

**ORDER OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
OF JUNE 18, 2002**

**PROVISIONAL MEASURES REQUESTED BY THE  
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
WITH RESPECT TO COLOMBIA**

**CASE OF THE PEACE COMMUNITY OF SAN JOSÉ DE APARTADÓ**

**HAVING SEEN\*:**

1. The brief by the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of October 3, 2000, by means of which it filed with the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court"), pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and 25 of the Rules of Procedure of the Court, a request for provisional measures in favor of the members of the Peace Community of San José de Apartadó (hereinafter "the Community" or "the Peace Community"), Department of Antioquia, Republic of Colombia, with the aim of protecting their life and their right to humane treatment, in connection with case No. 12,325, currently before the Commission. In said brief, the Commission stated that the residents of that community "have suffered grave acts of violence and harassment by paramilitary groups in the area," for which members of the Colombian Army would also be responsible. Specifically, the Commission reported to the Court that it has received information on the "murder of 47 members [of the Community] during a nine-month period."

2. The October 9, 2000 Order of the President of the Court (hereinafter "the President"), in which he ordered:

1. That the State of [...] Colombia adopt, without delay, whatever measures [are] necessary to protect the lives and the right to humane treatment of Ricardo Quintero, Filinardo Quintero, Senover Quintero, Albeiro Antonio Guzmán, Luz Fany Sepúlveda, Cristian Camilo Guzmán, Jesus Montoya, Ernestina Tuberquia, Carlos Hernando Tuberquia, Milorei Tuberquia, Herman Tuberquia, Edier Tuberquia, Ramon Zapata, Rosa Ema Alvarez, Andrea Alvarez, Rosalba Zapata, Leidi Zapata, Joaquin Escobar, Yazmin Guzmán, Yeison Guzmán, Nayivi Guzmán, Yadira Guzmán, Reynaldo Areiza, Rosmeri Guzmán, Alba Quintero, Derlis Quintero, Jader David, Amparo David, Morelia Guzmán, Elicer Guzmán, Rosa Ema Zapata, Pedro Luis Areiza, Fredy Areiza, Clara Areiza, Denis Guzmán, Derli Guzmán, Arelis Guzmán, Yuber Guzmán, Rosa Tuberquia, Jesus Emilio Tuberquia, Flora Danys Tuberquia, Arlenis Tuberquia, Alvaro Zapata, Rosalba Aguirre, Deyanira Aguirre, Blanca Zapata, Wilmer Zapata, Willian Guzmán, Blanca Lilia Areiza, Lubian Sepúlveda, Winer Guzmán, Yesica Guzmán, Arlevis Guzmán, Braian Guzmán,

---

\* Judge Carlos Vicente de Roux Rengifo excused himself before the Court from participating in the process of preparation and adoption of the instant Provisional Measures. Judge Máximo Pacheco Gómez informed the Court that, due to reasons of *force majeure*, he could not attend the LV Regular Session of the Court, for which reason he did not participate in the deliberations and signing of the instant Order.

Nely Guzmán, Yandy Guzmán, Adolfo Guzmán, Marielli Guzmán, Marely Guzmán, Mario Durango, Marina Sánchez, Ferney Sánchez, Patricia Durango, Wilder Durango, Rosa Quintero, Carlos Sánchez, Bladimir Sánchez, Didier Sánchez, Mirlenis Guzmán, Paola Guzmán, Yaidis Guzmán, Hector Areiza, Liris Moreno, Jose Luis Borja, María Holguín, Consuelo Guzmán, Alexander Guzmán, Carlos Guzmán, Araseli Guzmán, Leidi Guzmán, Javier Sánchez, Blanca Nury Guzmán, Yei Carolina Sánchez, Leonel David, Amparo Sánchez, Edwin David, Luz Denys David, Alexis David, María Sánchez, Esteban David, Marlovi David, Juliana David, Yirlean David, Mauricio David, Antonio Guzmán, María Urrego, Erica Guzmán, Ana Jesusa Tuberquia, María Tuberquia, Amparo Tuberquia, Arnulfo Tuberquia, Jobernai Sánchez, Anibal Tuberquia, Aleida Tuberquia, Natalia Tuberquia, Fabian Tuberquia, Antonio Tuberquia, Libia Guzmán, Norberto Tuberquia, Edier Tuberquia, Dario Guzmán, Bienvenida Mazo, Dania Guzmán, Jeiner Guzmán, María Sepúlveda, Juan Gregorio Guzmán, Jaime Guzmán, Genito Guzmán, Dairo Guzmán, Sandra Guzmán, Amparo Guzmán, Liliana Guzmán, Monica Guzmán, Ledis Guzmán, Jhon Deives Guzmán, Antonio Areiza, Liliana Areiza, Queli Areiza, Olanier Areiza, Danilea Areiza, Ricardo Pineda, María Dolores Usuga, Fredy Pineda, Edwin Guzmán, Alba Lucia Giraldo, Alfenis Cardona, Luz María Gomez, Marveli Giraldo, Marcela Guzmán, Libardo Guzmán, Senubia Higueta[,] Diomedes Guzmán, Zoila Tuberquia, Ovidio Usuga, Jarido Usuga, Luis Eduardo Usuga, Ivan Guzmán, Ricaurte Sepúlveda, Valentina Sepúlveda, Bernardo Sepúlveda, Luz Dary Tuberquia, Laidin Sepúlveda, Consuelo Usuga, Aldemar Quintero, Albeiro Usuga, Didier Usuga, Fidelina Sepúlveda, Edilia Quintero, Ramiro Rueda, María Quintero, Yorladis Rueda, Yorman Rueda, Jarlin Rueda, Uber Areiza, Alicia Guzmán, Otoniel Guzmán, Alba Guzmán, Jair Guzmán, Yudi Guzmán, Francisco Higueta, Nohemi Tuberquia, Marlobe Higueta, Edilson Tuberquia, Heider Higueta[,] Deison Higueta, Francisco Higueta, Miro David, Uber Areiza, Teresa Guzmán, Jhon Guzmán, Beyanira Areiza, Davidson Areiza, Ramon Tuberquia, Angela Guzmán, Luis Tuberquia, Miladis Tuberquia, Luis Albeiro Tuberquia, Yulie Guzmán, and Norber Sepúlveda.

2. That the State of Colombia submit to the Inter-American Court of Human Rights a first report on steps taken within 15 days after notification of the [...] Order, and that the Inter-American Commission on Human Rights submit its observations on that report within 15 days from reception of that document.

