

Boyce et al. v. Barbados

ABSTRACT¹

This case is about the imposition of mandatory death sentence for the crime of murder on Lennox Ricardo Boyce and four more individuals. Section 2 of Barbados' Offences Against the Person Act of 1994, which imposes a mandatory sentence of death for persons convicted for the crime of murder. In each case, the State failed to consider the specific events of the crime. In addition, the State subjected the victims to uninhabitable prison conditions, and their warrants of execution were read while their complaints were still pending before domestic courts and the Inter-American human rights system. The Court found all these acts to be violations of the American Convention on Human Rights. Notably, some of the issues addressed in this judgment have also been objects of a judgment issued by the Caribbean Court of Justice.

I. FACTS

A. Chronology of Events

1. Events Pertaining to Mr. Lennox Ricardo Boyce and Mr. Jeffrey Joseph

April 10, 1999: Lennox Ricardo Boyce, age 21, and Jeffrey Joseph, age 24, attend a football match with friends Rodney Murray and Romaine Bend.² Following the match, the four men take a bus to a public basketball court where Marquelle Hippolyte is playing basketball.³ A fight ensues, although the catalyst is unknown, and the four men

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2. Boyce et al. v. Barbados, Written Submissions of Alleged Victims, Inter-Am. Ct. H.R., (ser. C) No. 12.480, ¶ 31 (Aug. 13, 2007).

3. *Id.*

allegedly chase and beat Mr. Hippolyte with pieces of wood.⁴ Members of the public who witness the fight call for help as the four men flee.⁵ Mr. Hippolyte is rushed to the emergency room.⁶

April 11, 1999: Mr. Boyce, Mr. Joseph, Mr. Murray, and Mr. Bend are arrested and sent to prison.⁷

April 15, 1999: Mr. Hippolyte dies as a result of a blood clot in his brain caused by the beating.⁸

January 10, 2001: Mr. Boyce, Mr. Joseph, Mr. Murray, and Mr. Bend are charged with the murder of Mr. Hippolyte.⁹ The Prosecution accepts Mr. Murray's and Mr. Bend's guilty pleas for manslaughter.¹⁰ They are later sentenced to twelve years in prison.¹¹ Mr. Boyce and Mr. Joseph plead not guilty, despite the Prosecution's prior indication that their pleas for manslaughter would be accepted.¹² Mr. Boyce and Mr. Joseph deny participating in the beating.¹³

February 2, 2001: Mr. Boyce and Mr. Joseph are found guilty of murder.¹⁴ They are both sentenced to death by hanging pursuant to the Barbados Offences Against the Person Act of 1994, which prescribes capital punishment as the mandatory punishment for murder.¹⁵

June 26, 2002: Mr. Boyce and Mr. Joseph express an intention to appeal their convictions to the Judicial Committee of the Privy Council ("JCPC").¹⁶ Warrants of execution are nonetheless read to them, informing them that they will be executed on July 2, 2002.¹⁷

4. *Id.*

5. *Id.*

6. *Id.*

7. Boyce et al. v. Barbados, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 169, ¶ 90 (Nov. 20, 2007).

8. Boyce et al. v. Barbados, Written Submissions of Alleged Victims, Inter-Am. Ct. H.R., (ser. C) No. 12.480, ¶ 31 (Aug. 13, 2007).

9. *Id.* ¶ 32.

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.* ¶ 31.

14. Boyce et al. v. Barbados, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 169, n.34 (Nov. 20, 2007).

15. *Id.* ¶ 49

16. *Id.* ¶¶ 105, 107; Boyce et al. v. Barbados, Written Submissions of Alleged Victims, ¶ 80.

17. Boyce et al. v. Barbados, Written Submissions of Alleged Victims, ¶ 80.

June 27, 2002: Constitutional motions are filed against the State on behalf of Mr. Boyce and Mr. Joseph, arguing that their legal remedies have not been exhausted.¹⁸

June 28, 2002: The executions are stayed pending Mr. Boyce's and Mr. Joseph's applications for leave to appeal to the JCPC.¹⁹

July 25, 2002: Mr. Boyce and Mr. Joseph appeal their mandatory death sentences on the grounds that they are unconstitutional.²⁰

July 7, 2004: The Judicial Committee of the Privy Council states that while the mandatory death sentence is inconsistent with the current understanding of the Constitution and human rights treaties, the mandatory death sentence law was in force at the time the Constitution became effective and is therefore protected by the "savings clause" of Section 26 of the Constitution of Barbados.²¹

