12. the prison conditions are also deplorable: electricity is intermittent and there are exposed electrical wires that have generated some sparks and small fires in certain cell blocks; access to water comes and goes in intervals and in one unit, the water supply is cut every night; there is no distribution for hygienic materials and food is extremely scarce and is prepared without any health standards;
13. the use of cells in the disciplinary cell block without any natural light and where many attacks occur;
14. the practice of vaginal and anal inspections to the visitors of the prison in 'suspect' cases, and
15. the failure to investigate the mentioned facts.

d) In this regard, the State recognized that "the various problems at the 'Professor Aníbal Bruno' prison [were] complex, and therefore demanded structural responses." Also, on October 29, 2013, it announced the creation of a "Permanent Forum of Accompaniment on Precautionary Measures" under the Federal Public Ministry and with the participation of other State agencies. In addition, the State provided no information for the Commission regarding complaints of violence and torture against the beneficiaries of the precautionary measures. Lastly, the State reported on, among other things: a) programs and policies implemented to combat torture; b) that the use of 'chaveiros' would be assessed by inspection agencies of the prison system in order to obtain a concrete and permanent solution; c) that there is currently a qualified health team at Aníbal Bruno prison; d) that within the prison, visitors were registered with biometric identification, which reduces the risk of sexual exploitation.

8. The arguments of the Commission that form the basis of the request for provisional measures, among which, it noted that:

a) "the main risk factors identified by the Commission are: i) the alleged use of disciplinary practices and acts of violence by the authorities at the prison that amount to acts of torture, cruel, inhumane and degrading treatment; ii) the alleged indiscriminate use of force and firearms by prison officers; iii) the alleged persons known as 'chaveiros', that is, inmates that implement disciplinary measures and acts of violence to the detriment of other prisoners; iv) the alleged lack of effective control within the prison; v) the alleged arms trafficking between inmates; vi) the alleged lack of medical care in urgent cases and the spread of communicable diseases; vii) the upsurge of violence due to

very high levels of overcrowding and lack of basic minimum conditions such as food and drinking water; and viii) the alleged lack of effective judicial response to such events ";

b) the possible beneficiaries of the provisional measures are fully identified by the State of Brazil in as much as they make up the prison population at the 'Professor Aníbal Bruno' prison. According to the latest information provided by the petitioners, in February 2014, there were 6,644 persons incarcerated in the center. Similarly, the prison staff and visitors in that center are also clearly identifiable;

c) as part of precautionary measures in this case, the Commission considered that the extreme violence within the 'Professor Aníbal Bruno' prison has reached a critical level that has killed and affected the integrity of an alarming number of people and has taken shape in many forms of violence that operate simultaneously. That is, as a result of the actions of State agents and the absence of effective measures to control violence amongst the prisoners themselves. There is also consistent evidence of inhumane detention conditions that constitute a factor that exacerbates violence in the center. Thus, the alleged beneficiaries are in a situation of extreme gravity and urgency and risk of irreparable damage that requires the immediate adoption of provisional measures given the ineffectiveness of the precautionary measures issued by the Commission;

d) despite the adoption of precautionary measures, the State has not taken the necessary measures to protect the life and personal integrity of the prisoners at said institution. The State's response has not responded to the immediacy and urgency that the critical situations and extreme violence so require. To the contrary, as noted, the Commission has received consistent information regarding hundreds of deaths and torture and cruel, inhumane and degrading treatment in the prison 'Professor Aníbal Bruno' to date, not only by prison staff but also by other inmates. The Commission stressed that the last registered murder of an inmate at said institution happened only a few weeks ago and was allegedly perpetrated by another inmate. The most recent facts reported by petitioners are not isolated events. From the monitoring of the precautionary measures of the Commission, it can be identified that these very recent events form part of a continuous and growing increase in violence. Thus the continuity of the risk factors already described by the Commission, allow for the inference of an existent imminent risk of death and additional harm to life and personal integrity;