3. To summon the Inter-American Commission and the State of Colombia to a public hearing at the seat of the Inter-American Court of Human Rights on November 16, 2000, at 10:00 o'clock, so as to hear their views on the facts and circumstances that led to adoption of the instant urgent measures.

3. The public hearing on the request for provisional measures, held at the seat of the Inter-American Court on November 16, 2000.

4. The November 24, 2000 Order of the Inter-American Court, which decided:

1. To ratify the October 9, 2000 Order of the President of the Inter-American Court of Human Rights, to its full extent.

2. To order the State of Colombia to maintain whatever measures are necessary to protect the lives and the right to humane treatment of Ricardo Quintero, Filinardo Quintero, Senover Quintero, Albeiro Antonio Guzmán, Luz Fany Sepúlveda, Cristian Camilo Guzmán, Jesus Montoya, Ernestina Tuberquia, Carlos Hernando Tuberquia, Milorei Tuberquia, Herman Tuberquia, Edier Tuberquia, Ramon Zapata, Rosa Ema Alvarez, Andrea Alvarez, Rosalba Zapata, Leidi Zapata, Joaquin Escobar, Yazmin Guzmán, Yeison Guzmán, Nayivi Guzmán, Yadira Guzmán, Reynaldo Areiza, Rosmeri Guzmán, Alba Quintero, Derlis Quintero, Jader David, Amparo David, Morelia Guzmán, Elicer Guzmán, Rosa Ema Zapata, Pedro Luis Areiza, Fredy Areiza, Clara Areiza, Denis Guzmán, Derli Guzmán, Arelis Guzmán, Yuber Guzmán, Rosa Tuberquia, Jesus Emilio Tuberquia, Flora Danys Tuberquia, Arlenis Tuberquia, Alvaro Zapata, Rosalba Aguirre, Deyanira Aguirre, Blanca Zapata, Wilmer Zapata, William Guzmán, Blanca Lilia Areiza, Lubian Sepúlveda, Winer Guzmán, Yesica Guzmán, Arlevis Guzmán, Braian Guzmán, Nely Guzmán, Yandy Guzmán, Adolfo Guzmán, Marielli Guzmán, Marely Guzmán, Mario Durango, Marina Sánchez, Ferney Sánchez, Patricia Durango, Wilder Durango, Rosa Quintero, Carlos Sánchez, Bladimir Sánchez, Didier Sánchez, Mirlenis Guzmán, Paola Guzmán, Yaidis Guzmán, Hector Areiza, Liris Moreno, Jose Luis Borja, María Holguín, Consuelo Guzmán, Alexander Guzmán, Carlos Guzmán, Araseli Guzmán, Leidi Guzmán, Javier Sánchez, Blanca Nury Guzmán, Yei Carolina Sánchez, Leonel David, Amparo

Sánchez, Edwin David, Luz Denys David, Alexis David, María Sánchez, Esteban David, Marlovi David, Juliana David, Yirlean David, Mauricio David, Antonio Guzmán, María Urrego, Erica Guzmán, Ana Jesusa Tuberquia, María Tuberquia, Amparo Tuberquia, Arnulfo Tuberquia, Jobernai Sánchez, Anibal Tuberquia, Aleida Tuberquia, Natalia Tuberquia, Fabian Tuberquia, Antonio Tuberquia, Libia Guzmán, Norberto Tuberquia, Edier Tuberquia, Dario Guzmán, Bienvenida Mazo, Dania Guzmán, Jeiner Guzmán, María Sepúlveda, Juan Gregorio Guzmán, Jaime Guzmán, Genito Guzmán, Dairo Guzmán, Sandra Guzmán, Amparo Guzmán, Liliana Guzmán, Monica Guzmán, Ledis Guzmán, Jhon Deives Guzmán, Antonio Areiza, Liliana Areiza, Queli Areiza, Olanier Areiza, Danilea Areiza, Ricardo Pineda, María Dolores Usuga, Fredy Pineda, Edwin Guzmán, Alba Lucia Giraldo, Alfenis Cardona, Luz María Gomez, Marveli Giraldo, Marcela Guzmán, Libardo Guzmán, Senubia Higuita, Diomedes Guzmán, Zoila Tuberquia, Ovidio Usuga, Jarido Usuga, Luis Eduardo Usuga, Ivan Guzmán, Ricaurte Sepúlveda, Valentina Sepúlveda, Bernardo Sepúlveda, Luz Dary Tuberquia, Laidin Sepúlveda, Consuelo Usuga, Aldemar Quintero, Albeiro Usuga, Didier Usuga, Fidelina Sepúlveda, Edilia Quintero, Ramiro Rueda, María Quintero, Yorladis Rueda, Yorman Rueda, Jarlin Rueda, Uber Areiza, Alicia Guzmán, Otoniel Guzmán, Alba Guzmán, Jair Guzmán, Yudi Guzmán, Francisco Higuita, Nohemi Tuberquia, Marlobe Higuita, Edilson Tuberquia, Heider Higuita, Deison Higuita, Francisco Higuita, Miro David, Uber Areiza, Teresa Guzmán, Jhon Guzmán, Beyanira Areiza, Davidson Areiza, Ramon Tuberquia, Angela Guzmán, Luis Tuberquia, Miladis Tuberquia, Luis Albeiro Tuberquia, Yulie Guzmán, and Norber Sepúlveda.

3. To order the State of Colombia to adopt, without delay, such measures as are necessary to protect the lives and the right to humane treatment of all other members of the Peace Community of San José de Apartadó.

4. To order the State of Colombia to investigate the facts that led to adoption of [the] provisional measures, so as to identify those responsible and punish them accordingly, and to report on the situation of the persons mentioned in the previous operative paragraphs.

5. To order the State of Colombia to adopt, without delay, whatever measures [were] necessary to ensure that the persons benefiting from those [measures] could continue living in their usual residence.

6. To order the State of Colombia to ensure the necessary conditions for those members of the Peace Community of San José de Apartadó who have been forced to go to other parts of the country, to be able to return to their homes.

7. To order the State of Colombia to allow the applicants to participate in planning and implementation of the measures and, in general, to keep them informed of progress regarding the measures ordered by the Inter-American Court of Human Rights.

8. To order the State of Colombia to inform the Inter-American Court of Human Rights every two months after notification of the [...] Order, of provisional measures taken to comply with that Order.

9. To order the Inter-American Commission on Human Rights to submit its observations on the reports by the State of Colombia within six weeks of their reception.