September 3, 2004: An application to the Commission is filed on behalf of Mr. Boyce and Mr. Joseph.²²

September 15, 2004: Despite their pending petition to the Commission, warrants of execution are again read to Mr. Boyce and Mr. Joseph, informing them that they will be executed on September 21, 2004.²³

September 16, 2004: Mr. Boyce and Mr. Joseph file a second appeal alleging violations of their fundamental rights.²⁴ The trial judge finds no constitutional violations by the Privy Council.²⁵

September 17, 2004: The Commission submits a request for adoption of provisional measures to protect Mr. Boyce and Mr. Joseph to the Court.²⁶ The Commission requests that the State do everything in its

18. *Id.* ¶ 81.

19. *Id.*

20. *Id.* ¶ 82.

21. *Id.*

22. *Id.* ¶ 84.

23. *Id.*; Boyce et al. v. Barbados, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 169, ¶ 107 (Nov. 20, 2007).

24. Boyce et al. v. Barbados, Written Submissions of Alleged Victims, ¶ 85.

25. *Id.* ¶ 86.

26. *Id.* ¶ 31.

power to preserve the lives and physical integrity of the victims, so as not to hinder the processing of the case before the Court.²⁷ The President of the Court issues the Order to the State.²⁸

May 31, 2005: The Barbados Court of Appeal commutes Mr. Boyce's and Mr. Joseph's death sentences to sentences of life in prison for four reasons: first, the five-year statute of limitations to legally carry out an execution in the State is about to expire; second, it would be undesirable to expose Mr. Boyce and Mr. Joseph to a third reading of execution warrants and the likelihood of further court proceedings; third, their death sentences are disproportionately harsh as compared to the sentences imposed on their co-accused who pled guilty to manslaughter for the same crime; and fourth, Mr. Boyce and Mr. Joseph do not have sufficient resources to effectively pursue any further rights they may have.²⁹ The State later files an appeal to this decision with the Caribbean Court of Justice ("CCJ").³⁰

November 8, 2006: The CCJ upholds the decision of the Barbados Court of Appeal to commute Mr. Boyce's and Mr. Joseph's death sentences to life imprisonment, stating that Mr. Boyce and Mr. Joseph have a legitimate expectation not to be executed before their international proceedings are completed within a reasonable time.³¹

2. Events Pertaining to Mr. Frederick Benjamin Atkins

October 10, 1998: Frederick Benjamin Atkins, age 28, picks up Sharmaine Hurley, in his taxi.³² He allegedly drives her to a remote location, stabs her to death and steals her jewelry.³³ Ms. Hurley's jewelry is later found at Mr. Atkins' home in Mr. Atkins' girlfriend's possession.³⁴

October 16, 1998: Mr. Atkins is arrested and charged with the murder

27. *Id.*

28. *Id.*

29. Boyce et al. v. Barbados, Preliminary Objections, Merits, Reparations and Costs, Judgment, ¶ 108.

30. *Id.* ¶ 110.

31. *Id.*; Attorney General v. Joseph, CCJ, Appeal No. CV 2 of 2005 (Nov. 8, 2006).

32. Boyce et al. v. Barbados, Written Submissions of Alleged Victims, ¶ 35.

33. *Id.*

34. *Id.*

of Ms. Hurley.³⁵ Mr. Atkins pleads not guilty to the murder charge.³⁶ He is immediately sent to Glendairy Prison.³⁷

July 21, 2000: Mr. Atkins is convicted of murder and sentenced to death by hanging pursuant to the Barbados Offences Against the Person Act of 1994.³⁸

June 26, 2002: A warrant of execution is read to Mr. Atkins despite the fact that he expressed an intention to appeal his sentence to the JCPC.³⁹

September 3, 2004: An application to the Commission is filed on behalf of Mr. Atkins.⁴⁰

February 9, 2005: A second warrant of execution is read to Mr. Atkins while his petition is still pending before the Commission.⁴¹

February 11, 2005: The President of the Court issues an Order requiring the State to adopt all measures necessary to preserve the life and physical integrity of Mr. Atkins.⁴²

October 30, 2005: Mr. Atkins is removed from prison and taken to a hospital, where he dies as a result of an illness.⁴³

3. Events pertaining to Mr. Michael McDonald Huggins

November 30, 1999: Michael McDonald Huggins, age 25, has a history of violence with Stephen Wharton.⁴⁴ Mr. Wharton once stabbed Mr. Huggins, an incident that later led to Mr. Huggins's hospitalization.⁴⁵ On this date, Mr. Huggins approaches Mr. Wharton and, without

35. Boyce et al. v. Barbados, Preliminary Objections, Merits, Reparations and Costs, Judgment, n.87.

36. *Id.* at n.35.