e) for the Commission, the vast majority of people killed and injured were done so through the use of knives and firearms, and thus it can be inferred that arms trafficking took place in the detention center by the prisoners, that the State backed the practice and use of the 'chaveiros,' as well as alleged examples of the indiscriminate use of force by prison authorities. Thus the Commission highlights the lack of effective control in the 'Professor Aníbal Bruno' prison by custodial authorities, which allows for the inference of an existent situation of extreme gravity and urgency and risk of irreparable harm, and

f) the information provided also places prison staff in said prison at risk as well as the visitors. This is evidenced by the alleged facts reported by the

representatives in relation to acts of violence against staff officials, and the taking of hostages, threats, vaginal and anal inspections, and forced nudity to the detriment of the visitors as well as other alleged forms of sexual violence.

9. The request of the Inter-American Commission to the Court, based on the facts provided and pursuant to Articles 63(2) of the Convention and 27 of the Rules of Procedure of the Court, that the State be ordered to:

- a) Obtain effective control of the prison, with strict adherence to the human rights of the prisoners therein;
- b) Identify and provide answers to the causes allowing arms trafficking within the prison;
- c) Eliminate the use and practice of the 'chaveiros';
- d) Eliminate the high index of prison riots;
- e) Assure access to health services to those with serious illnesses;
- f) Avoid the spread of communicable diseases amongst the prisoners;
- g) Eliminate the vaginal and anal inspections to the detriment of the visitors, as well as any other measure that threatens life and personal integrity, and
- h) Diligently investigate the reported facts in order to punish those responsible, including prison staff, and to avoid the reoccurrence of these facts.

10. The observations and information presented by the State regarding the Commission's request, *inter alia*:

- a) Implemented a new manner of prison classification of inmates in the three units at *Complexo de Curado*: PJALLB – minimum security; PAMFA – midlevel security; PFDB – maximum security;
- b) created the Public Security Plan, entitled "Pact for Life," which implemented a results based model, and established monitoring through the use of section cameras;
- c) State Law nº 14.8631, of December 7, 2012, created the State Committee for Combat and Prevention of Torture in the State of Pernambuco;
- d) as of May 2014, implementation will begin of the Integrated System of Prison Administration (SIAP for its acronym in Portuguese), throughout the Prison System in the State of Pernambuco. The Integrated System will allow for the identification of visitors and staff through the use of biometrics and the provision of information, such as the criminal situation of persons deprived of liberty; allowing, in real time, for greater control and monitoring of these persons in the prison units. Monitoring will be daily, integrated with other corporate systems and technologies. The focus will be on identification

processes and movement within the prison, judicial data and psychosocial opinions;

e) as of July 2013, a TV Closed Circuit (CFTV) has been running in the Prison, which consists of video monitoring by way of an internal circuit of cameras;

f) since February 2012, 312 new security guards were hired, replacing 40 military police officers that acted as internal guards in the prior Professor Anibal Bruno Prison;

g) the hiring of 320 new Prison Security Guards was approved, wherein 120 were obtained from the last application period, and a new application period was authorized to hire 200 more;

h) the conclusion of the new cell block in the *Presídio Juiz Antonio Luiz Lins de Barros* (PFALLB) is set for May 7, 2014, with capacity to hold 325 inmates;

i) efforts to prohibit the entry of illicit materials into the units were made, which includes the use of metal detection equipment and X-Ray equipment. Moreover, materials that were circulating within the units were apprehended;

j) in 2013, four firearms, approximately 814 artisanal/industrial knives, 721 cellular phones, 380 *chips* for cellular phones, 459 cell phone chargers, 73 kilos of marijuana, 8 kilos of crack, 350 grams of cocaine, and 560 psychedelic pills were apprehended;

k) currently, all prison services are provided by public agents. Given the increase in prison staff, as of February 2012 there has been greater internal State control in the Prison and the use of the "chaveiros" was eliminated;