5. Reports submitted by the State on January 24, March 23, June 4, August 6, October 8, and December 7, 2001, and on February 8 and May 2, 2002. In those briefs the State informed the Court of the various steps it has taken to comply with the November 24, 2000 Order of the Inter-American Court. The State has also submitted specific information, in response to requests by the Court, several times, regarding grave events reported by the Inter-American Commission.

6. The briefs with observations on the reports submitted by the State, filed by the Inter-American Commission on July 22 and December 2, 2001, and on March 19, April 1 and May 10, 2002, as well as its December 19, 2001 and April 9 and 19, 2002 communications, in which it submitted additional information on the instant provisional measures. In these communications, the Commission reported on several events in the Peace Community, subsequent to the adoption of provisional

measure by the Court on November 24, 2000. According to the Commission, those events affect members of the Peace Community as beneficiaries of the measures, as well as various individuals who provide services to the Community. Given the gravity of the situation and the grave risk to the population, the Commission states that it is necessary to "guarantee the coming and going of public transportation with the necessary food for consumption by the community [and] to provide support need by the Peace Community *vis-à-vis* public opinion and the security forces that operate in the area and that must ensure their safety." Furthermore, the Commission specified the following facts pertaining to the situation in the Community:

- a) On December 15, 2001 Henry Tuberquia was murdered by three armed men who entered the urban area of San José de Apartadó, forced him to lie down on the ground, shot him, and then left following the road that leads from Apartadó to San José. At that time, the military were three minutes away from the place through which the armed men had entered.
- b) On December 17, 2001, Mrs. Enadis Lugo, when she was at her home, was intimidated and suffered attempted rape by a soldier of the military forces. Military troops were about ten minutes away from the urban center of San José de Apartadó. On February 13, 2002, that woman made her statement on the aforementioned events to officials of the Attorney General's Office, and on the twentieth of that month and year, army soldiers went looking for her at her home. Subsequently, feeling that their lives were at risk, her family had to leave their home and farm.
- c) On December 18, 2001, thirteen inhabitants of Apartadó headed for San José were stopped by two members of the paramilitary forces, who accused them of being guerrilla fighters, threatened to kill them, interrogated them on their identities and wrote down the personal data of each one of them in a notebook. Afterwards, the paramilitary detained them again and threatened to kill them; they beat Gerardo Salas, and when it seemed like they were going to kill him, an army truck showed up, for which reason the paramilitary withdrew.
- d) On December 30, 2001 several farmers who are members of the Community were interrogated regarding the "presence of armed men and their movements."
- e) On January 1, 2002 María Grimanesa Florez was raped by a member of the military, on a road leading from the urban center of San José to the hamlet of El Mariano.
- f) On January 2, 2002 seven men, in civilian dress, arrived at the home of Iván Velásquez, located at a place known as La Batea, between Apartadó and the urban center of San José. They threatened those who were there, and they took some food, goods from the family's store, money, and that man's identification card. They then forced Iván Velásquez to go with them, and a few minutes later they murdered him.

- g) On January 10, 2002, a truck transporting cocoa, headed for Medellín, was stopped by a group of armed paramilitary in civilian clothing. A female official of the transportation company contacted the Peace Community and reported that the paramilitary had retained the cocoa shipment and that they demanded the presence of a representative of the Community to return it, and the Community did not agree to this. Afterwards, the truck was found without the cocoa shipment and "without some money."
- h) On February 14, 2002 Morelia de Jesús Giraldo Tuberquía, who lived along the road leading from San José de Apartadó to the roadside community of La Unión, disappeared in the municipality of Apartadó. Two days earlier, Mrs. Giraldo Tuberquía had been approached by a paramilitary, known as "Toro" and known to have participated in the July 8, 2000 massacre.
- i) On March 1, 2002 a collective vehicle going toward San José de Apartadó was stopped at a place known as Tierra Amarilla by two paramilitary, one of them known as "Toro," who stole from the passengers "the groceries they had purchased," threatened them, and told them that they were also going to check food supplies at the public transportation terminal and at the checkpoint.
- j) On March 30, 2002 two armed men in civilian dress stopped Gilma Rosa Graciano and Ofidia Sánchez, members of the Peace Community, after forcing them to get off a public transportation vehicle on which they were traveling toward San José de Apartadó, and they made them disappear. Ofidia Sánchez managed to escape from her captors and immediately left the territory of the Peace Community "to save her life." On March 31, 2002 the dead body of Gilma Rosa Graciano was found near the municipality of Turbo, department of Antioquia.
- k) There have been acts of intimidation, harassment, and violence against those in charge of transporting food from San José to San José de Apartadó, with the apparent objective of blocking supply of foodstuffs to the Community.
- l) On April 9, 2002 Reynel de Jesús Alvarez, who transported "grocery purchases" toward the Peace Community, was murdered. He was driving the vehicle from which, a few days earlier, Gilma Rosa Graciano and Ofidia Sánchez were forced to get off.
- m) On April 10, 2002, another driver was threatened by a group of armed civilians.
- n) On April 12, 2002 Osiel Montoya, the driver of a public transportation vehicle headed for San José de Apartadó was murdered at the place known as Tierra Amarilla.
- o) Members of the security forces have harassed the 41 witnesses who have rendered testimony on the acts of violence against the community, and this has led to postponement of the investigation until protection mechanisms are defined for those witnesses.

- p) From April 10, 2002 to the first week in May, no public service vehicle, whether transporting passengers or freight, entered or left San José de Apartadó. Neither the teachers nor the health staff have been able to enter the hamlet. Those who are seriously ill "must be taken down on mule back and even on oxen" to receive medical attention. Certain products such as "primitivo" (a type of small banana) have begun to go to waste.
  - q) On April 16, 2002, members of the Peace Community attempted to hire a truck to transport harvests at risk of going to waste due to the blockade. It was not possible to hire the truck due to death threats against the staff of the trucking companies. Those threats also caused the disintegration of the truckers' Association in San José.
  - r) On that same day, April 16, a third driver, Gonzalo Trejo, who drove on the route between Apartadó and San José, was murdered.
  - s) On April 29, 2002, armed men in combat fatigues, linked to the "covert military strategy", murdered Fernando Puerta, who was involved in community work in the Peace Community.
  - t) On May 1, 2002 farmers Darío Graciano Usuga, Alexander Graciano and Samuel Graciano were murdered in the roadside community of El Porvenir, in the district of San José de Apartadó, during a "covert military action, carried out by at least 200 men with shoulder weapons in combat fatigues, some with armbands of the 'Autodefensas Unidas de Colombia', AUC."
  - u) On May 4, 2002, 200 men involved in the "clandestine military strategy" entered the hamlet of La Unión. Most of the inhabitants fled and the armed civilians searched the homes of the inhabitants of this Community, taking food, clothing, and several animals.
  - v) On May 6, 2002, Moisés Sepúlveda Puerta disappeared while going toward San José de Apartadó, after leaving a store in Apartadó.
7. The April 26, 2002 Order of the President, the first operative paragraph of which decided:

To summon the Inter-American Commission and the State to a public hearing to be held at the seat of the Inter-American Court of Human Rights on June 13, 2002, at 15:00 hours, so as to hear their viewpoints on recent events in the Peace Community of San José de Apartadó, according to reports by the Inter-American Commission on Human Rights.