37. *Id.* ¶ 90.

38. *Id.* at n.35.

39. *Id.* ¶ 115.

40. *Id.* n.131.

41. *Id.*

42. *Id.* ¶ 32.

43. *Id.* ¶ 95; Boyce et al. v. Barbados, Monitoring Compliance with Judgments, Order of the Court, Inter-Am. Ct. H.R., n.11 (Nov. 21, 2011).

44. Boyce et al. v. Barbados, Written Submissions of Alleged Victims, Inter-Am. Ct. H.R., (ser. C) No. 12.480, ¶ 37 (Aug. 13, 2007).

45. *Id.*

provocation, shoots and kills him.⁴⁶

December 6, 1999: Mr. Huggins is arrested and sent to prison.⁴⁷ He is charged with murder but pleads not guilty.⁴⁸

July 19, 2001: Mr. Huggins is convicted of murder and sentenced to death by hanging pursuant to the Barbados Offences Against the Person Act of 1994.⁴⁹

June 26, 2002: A warrant of execution is read to Mr. Huggins despite the fact that he expressed an intention to appeal his sentence to the JCPC.⁵⁰

September 3, 2004: An application to the Commission is filed on behalf of Mr. Huggins.⁵¹

May 18, 2005: A second warrant of execution is read to Mr. Huggins while his petition is still pending before the Commission.⁵²

May 20, 2005: The President of the Court issues an Order requiring the State to adopt all measures necessary to preserve the life and physical integrity of Mr. Huggins.⁵³

B. Other Relevant Facts

From the date of their arrests, Mr. Boyce, Mr. Joseph, Mr. Atkins, and Mr. Huggins are detained at Glendairy Prison, where they remain until March 29, 2005, when a fire destroys the prison.⁵⁴ The conditions at the prison include the use of slop buckets for urination and defecation; a lack of adequate lighting and ventilation, forcing the inmates to stay in their respective cells for at least twenty-three hours a day for more than four years; and overcrowding (the jail population

46. *Id.*

47. Boyce et al. v. Barbados, Preliminary Objections, Merits, Reparations and Costs, Judgment, n.87, ¶ 90.

48. *Id.* at n.36.

49. *Id.* n.36, ¶ 19.

50. *Id.* ¶ 115.

51. *Id.* n.131.

52. *Id.*

53. *Id.*

54. *Id.* ¶ 90.

exceeds three times its capacity).⁵⁵ Subsequent to the fire, the inmates are sent to Harrison's Point Temporary Prison, where they are held in cages and forced to use slop buckets throughout the day, except for a fifteen-minute period during which they may use bathroom facilities and shower.⁵⁶ The inmates have no semblance of privacy and may only go outside into the yard once a week for exercise.⁵⁷ They are refused any live interaction with family members and friends.⁵⁸

II. PROCEDURAL HISTORY

A. Before the Commission

September 3, 2004: Mr. Saul Lehrfreund and Mr. Parvais Jabbar of Simons Muirhead & Burton present Petition No. 12.480 to the Commission on behalf of Mr. Boyce, Mr. Joseph, Mr. Atkins, and Mr. Huggins.⁵⁹

February 28, 2006: The Commission adopts Admissibility and Merits Report No. 03/06.⁶⁰

The Commission concludes that the State is responsible for several violations committed against Mr. Boyce, Mr. Joseph, Mr. Atkins, and Mr. Huggins.⁶¹ First, the State violated Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 4(2) (Death Penalty Limitations), 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture and Cruel, Inhuman or Degrading Treatment) and 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal) of the Convention in conjunction with Article 1(1) (Obligation to Respect Rights) by imposing a mandatory death penalty for murder.⁶² The State violated Article 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture and Cruel, Inhuman or Degrading Treatment) of the Convention in conjunction with Article 1(1) (Obligation to Respect Rights) for imposing detention under inhumane conditions.⁶³ The State violated Article 1(1)

55. *Id.* ¶¶ 91-94.

56. *Id.* ¶¶ 95, 97.

57. *Id.*

58. *Id.*

59. *Id.* ¶ 1.