l) since the inauguration of the Prison, more than 200 inmates who were used as "chaveiros" were transferred;

m) a study that was carried out identified the existence of 540 sentenced individuals with no proceedings pending, and thus are ready to be transferred to the Prison Professor Barreto Campelo to comply with their final punishment. The transfer procedure was authorized by judges on April 16, 2014;

n) adhered to the National Health Policy for Persons Deprived of Liberty on April 1, 2014, joining the actions of the Unified Health System (SUS for its acronym in Portuguese);

o) between November 11 and 23, 2013, a concerted effort was made to prevent, control, and detect new cases of tuberculosis in the PJALLB. From December 5 to 10, 2013, another "mutirão" was carried out to prevent, control, and treat new cases of leprosy in the PJALLB;

p) regarding the PJALLB, of the 2,943 inmates present, there are 1,180 suspected cases of tuberculosis, with 26 confirmed cases; and 35 suspected cases of leprosy, with five confirmed cases;

q) the Executive Secretary of Resocialization expressly forbids any kind of inspection that is humiliating or that affects the dignity of the visitor. However, within the limits of a preventive personal search and under the condition of being an exceptional measure, such proceedings on behalf of the common good even without substantiated suspicion are tolerable, as takes place when entering stadiums during major sporting or cultural events;

r) since October 23, 38 investigations were initiated in regard to specific complaints, supposedly perpetrated by staff at the Curado Complex;

s) regarding the deceased inmates:

1. Renato Alberto da Silva was murdered in the PAMFA on January 19, 2014, by a "sharp bladed instrument." The police investigation was completed and forwarded to the Criminal Justice system. The prisoner Charles Fernandes Monteiro was charged;
2. Rogério Vieira de Souza was murdered in the PAMFA on February 1, 2014. The investigation is currently in the police investigation stage;
3. Gilmar Soares Freitas was killed in the PFDB on February 1, 2014, by a "sharp bladed instrument." The police investigation was completed and forwarded to the Criminal Justice system. The prisoner Jose Carneiro Fábio da Silva was charged;
4. Inmate Luciano Barbosa da Silva died on June 3, 2013, in the infirmary of the PFDB due to a respiratory tract infection and a tumor in his liver;
5. Prisoner Milton César Gonçalves Farias committed suicide on October 15, 2013, in the common living cell.
6. In regard to prisoner Daniel Lima da Silva, no investigation was carried out since his death was considered to be due to natural causes.

t) for the State, the petitioners did not verify the accuracy of the reported cases of torture, which shows the lack of appearance of the truth in their arguments on the matter. Despite the lack of evidence, 23 proceedings were initiated before the Investigations Commission. Also proceedings were initiated by the Public Prosecutor's Office of the State.

CONSIDERING THAT:

1. Brazil is a State Party to the Convention since September 25, 1992, and that according to Article 62 of the Convention, recognized the competence of the Court on December 10, 1998.

2. Article 63(2) of the American Convention sets that, "[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to the persons," the Court may, in the matters that have not yet been filed before it, per the request of the Commission, order the provisional measures deemed relevant. This provision is in turn regulated by Article 27 of the Rules of Procedure of the Court.

3. This request for provisional measures does not originate in a case before the Court, but in the context of the precautionary measures that have been underway before the Inter-American Commission since August 4, 2011.

4. In the International Law of Human Rights, provisional measures are not only precautionary, in the sense that they preserve a legal situation, but rather they are fundamentally protective in nature, because they protect human rights, to the extent that they seek to avoid irreparable damage to persons. An order rendered for the adoption of measures is applicable as long as the basic requirements of extreme gravity and urgency and prevention of irreparable damage to persons are met. As such, provisional measures become a true judicial guarantee that is preventive in nature³.