8. The June 13, 2002 Order of the Court, the first operative paragraph of which decided:

To commission the President, Judge Antônio A. Cançado Trindade, the Vice-President, Judge Alirio Abreu Burelli, Judge Hernán Salgado Pesantes and Judge Sergio García Ramírez to attend the public hearing summoned for [that same day] at the seat of the Court, with respect to provisional measures ordered in the instant case.

9. The public hearing on the instant provisional measures, held at the seat of the Inter-American Court on June 13, 2002. There appeared at that hearing:

For the State of Colombia:

Germán Sánchez Vargas, Coordinator of the Prevention and Tension Reduction Group at the Ministry of the Interior;  
Colonel Luis Alfonso Novoa, Head of the Human Rights Group of the National Police;  
Marcela Briceño-Donn, Director for Human Rights and International Humanitarian Law at the Ministry of Foreign Affairs; and  
Andrée Viana, from the Ministry of Foreign Affairs.

For the Inter-American Commission on Human Rights:

Verónica Gómez, Representative of the Commission; and  
Abilio Peña Buendía, from the "*Comisión Intercongregacional de Justicia y Paz*," as an Assistant to the Commission.

10. The arguments of the Commission, presented at the aforementioned public hearing, are summarized as follows:

a) The mechanisms established and steps taken by the State in the framework of human rights policy and international humanitarian law, implementation of the early warning system and coordination efforts with the Vice-Presidency to ensure protection of the members of the Peace Community, have been insufficient to ensure the right to life and to humane treatment of the members of the Peace Community and to avoid major and irreparable damage such as that which has been occurring since June, 2001.

b) There are strategies to attack the Community that involve individuals who, although they are not members of the Community, provide services to it, such as the truckers who take or bring foodstuffs between San José and Apartadó. The Commission is concerned about "how they are going to be protected, [in the case of] a private company that takes food to them, they also want to have safety." There are acts of violence that perhaps do not directly involve members of the Community, but that take place in nearby areas, in which case the distinction is less clear. But when they are against individuals who offer a service to the Community, it seems that the reason they have been attacked is due to their ties with the Community. These persons should be taken into account when assessing compliance with the provisional measures.

c) The State has the obligation to protect its civilian population, in accordance with the relevant norms, specifically those of the American Convention and generally those of International Human Rights Law, as well as those of International Humanitarian Law.

d) The Commission requested that the Court order the State to:

- i) maintain the provisional measures ordered by the Court in its November 24, 2000 Order;
- ii) develop a "transition process" to follow up on steps taken by the State, in light of the change of government administration in August of this year;

- iii) grant the Committee to Foster Investigations ("Comisión de Impulso a las Investigaciones") permanent status for it to begin a review of procedures and to order the establishment of a subcommittee, within that committee, to develop warnings and monitoring by the XVII Brigade;
- iv) develop Directive 07 of November 21, 1999, with respect to the humanitarian presence of international organizations in the Community, and for them also to be present in the "transition process"; and
- v) ensure entry and exit of vehicles to and from the Peace Community, as well as direct control by law enforcement within the framework of human rights policy and international humanitarian law "with respect to the Tierra Amarilla checkpoint."

11. The arguments of the State at that same public hearing, summarized as follows:

- a) It recognizes that under the terms of the Convention it must "combat third parties, whether illegal armed actors, common criminals, terrorists, or however they are called, who attack the safety, integrity, and property of Colombians." The State recognizes that it has the obligation to act under these circumstances.
- b) As the Inter-American Commission did, the State recognizes that provisional measures adopted "have not been optimal or most efficient in terms of safety [...] to that extent, but [it is necessary] to qualify them [and] to improve on what the State, obviously, has done."
- c) Among the new mechanisms proposed, the State suggests the permanent presence of a representative of the Ombudsman's Office, of a member of the police in charge of security, and use of the information systems of the XVII Brigade. It also proposed the establishment of a public prosecutors committee of the Human Rights Unit of the Office of the Attorney General, with the aim of accelerating ongoing investigations.
- d) The State understands that it undertakes this obligation as a whole, independently of who is in office, insofar as "there is a responsibility of the State that is beyond a Government program."

12. The documents filed by the State during the public hearing held on June 13, 2002, which are a report by the Public Prosecutors' Office and another one by the Office of the Attorney General regarding investigations carried out in connection with the instant provisional measures.

13. The brief by the Inter-American Commission dated today, June 18, 2002, in which it reported to the Court the "murder of Miguel Osorio, an inhabitant of San José de Apartadó [, who a]ccording to informational at hand [was] committed by two armed civilians" at the public transportation terminal in Apartadó.



**CONSIDERING:**

1. That Colombia has been a State Party to the American Convention since July 31, 1973 and recognized the jurisdiction of the Court, pursuant to Article 62 of the Convention, on June 21, 1985.

2. That Article 63(2) of the American Conventions provides that, in cases of "extreme gravity and urgency, and when necessary to avoid irreparable damage to persons," the Court may, in matters not yet submitted to the Court, upon a request by the Commission, adopt such provisional measures as it deems pertinent.

3. That under the terms of Article 25(1) of the Rules of Procedure of the Court:

[a]t any stage of the proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, at the request of a party or on its own motion, order such provisional measures as it deems pertinent, pursuant to Article 63(2) of the Convention.

4. That under International Human Rights Law, provisional measures are not only precautionary insofar as they preserve a juridical situation, but fundamentally protective because they protect human rights. Inasmuch as the basic requirements of extreme gravity and urgency are met, together with that of preventing irreparable damage to persons, the provisional measures become a true preventive jurisdictional guarantee.<sup>1</sup>

5. That the Commission has described a situation of extreme gravity and urgency that is in accordance with the requirements of Article 63(2) of the American Convention with respect to the members of the Peace Community of San José de Apartadó, as well as persons providing services to that Community and who suffer attacks and grave acts of aggression against their lives and their right to humane treatment.