5. The *prima facie* standard of assessment of a matter and the application of assumptions regarding the necessity for protection have led the Court to order measures on several occasions.⁴ Although when ordering provisional measures, in some cases, the Court has considered it essential to identify those persons who are at risk of irreparable harm in order to grant them measures of protection,⁵ on other occasions, the Court has ordered the protection of a number of people who have not been previously identified, but who are identifiable and can be verified and are in a situation of grave danger because of their membership to a group,⁶ such as persons deprived of their liberty in a detention center.⁷ In this case, the Inter-American Commission asked the Court to order the protection of all persons at the Curado complex.

6. That the Court considers it necessary to clarify that, in view of the protective nature of the provisional measures, the Tribunal may order such measures even when a contentious case is not necessarily before the Inter-American system, in situations that, *prima facie*, may result in a serious and urgent impairment of human rights. Therefore, the Court must make an assessment of the proposed problem, the effectiveness of the State measures regarding the described situation and the degree of lack of protection in which the people requesting the measures face if such measures are not adopted. In order to achieve such goal it is essential that the Inter-American Commission submit sufficient grounds to comprise the already mentioned criteria and that the State be unable to prove, in a clear and sufficient manner, the effectiveness of the specific measures adopted within its domestic jurisdiction.⁸

³ Cf. *Case of Newspaper "La Nación"*. Provisional Measures regarding Costa Rica. Order of the Inter-American Court of Human Rights of September 7, 2001, Considering clause 4, and *Matter of Danilo Rueda regarding Colombia*. Order of the acting President of the Inter-American Court of Human Rights of May 02, 2014, Considering clause 11.

⁴ Cf. *Case of Raxcacó Reyes et al.* Provisional Measures regarding Guatemala. Order of the Court of August 30, 2004, Considering clause 10, and *Matter of Adrián Meléndez Quijano et al. regarding El Salvador*. Order of the Inter-American Court of Human Rights of August 21, 2013, Considering clause 19.

⁵ Cf. *Case of Haitians and Dominicans of Haitian Origin in the Dominican Republic*. Provisional Measures regarding the Dominican Republic. Order of the Inter-American Court of Human Rights of August 18, 2000, Considering clause 8, and *Case of Ávila Moreno et al. (Case of Operation Génesis) regarding Colombia*. Order of the Inter-American Court of Human Rights of May 30, 2013, Considering clause 8.

⁶ Cf., *inter alia*, *Matter of the Peace Community of San José de Apartadó*. Provisional Measures regarding Colombia. Order of the Inter-American Court of Human Rights of November 24, 2000, Considering clause 7, and *Case of Ávila Moreno et al. (Case of Operation Génesis) regarding Colombia*. Order of the Inter-American Court of Human Rights of May 30, 2013, Considering clause 8.

⁷ Cf., *inter alia*, *Matter of Urso Branco Prison*. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of June 18, 2002, Considering clause 9, and *Matter of the Prison "Tocorón Jail" regarding Venezuela*. Order of the President of the Inter-American Court of Human Rights November 01, 2010, Considering clause 13.

⁸ Cf. *Matter of El Rodeo I and El Rodeo II Judicial Confinement Centers*, Request for Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of February 8, 2008, Considering clause 9, and *Matter of Danilo Rueda regarding Colombia*. Order of the acting President of the Inter-American Court of Human Rights of May 02, 2014, Considering clause 20.

7. Article 63(2) of the Convention requires that in order for the Court to grant provisional measures, three factors must take place: i) "extreme gravity"; ii) "urgency," and iii) the need to "avoid causing irreparable damage to persons." These three conditions must be present together and in every situation where the Court's intervention is requested.⁹

8. In terms of gravity, for purposes of the adoption of provisional measures, the Convention requires that it be "extreme," that is, that it be at its most intense or highest level. The urgent nature implies that the risk or threat involved is imminent, which requires that the remedial response be immediate. Lastly, regarding harm, there must be a reasonable probability that the harm materialize and it should not affect goods or legal interests that can be repairable.¹⁰

9. In this request for provisional measures the Court must determine whether these requirements have been met and consider only the procedural obligations of the State as part of the American Convention. By contrast, as noted in its jurisprudence, when a request for provisional measures is made, the Court cannot consider the merits of any arguments other than those that are strictly related to the extreme gravity and urgency and the need to avoid irreparable harm to persons. Any other matters can only be presented before the Court in a contentious case.¹¹

10. From the information provided by the Commission, it is evident that the events that have taken place at the Curado complex (*supra* Having seen clause 7 demonstrates *prima facie* a situation of extreme gravity and urgency and possible irreparable damage to the rights to life and integrity of the inmates at the prison, as well as to the staff and other persons who enter the prison. In particular, the extreme intensity of the risk is evident from the information provided which indicates that there have been many acts of violence, such as riots, assaults between inmates and by guards against inmates, death threats, murders, which have even been recognized by the State, alleged torture and mistreatment, communicable diseases and a lack of adequate medical care, both prior to the precautionary measures rendered by the Commission, as well as throughout 2013, and even throughout the early months of 2014 (*supra* Having seen clauses 7 and 10). Furthermore, stemming from the evidence provided by the parties, the Court notes that the overcrowding in the Curado Complex persists, despite the construction of a new cell block and the efforts made to move hundreds of inmates who should no longer be housed in that establishment.

⁹ Cf. *Case of Carpio Nicolle et al.*, Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights of July 6, 2009, Considering clause 14, and *Matter of Danilo Rueda regarding Colombia*. Order of the acting President of the Inter-American Court of Human Rights of May 02, 2014, Considering clause 20.

¹⁰ Cf. *Matters of Monagas Judicial Confinement Center ("La Pica"), Yare I and Yare II Capital Penitentiary Center (Yare Prison), Penitentiary Center of the Central Occidental Region (Uribana Prison), and El Rodeo I and El Rodeo II Capital Judicial Confinement Center*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of November 24, 2009, Considering clause 3, and *Matter of two girls of the Taromenane indigenous peoples in voluntary isolation regarding Ecuador*. Order of the Inter-American Court of Human Rights of March 31, 2014, Considering clause 7.

¹¹ Cf. *Matter of James et al.*. Provisional Measures regarding Trinidad and Tobago. Order of the Inter-American Court of Human Rights of August 29, 1998, Considering clause 6, and *Matter of Danilo Rueda regarding Colombia*. Order of the acting President of the Inter-American Court of Human Rights of May 02, 2014, Considering clause 12.

11. In this regard, the Court notes the actions taken by the State to reform and build new detention facilities in the State of Pernambuco, the creation of multilateral forums for discussion, the development of proposals for improvements and monitoring of the implementation of the precautionary measures, as well as cooperation agreements between the State and federal governments in order to improve the medical care in prisons, combat alleged acts of torture and mistreatment, improve the management of the prison system as a whole and the security conditions specifically within the Curado Complex. However, the Commission noted that such efforts have not been sufficient given that the problems have worsened and allegations of serious violence and of deaths and murders have persisted since the adoption of precautionary measures in 2011.

12. Brazil stated that the reported problems are being handled by the State and, therefore, indicated that provisional measures would not be necessary. The State presented arguments about it fulfilling the precautionary measures and indicating that it has not refused to comply with the Commission's recommendations or to report to it. The State asserted that it did not fail to carry out all the necessary and specific efforts, by way of its various government agencies, to reduce cases of violence. These actions demonstrate the good faith of the State in compliance with the Commission's precautionary measures.

13. However, the Court notes that given the information provided by both the Commission and the State, it is clear that there is a situation of extremely serious risk and urgency and the possibility of irreparable harm regarding the rights to life and personal integrity of the inmates and those present at the Curado Complex. Specifically, the high number of violent deaths and complaints of serious allegations of torture within the prison facility throughout 2013 and early months of 2014. Likewise, the State itself acknowledged the existence of more than 1,180 suspected cases of tuberculosis and 35 suspected cases of leprosy among approximately 2,900 inmates in *Presídio Juiz Antonio Luiz Lins de Barros* (PJALLB).