6. That this Court has studied the reports submitted by the State (*supra* Having seen 5.), as well as its arguments at the public hearing held on June 13, 2002, in which it did not object to the information on the facts described by the Commission in the instant case, and positively expressed its willingness to implement the measures (*supra* Having seen 11.).

7. That it has also taken into account the observations of the Commission to the reports submitted by the State (*supra* Having seen 6.), as well as its arguments at the aforementioned public hearing, in which it referred to various grave events that have taken place in the Peace Community of San José de Apartadó, despite the provisional measures ordered, and which affect both members of the Community and persons who provide services to it (*supra* Having seen 10.), points to which the State raised no objection.

---

<sup>1</sup> See *Gallardo Rodríguez Case*, Provisional Measures. February 14, 2002 Order of the Inter-American Court of Human Rights, fifth considering; "*La Nación*" *Newspaper Case*, Provisional Measures. December 6, 2001 Order of the Inter-American Court of Human Rights, fourth considering; and "*La Nación*" *Newspaper Case*, Provisional Measures. May 21, 2001 Order of the Inter-American Court of Human Rights, fourth considering.

8. That this Court has previously protected, in the instant case, a plurality of persons who have not been previously named and who are at grave risk in light of the fact that they are members of the Community.<sup>2</sup> Under the current circumstances of the instant case, there are individuals in the Peace Community of San José de Apartadó who are in the same situation in terms of risk, and who have not been determined, but who may be identified and individualized through their link to the community as service providers. Therefore, the Court deems it necessary to maintain the provisional measures in favor of the persons already protected by the October 9, 2000 Order of the President of the Court and the November 24, 2000 Order of the Court, as well as, for the reasons stated in the briefs filed by the Commission and by the State and the respective arguments at the public hearing held on June 13, 2002, to expand those measures to all persons linked as service providers to that Peace Community.

9. That the situation described above is especially grave in the case of persons in charge of transportation services, in light of the fact that most recent acts of violence against persons associated with the Peace Community have taken place "on the road from Apartadó to San José de Apartadó, at the public transportation terminal in Apartadó, and at the place called Tierra Amarilla," where a checkpoint has been functioning. This places those service providers, like other members of the Peace Community, in a situation of grave vulnerability of their rights to life and to humane treatment.

10. That Article 1(1) of the Convention establishes the general obligation of the States Parties to respect the rights and liberties set forth in that Convention and to guarantee their free and full exercise by all persons under their jurisdiction. This carries with it the duty to adopt such security measures as are required for their protection. These obligations become even more obvious in connection with those who are involved in proceedings with the oversight bodies of the American Convention.<sup>3</sup>

11. That to make the rights protected by the American Convention effective, the State Party is under the obligation, *erga omnes*, to protect all persons who are under its jurisdiction. In the opinion of the Court, this means that said general obligation is imperative not only with respect to the power of the State but also with respect to actions by third parties, including irregular armed groups of any type. The Court notes that given the special characteristics of the instant case, and the general conditions of the armed conflict in the Colombian State, it is necessary to protect, through provisional measures, the right to life and the right to human treatment of all members of the Peace Community of San José de Apartadó as well as those of all persons having ties with that Community as service providers, in light of the provisions of the American Convention and International Humanitarian Law.

---

<sup>2</sup> See *Case of the Peace Community San José de Apartadó*. November 24, 2000 Order of the Inter-American Court of Human Rights in Provisional Measures - Compendium: July 2000 – June 2001, Series E No 3. Also, *Case of the Mayagna (Sumo) Awas Tingni Community*. August 31, 2001 Judgment. Series C No. 79.

<sup>3</sup> See *Gallardo Rodríguez Case*, Provisional Measures. February 18, 2002 Order of the Inter-American Court of Human Rights, sixth considering; *Gallardo Rodríguez Case*, Provisional Measures. February 14, 2002 Order of the Inter-American Court of Human Rights, seventh considering; *Case of the Constitutional Court*, Provisional Measures. August 14, 2000 Order of the Inter-American Court of Human Rights, ninth considering; *Case of the Constitutional Court*, Provisional Measures. April 7, 2000 Order of the President of the Inter-American Court of Human Rights, ninth considering, and *Digna Ochoa and Plácido et al. Case*, Provisional Measures. November 17, 1999 Order of the Inter-American Court of Human Rights, seventh considering.

12. That Colombia is under the obligation to investigate the facts reported, so as to identify and punish those responsible.

13. That the Commission and the State, furthermore, have stated that the measures adopted up to now have not been sufficiently effective, and they therefore agree to implement new mechanisms, by mutual agreement, to protect the members of the Peace Community, with participation by the beneficiaries of the provisional measures and their representatives. Both the Commission and the State also stated, at the public hearing, the needed to establish a mechanism for joint supervision and permanent security in the Peace Community of San José de Apartadó.

**THEREFORE:**

**THE INTER-AMERICAN COURT OF HUMAN RIGHTS,**

by virtue of the authority granted by Article 63(2) of the American Convention on Human Rights and Articles 25 and 29 of its Rules of Procedure,

**DECIDES:**

1. That the State maintain such measures as are necessary to protect the lives and the right to humane treatment of all members of the Peace Community of San José de Apartadó, under the terms of the October 9, 2000 Order of the President of the Court and the November 24, 2000 Order of the Inter-American Court of Human Rights.

2. That the State adopt such measures as are necessary to protect the lives and the right to humane treatment of all persons providing services to members of the Peace Community of San José de Apartadó, under the terms of considering eight, nine, and eleven of the instant Order.

3. That the State investigate the facts that motivate the expansion of these provisional measures, so as to identify and appropriately punish those responsible.

4. That the State maintain such measures as are necessary to ensure that persons benefiting from the instant measures can continue to live in their customary residence and continue to ensure the conditions required for all persons who have been forced to leave the Peace Community of San José de Apartadó toward other parts of the country, to return to their homes.

5. That the State guarantee the required security conditions along the route between San José de Apartadó and Apartadó, at the public transportation terminal in Apartadó, and at the place known as Tierra Amarilla, both to avoid new acts of violence against public transportation services for persons, such as those described in the instant Order (*supra* Having seen 6 and 13 ), and to ensure that the members of the Peace Community effectively and permanently can transport and receive products, supplies, and foodstuffs.

6. That the State continue to enable participation of beneficiaries of the provisional measures or their representatives in planning and implementation of those measures and, in general, to keep them informed on progress regarding measures ordered by the Inter-American Court of Human Rights.