14. In this regard, the Court considers that the measures adopted by the State to date, including the "mutirões" of reported health care, are not enough to protect the life and physical integrity of the inmates at the Curado Complex. In relation to cases of communicable diseases, the State must take urgent measures to ensure adequate medical care to sick individuals and also to ensure that the other inmates and persons within that prison are not infected.

15. As the Court has noted on prior occasions, the State has an obligation to take steps to protect and guarantee the right to life and personal integrity of those deprived of liberty and to abstain, under any circumstance, from acting in such a way that affects the life and integrity of said individuals. In this sense, the obligations which the State as guarantor inevitably must assume include the adoption of measures that favor upholding a climate of respect for the human rights of those deprived of liberty, avoiding the presence of weapons in the hands of the inmates within the establishment, reducing the overcrowding, ensuring minimum detention conditions are compatible with their dignity, and providing trained personnel and in sufficient numbers to ensure adequate and effective control, custody and surveillance within the prison.¹² Furthermore, given the nature of prisons, the State must protect prisoners from the violence that in the absence of State control, can occur between inmates.¹³

¹² Cf. *Matter of Penitentiary Center of the Central Occidental Region (Uribana Prison)*. Request for

16. Regarding the recurrent violence and weapons within the prison, facts which have been acknowledged by the State, the State must ensure that the measures of security adopted in prisons include adequate trainings for the prison staff and the effectiveness of these measures to prevent intra-prison violence, including the ability to react in the face of acts of violence or emergencies within cell blocks. The State must ensure that inspections are carried out periodically and correctly in order to prevent violence and eliminate risks, based on an adequate and effective control by the prison guards within the cell blocks, and that the results of these inspections are communicated duly and promptly to the competent authorities.¹⁴

17. Accordingly, the Inter-American Court considers that the protection of such persons is necessary through the immediate adoption of provisional measures by the State, pursuant to the provisions of the American Convention, in order to prevent acts of violence at the Curado Complex, as well as harm to the physical, mental and moral integrity of those deprived of liberty and other persons within that establishment.

18. In addition, it should be recalled that Article 1(1) of the Convention establishes the general obligations of States Parties to respect the rights and freedoms recognized therein and to ensure all persons subject to their jurisdiction the free and full exercise of these, those of which are imposed not only in relation to State powers but also in relation to actions by third parties. This Court has held that the State is in a special position as guarantor with respect to persons deprived of liberty because prison authorities exercise total control over them. The Court has also stated that regardless of the existence of specific provisional measures, the State is especially obliged to guarantee the rights of people deprived of liberty.¹⁵

19. In the circumstances of this matter, the Court must require, for the effects of these provisional measures, that the State eliminate, specifically, the risk of violent death and of attacks on personal integrity. To this end, the measures adopted must include those aimed directly at protecting the rights to life and integrity of the beneficiaries, in the context of both the relations among the inmates themselves and with the State agents, as well as those designed to eliminate these risks, particularly in relation to the deficient internal control and security conditions of the Curado Complex.¹⁶

Provisional Measures by the Inter-American Commission on Human Rights regarding Venezuela. Order of the Inter-American Court of Human Rights of February 2, 2007, Considering clause 11, and *Matter of certain Venezuelan Prisons, Penitentiary Center of the Central Occidental Region (Uribana Prison)*. Order of the Inter-American Court of Human Rights of February 13, 2013, Considering clause 7.