7. That the State, by mutual agreement with the beneficiaries or their representatives, establish a mechanism for continuous supervision and permanent security in the Peace Community of San José de Apartadó, in accordance with the terms of the instant Order.

8. That the State continue to submit reports to the Inter-American Court of Human Rights, every two months after notification of this Order, on provisional measures taken to comply with the instant Order.

9. That the Inter-American Commission on Human Rights continue to submit its observations to the reports prepared by the State, within six weeks of their reception.

10. That the State and the Inter-American Commission on Human Rights be notified of the instant Order.

Judge Caçado Trindade informed the Court of his Concurring Opinion, which accompanies the instant Order.

Antônio A. Caçado Trindade  
President

Alirio Abreu-Burelli

Hernán Salgado-Pesantes

Oliver Jackman

Sergio García-Ramírez

Manuel E. Ventura-Robles  
Secretary

So ordered,

Antônio A. Caçado Trindade  
President

Manuel E. Ventura-Robles  
Secretary

## CONCURRING OPINION OF JUDGE A.A. CANÇADO TRINDADE

1. In voting in favour of the adoption of the present Provisional Measures of Protection, whereby the Inter-American Court of Human Rights orders that protection be extended to all the members of the *Community of Peace of San José of Apartadó* in Colombia, and to the persons who render services to it, I feel obliged to leave on the records, in this Concurring Opinion, my personal thoughts on the extent of the decision which the Court has just taken. This is a truly singular case, of great transcendence from the juridical perspective; in effect, the Provisional Measures of Protection hereby ordered by the Court respond adequately, in my view, to the new challenges of the international protection of human rights in this beginning of the XXIst century. Beyond the decision taken by the Court, such Measures in protection of human collectivities require, by their wide implications, a careful exam on the part of the contemporary jusinternationalist doctrine, aiming at the development of the legal regime of the obligations *erga omnes* of protection of the human being.

2. To start with, may I point out that the right of individual petition under the American Convention on Human Rights can, to my mind, present a collective dimension in two circumstances: first, when the petition is lodged by a collectivity of persons, although it refers to one sole alleged victim; and second, when the individual petition refers to a collectivity, whose members have presumably been victimized. In both circumstances, the basis of the right of action under the American Convention is the violation of an individual right protected by this latter<sup>4</sup>, - what in no way affects the objective character of the conventional obligations undertaken by the States Parties<sup>5</sup>. In this way, the exercise of the right of individual petition contributes decisively to the satisfaction of the common interest in the fulfilment of the object and purpose of the Convention<sup>6</sup>.

3. This *legitimitas ad causam* of the individuals under the American Convention distinguishes itself, in this way, from the *rationale* of the institute of the *actio popularis* (cf. *infra*). This does not mean that one could not develop some sort of *actio popularis* in the International Law of Human Rights in general, and under the American Convention in particular. In fact, this latter contains an embryo of *actio popularis*, not utilized to date under such Convention: I refer myself to the mechanism of the inter-State petitions (Article 45 of the Convention)<sup>7</sup>, which can be interposed in a "disinterested" way so as to secure the observance of the conventional obligations *erga*

---

<sup>4</sup>. C.Th. Eustathiades, "Les recours individuels à la Commission Européenne des Droits de l'Homme", in *Grundprobleme des internationalen Rechts - Festschrift für Jean Spiropoulos*, Bonn, Schimmelbusch & Co., 1957, p. 121; and cf. M. Pilotti, "Le recours des particuliers devant les juridictions internationales", in *Grundprobleme...*, *ibid.*, p. 351.

<sup>5</sup>. E. Müller-Rappard, "Le droit d'action en vertu des dispositions de la Convention Européenne des Droits de l'Homme", 4 *Revue belge de Droit international* (1968) pp. 491-492.

<sup>6</sup>. H. Rolin, "Le rôle du requérant dans la procédure prévue par la Commission Européenne des Droits de l'Homme", 9 *Revue hellénique de Droit international* (1956) pp. 3-14, esp. p. 9; F. Durante, *Ricorsi Individuali ad Organi Internazionali*, Milano, Giuffrè, 1958, pp. 125-152, esp. pp. 129-130.

<sup>7</sup>. Cf., in this sense, as to, *inter alia*, the European and American Conventions on Human Rights: Egon Schwelb, "The Actio Popularis and International Law", 2 *Israel Yearbook on Human Rights* (1972) pp. 51-52 and 54-56.

*omnes partes*. Such petitions constitute, in this way, a mechanism *par excellence* of action of collective guarantee.

4. The *actio popularis*, originated in Roman law, was conceived for the safeguard of the public or general interest, which, on its turn, would presumably secure the individual interest; it thus recognized the solidarity between the interests of the community and those of the individual<sup>8</sup>. But if it were necessary to draw a parallel between and international petition on behalf of a human collectivity, as the *Community of Peace of San José of Apartadó* in the *cas d'espèce*, and an institute of domestic law, or of comparative law, I would be inclined to identify a corresponding element in the so-called *class action*. In reality, the question of the determination of the contents of the *common interest* of a community seems to me to be rather underlying the class actions. These latter developed historically by a procedural necessity, whenever an individual, member of a community, takes legal action in order to prevent (as in the present context) or remedy an individual harm, which coincides with the harm to all the members of such community. This is, thereby, a legal action of protection of those who are defenceless.

5. There seem to be points of contact or approximations between the *class action* and the *actio popularis*, but the former seems to me to require more clearly the existence of victims, even though potential. The question has simply not been dealt with to date, with the due attention that it requires, on the part of the jusinternationalist doctrine. There is pressing need to do it, as the question has implications for the identification of the effective means to face the new challenges of the international protection of human rights in our days. The present case of the *Community of Peace of San José of Apartadó* before the Inter-American Court of Human Rights invites us to a reflection on the matter.

6. The fact that the mechanism of the aforementioned inter-State petitions, as the embryo of the *actio popularis* under the American Convention, has not been utilized in the inter-American system of protection so far, suggests that the States Parties to the Convention have not yet disclosed their determination to construct a true international *ordre public* based upon the respect for human rights. But this may perhaps come to occur in the future, with the growing conscientization of the need to achieve greater cohesion and institutionalization in the international legal order, above all in the present domain of protection.

7. One ought to keep always in mind, as I pointed out in my Separate Opinion in the *Las Palmeras* case (Preliminary Objections, 2000), that

"(...) there could hardly be better examples of mechanism for application of the obligations *erga omnes* of protection (at least in the relations of the States Parties *inter se*) than the methods of supervision foreseen in *the human rights treaties themselves*, for the exercise of the collective guarantee of the protected rights<sup>9</sup>. In other words, the mechanisms for

---

<sup>8</sup>. R. von Ihering, *El Fin en el Derecho*, Buenos Aires, Omeba Ed., 1960 (reed.), p. 271. As Ihering recalled in *The Spirit of Roman Law* (VIII, part I), by means of the *actiones populares* any person could act as representative of the law, what stimulated the "idealist spirit" which, "without having an interest of one's own, defends the law for the law's sake"; R. von Ihering, *A Luta pelo Direito*, São Paulo, Ed. M. Claret, 2000 (reed.), p. 63 n. 11.

<sup>9</sup>. Y. Dinstein, "The *Erga Omnes* Applicability of Human Rights", 30 *Archiv des Völkerrechts* (1992) pp. 16 and 22, and cf. 16-37; and cf. M. Byers, "Conceptualising the Relationship between *Jus Cogens* and *Erga*

application of the obligations *erga omnes partes* of protection already exist, and what is urgently need is to develop their legal regime, with special attention to the *positive obligations* and the *juridical consequences* of the violations of such obligations" (pars. 13-14).

8. One ought to likewise keep in mind the general obligation of the States Parties to the American Convention to *respect* and to *ensure respect* for the norms of protection, in all circumstances (Article 1(1)). Such obligation is the common denominator between the American Convention and other human rights treaties<sup>10</sup>, as well as of International Humanitarian Law<sup>11</sup>, "capable of leading us to the consolidation of the obligations *erga omnes* of protection of the fundamental right to life, in any circumstances, in times both of peace and of internal armed conflict", - as I added in my Opinion referred to (par. 8) in the *Las Palmeras* case.

9. This common denominator, the general duty to *respect*, and to *secure* the exercise of, the protected rights<sup>12</sup>, is an element to "be taken into account for the consolidation of the opposability of obligations of protection to all the States Parties to such treaties, and in particular to the human rights treaties<sup>13</sup>, endowed with mechanisms of supervision of their own". This is, - I concluded, - a general obligation, which exists for all the States Parties *inter se* (in times of peace as well as of armed conflict), to secure the integrity and effectiveness of the Convention: "this general duty of protection (the collective guarantee) is of direct interest of each State Party, and of all of them jointly (obligation *erga omnes partes*)"<sup>14</sup>.

10. In effect, as I allowed myself to recall, in my Concurring Opinion in the Provisional Measures of Protection ordered by this Court in the case of the *Haitians and Dominicans of Haitian Origin in the Dominican Republic* (Resolution of 18.08.2000), already by the mid-sixties International Law, independently of a clear recognition or not

---

*Omnes Rules*", 66 *Nordic Journal of International Law* (1997) pp. 234-235; M. Ragazzi, *op. cit. infra* n. (11), pp. 135 and 213. And, on the relationship between *jus cogens* and *erga omnes* obligations, cf., *inter alia*, M. Byers, *op. cit. supra*, pp. 211-239; A.J.J. de Hoogh, "The Relationship between *Jus Cogens*, Obligations *Erga Omnes* and International Crimes: Peremptory Norms in Perspective", 42 *Austrian Journal of Public and International Law* (1991) pp. 183-214.

<sup>10</sup>. Cf., e.g., American Convention on Human Rights, Article 1(1); United Nations Covenant on Civil and Political Rights, Article 2(1); United Nations Convention on the Rights of the Child, Article 2(1).

<sup>11</sup>. Cf. Article 1 common to the four Geneva Conventions on International Humanitarian Law of 1949, and Article 1 of the Additional Protocol of 1977 to the Geneva Conventions of 1949.

<sup>12</sup>. Paragraph 11 in my aforementioned Separate Opinion in the *Las Palmeras* case.

<sup>13</sup>. As correctly pointed out the *Institut de Droit International* (I.D.I.), in a resolution adopted in the session of Santiago de Compostela of 1989, such obligation is applicable *erga omnes*, as each State has a legal interest in the safeguard of human rights (Article 1); I.D.I., 63 *Annuaire de l'Institut de Droit International* (1989)-II, pp. 286 and 288-289.

<sup>14</sup>. Paragraph 12 of my Separate Opinion in the *Las Palmeras* case (Preliminary Objections, 2000). - And, on the meaning of the obligations *erga omnes partes*, opposable to all the States Parties to certain treaties or to a given community of States, cf. C. Annacker, "The Legal Regime of *Erga Omnes* Obligations in International Law", 46 *Austrian Journal of Public and International Law* (1994) p. 135; and cf. M. Ragazzi, *The Concept of International Obligations Erga Omnes*, Oxford, Clarendon Press, 1997, pp. 201-202.

of the *actio popularis*, admitted the possibility of "a right of action without any showing of individual prejudice or individual substantive interest as distinguished from the general interest"<sup>15</sup>. Law has undeniably evolved, in its historical development, in encompassing new values, in jurisdictionalizing social justice, and in extending protection to social groups or human collectivities, safeguarding, in reality, not such groups *per se*, but rather the individuals who compose them<sup>16</sup>.

11. Hence the necessity of *individualization* of the members of the groups or communities, that is, of the persons who need protection (including not to run the risk of decharacterizing the provisional measures of protection, in their current stage of historical evolution). In this understanding, - I concluded, on this point, in my aforementioned Concurring Opinion, - the way is paved for "an evolution towards the crystallization of an *actio popularis* in international law, to the extent that one achieves a greater conscientization of the existence of a true *international community*, formed by the States as well as by the peoples, communities, private groups and individuals (both governed and governors)"<sup>17</sup>.

12. Perhaps in the future, with the much necessary development of the legal regime of the obligations *erga omnes* of protection of the human being, it may be expected that each one of the members of a more institutionalized international community comes to have the means of action to require juridically the compliance with those obligations<sup>18</sup>. The day in which this occurs - if it comes, - an authentic *actio popularis* in international law would appear, for the compliance with the aforementioned obligations *erga omnes, lato sensu* (and no longer only *erga omnes partes*), of protection.

13. In the public hearing before this Court of 13 June 2002 in the present case of the *Community of Peace of San José of Apartadó*, the representation of Colombia pointed out that "the State is within the Community", - what is right. But it is also right that the Community is within the State, and this latter is obliged, under the American Convention, not only to respect the rights protected by this latter, but, moreover, to *guarantee* the free and full exercise of such rights, as established by Article 1(1) of the Convention. This means, as clearly ensued from the circumstances of the present case of the *Community of Peace of San José of Apartadó*, that the protection determined by the Convention, to be effective, comprises not only the relations between the individuals and the public power, but also their relations with third parties (clandestine groups, paramilitary, and other groups of individuals).