¹³ Cf. *Matter of persons imprisoned in "Dr. Sebastião Martins Silveira" Prison in Araraquara, São Paulo*. Request for Provisional Measures filed by the Inter-American Court of Human Rights regarding Brazil. Order of the Inter-American Court of Human Rights of September 30, 2006, Considering clause 16, and *Matter of certain Venezuelan Prisons, Penitentiary Center of the Central Occidental Region (Uribana Prison)*. Order of the Inter-American Court of Human Rights of February 13, 2013, Considering clause 7.

¹⁴ Cf. *Matter of the Mendoza Prisons*. Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 26, 2010, Considering clause 52, and *Matter of certain Venezuelan Prisons, Penitentiary Center of the Central Occidental Region (Uribana Prison)*. Order of the Inter-American Court of Human Rights of February 13, 2013, Considering clause 11.

¹⁵ Cf. *Matter of the Mendoza Prisons*. Provisional Measures regarding Argentina. Order of the Inter-American Court of Human Rights of November 27, 2007, Considering clause 10, and *Matter of certain Venezuelan Prisons, Penitentiary Center of the Central Occidental Region (Uribana Prison)*. Order of the Inter-American Court of Human Rights of February 13, 2013, Considering clause 7.

¹⁶ Cf. *Matter of certain Venezuelan Prisons, Penitentiary Center of the Central Occidental Region (Uribana Prison)*. Order of the Inter-American Court of Human Rights of February 13, 2013, Considering

20. Lastly, the Court considers it essential that the State adopt short-term measures in order to: a) develop and implement an emergency plan regarding medical care, specifically, for those prisoners who are carriers of communicable diseases and to take steps to prevent the spread of these diseases; b) develop and implement an emergency plan to reduce overcrowding in the Curado Complex; c) eliminate the presence of weapons of all types within the Curado Complex; d) ensure the security and respect for life and personal integrity of all inmates, staff and visitors at the Curado Complex, and e) eliminate the practice of humiliating inspections which affect the privacy and dignity of the visitors.¹⁷

21. Based on the foregoing, the Court finds it relevant to admit the request for provisional measures and require the State to report to the Court on the implementation of these measures pursuant to the terms of operative paragraph three of this Order.

22. The adoption of provisional measures does not prejudice the State's responsibility for the facts that have been reported.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

In exercise of the attributes conferred on it by Article 63(2) of the American Convention on Human Rights and 27 of the Rules of Procedure of the Court,

DECIDES TO:

1. Require the State to immediately adopt all necessary measures to effectively protect the life and personal integrity of all persons deprived of liberty in the Curado complex, and any person who is in that establishment, including prison guards, staff and visitors, pursuant to Considering clause 20 of this Order.

2. Require the State, in the extent possible, to keep the representatives of the beneficiaries informed about the measures taken to comply with this provisional measure.

3. Require the State to report to the Inter-American Court of Human Rights every three months as of the notification of this Order, on the provisional measures adopted in accordance with this decision.

4. Request that the representatives of the beneficiaries submit any observations they deem relevant regarding the report required in the preceding paragraph within four weeks from the date of receipt of said State report.

5. Request the Inter-American Commission on Human Rights to submit any observations it deems relevant to the State report required in operative paragraph three and to the corresponding observations of the representatives of the beneficiaries

clause 15.

¹⁷ Cf. Report on the visit to Brazil by United Nations Subcommittee on Prevention of Torture and Other Cruel, inhumane and degrading treatment, UN Doc. CAT/OP/BRA/R.1, of February 8, 2012, para. 119.

within two weeks from the date of transmission of the representatives' observations.

6. Provide that the Secretary of the Court provide notification of this Order to the State, to the Inter-American Commission and to the representatives of the beneficiaries.

Humberto Antonio Sierra Porto
President

Manuel E. Ventura Robles

Alberto Pérez Pérez

Eduardo Vio Grossi

Eduardo Ferrer Mac-Gregor Poisot

Pablo Saavedra Alessandri
Secretary

So ordered,

Humberto Antonio Sierra Porto
President

Pablo Saavedra Alessandri
Secretary