14. In the public hearing of 13.06.2002 referred to, the State correctly recognized its obligation to act also *vis-à-vis* private third parties<sup>19</sup>. The Court, on its turn, sustains,

---

<sup>15</sup>. International Court of Justice, *South West Africa* case, Dissenting Opinion of Judge Ph. Jessup, *ICJ Reports* (1966) p. 388.

<sup>16</sup>. International Court of Justice, *South West Africa* case, Dissenting Opinion of Judge K. Tanaka, *ICJ Reports* (1966) pp. 252-253 and 308.

<sup>17</sup>. As I pointed out in paragraph 21 of my aforementioned Concurring Opinion in the case of the *Haitians and Dominicans of Haitian Origin in the Dominican Republic* (Provisional Measures of Protection, Resolution of 18.08.2000).

<sup>18</sup>. J. Juste Ruiz, "Las Obligaciones 'Erga Omnes' en Derecho Internacional Público", in *Estudios de Derecho Internacional - Homenaje al Profesor Mijaja de la Muela*, tomo I, Madrid, Tecnos, 1979, p. 228.

<sup>19</sup>. *Having Seen* n. 11(a) of the present Resolution.



the present Resolution, its criterion to the effect that the Provisional Measures under Article 63(2) of the American Convention can protect the members of a collectivity or persons linked to it, who, however unnamed, are *identifiable*<sup>20</sup>. We face, as the Court points out, an *erga omnes* obligation of protection, on the part of the State, of all persons under its jurisdiction<sup>21</sup>. Such obligation grows in importance in a situation of armed conflict, as the present case encompassing a Community of Peace, that of San José of Apartadó. This is, in my view, a case which requires clearly the recognition of the effects of the American Convention *vis-à-vis* third parties (the *Drittwirkung*), without which the conventional obligations of protection would be reduced to little more than dead letter.

15. The reasoning as from the thesis of the *objective* responsibility of the State is, in my view, ineluctable, particularly in a case of provisional measures of protection as the present. It is here intended to avoid irreparable harms to the members of a community, and to the persons who render services to this latter, in a situation of extreme gravity and urgency, which encompasses<sup>22</sup> actions, armed and others, of paramilitary and clandestine groups, along with the actions of organs and agents of the public forces.

16. It ought not to pass unnoticed, in this respect, that the obligations which the American Convention imposes upon the States Parties coincide to a large extent with those of International Humanitarian Law, which determines the obligation of the State to protect its civil population in an (internal) armed conflict. In this, as in various other cases, the Inter-American Court has kept in mind the norms of International Humanitarian Law, as element of interpretation of the relevant provisions of the American Convention, for the effects of their application in the circumstances of the *cas d'espèce*.

17. And it could not be otherwise; the propriety and the necessity of this hermeneutics become even more evident in a case like that of the *Community of Peace of San José of Apartadó*, in which the very selfdenomination of Community referred to, and the proclamation of its "neutrality", reveal the presence and relevance of the International Humanitarian Law, in a country torn by a grave internal armed conflict which victimizes growing segments of its population. In face of this tragedy, what I have allowed myself to call the "approximations and convergences" between International Humanitarian Law and the International Law of Human

Rights become evident<sup>23</sup>, as far as the application of the norms of the American Convention on Human Rights is concerned.

---

<sup>20</sup>. Considerandum n. 8 of the present Resolution.

<sup>21</sup>. Considerandum n. 11 of the present Resolution.

<sup>22</sup>. As it can be inferred from the briefs submitted to the Court, and from the pleadings formulated by the State of Colombia and by the Inter-American Court of Human Rights in the aforementioned public hearing of 13.06.2002, pertaining to the present case.

<sup>23</sup>. A.A. Cançado Trindade, *Tratado de Direito Internacional dos Direitos Humanos*, vol. I, Porto Alegre/Brazil, S.A. Fabris Ed., 1997, chapter VIII, pp. 269-352; A.A. Cançado Trindade, *El Derecho Internacional de los Derechos Humanos en el Siglo XXI*, Santiago, Editorial Jurídica de Chile, 2001, chapter V, pp. 183-265.

18. In conclusion, the present case, which reveals the new dimensions of the international protection of human rights, discloses moreover the great potential of the existing mechanisms of protection, resorted to in order to protect collectively the members of a whole community (suggesting an affinity with the *class actions*), even though the basis of action is the violation - or the probability or imminence of violation - of individual rights. The embryo of an *actio popularis* under the American Convention lies rather in the mechanism of operation of the inter-State petitions, which may perhaps be utilized in the future, when the *conscience* is developed of the necessity to construct a true international *ordre public* based upon the respect for human rights.

19. The present case, moreover, brings clearly to the fore the obligations *erga omnes* of protection; such obligations can perfectly be vindicated by the operation of the existing conventional mechanisms for the application of the obligations *erga omnes partes*, it being incumbent in our days to develop their legal regime, with special attention to the *positive obligations* of the States Parties and the *juridical consequences* of the violations of such obligations. The juridical development of the obligations *erga omnes partes* of protection assumes an increasingly greater importance, above all in the face of the diversification of the sources (including the non-identified ones) of violations of human rights, - so evident in a situation of internal armed conflict as in the present case. Such situation, in its turn, requires the recognition of the effects of the American Convention *vis-à-vis* third parties (the *Drittwirkung*), besides revealing the approximations and convergences between the norms of the American Convention Americana and those of International Humanitarian Law, as well as the potential of action of the Provisional Measures of Protection in this context, in which they are endowed with a character, more than precautionary, truly tutelary, in safeguarding human rights.

20. But, beyond all these considerations, there is a key-point which transcends the domain of Law. It is difficult to avoid the impression that the present case appears as a microcosm of the brutalized world of our days; in all corners of the world, in different latitudes, there are surely communities whose members, such as those of the Community of San José of Apartadó, aspire, above all, simply to live in peace. The case of the *Community of Peace of San José of Apartadó* reveals the tragedy of the contemporary world, which, along with the considerable scientific-technological advances, appears increasingly more indifferent to the luck of the human beings. The present case of the *Community of Peace of San José of Apartadó* discloses, furthermore, one of the greatest truths of the human condition: that, from a truly communitarian perspective, the luck of one is ineluctably linked to the luck of the others. The International Law of Human Rights cannot remain indifferent to that.

Antônio Augusto Cançado Trindade  
Judge

Manuel E. Ventura-Robles  
Secretary