60. *Id.*

61. Lennox Boyce, Jeffrey Joseph, Fredrick Benjamin Atkins and Michael Huggins (Boyce et al.) v. Barbados, Petition No. 12.480, Inter-Am. Comm'n H.R., ¶ 6 (Dec. 14, 2006).

62. *Id.* ¶ 6(a).

63. *Id.* ¶ 6(b).

(Obligation to Respect Rights) of the Convention due to its reading of warrants of execution to the victims while their complaints were still pending before domestic courts and the Inter-American Human Rights System.⁶⁴ Finally, the State violated Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention in relation to Section 2 of the Offences Against the Person Act 1994 of Barbados for failing to bring the State's domestic legislation into compliance with its obligations under the American Convention.⁶⁵

The Commission makes several recommendations to the State.⁶⁶ First, the State should maintain Mr. Boyce's and Mr. Joseph's commuted death sentences and compensate them for the other violations of their rights.⁶⁷ Second, the State should commute Mr. Huggins's death sentence and compensate him for the other violations of his rights.⁶⁸ Third, the State should provide an effective remedy to Mr. Atkins' estate or next of kin, including compensation for the violation of his rights.⁶⁹ Fourth, the State should adopt legislative or other measures necessary to ensure that any imposition of the death penalty does not violate the American Convention.⁷⁰ Fifth, the State should adopt constitutional or legislative measures necessary to ensure that the State's Constitution complies with Article 2 (Domestic Legal Effects) of the American Convention.⁷¹ Finally, the State should adopt legislative or other measures necessary to ensure that detention conditions comply with Article 5 (Right to Humane Treatment) of the American Convention.⁷²

B. Before the Court

June 23, 2006: The Commission submits the case to the Court after the State fails to adopt its recommendations.⁷³

1. Violations Alleged by Commission⁷⁴

64. *Id.* ¶ 6(c).

65. *Id.* ¶ 6(d).

66. *Id.* ¶¶ 7(1)-7(6).

67. *Id.* ¶ 7(1).

68. *Id.* ¶ 7(2).

69. *Id.* ¶ 7(3).

70. *Id.* ¶ 7(4).

71. *Id.* ¶ 7(5).

72. *Id.* ¶ 7(6).

73. *Boyce et al. v. Barbados*, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 169, ¶ 1 (Nov. 20, 2007).

74. *Id.* ¶¶ 3, 66.

Article 2 (Obligation to Give Domestic Legal Effects to Rights)
Article 4 (Right to Life)
Article 4(1) (Prohibition of Arbitrary Deprivation of Life)
Article 4(2) (Limitations on Death Penalty)
Article 5 (Right to Humane Treatment)
Article 5(1) (Right to Physical, Mental, and Moral Integrity)
Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment)
Article 8 (Right to a Fair Trial)
Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal)
all in relation to:
Article 1(1) (Obligation to Respect Rights) of the American Convention.

2. Violations Alleged by Representatives of the Victims⁷⁵

Same violations alleged by the Commission.

February 21, 2007: The State raises preliminary objections, claiming that domestic remedies had not been exhausted with regards to the alleged conditions of detention, the cruelty of hanging as a form of execution, and the cruelty of reading warrants of execution to victims while their appeals were pending.⁷⁶ The State asks the Court to ignore the Commission's recommendations and declare the State's laws and practices compatible with obligations set forth by the Convention.⁷⁷

November 20, 2007: The Court unanimously dismisses the State's preliminary objection, finding that the State waived any challenge it may have raised when it failed to make any observations on the issue or to specify which domestic remedies had not been exhausted in its first submission to the Commission.⁷⁸

The Court also analyzes two issues raised by the State as prior considerations.⁷⁹ First, the State had previously issued a reservation to

75. *Id.* ¶ 4. Mr. Saul Lehrfreund and Mr. Parvais Jabbar represented the victims and their next of kin.

76. *Id.* ¶¶ 5, 24.

77. *Id.*

78. *Id.* ¶¶ 28-29.

79. *Id.* ¶ 12.

the American Convention, reserving the right to prescribe the death penalty by hanging in cases of political offences, namely treason.⁸⁰ The State also reserved the right to prescribe the death penalty for individuals under age sixteen and over age seventy.⁸¹ Further, in its reservation, the State pointed out that since its system of mandatory capital punishment existed before the ratification of the Convention, the American Convention does not govern it.⁸² The Court uses a strict textual analysis to interpret the State's reservation.⁸³ The Court also considers the purpose of the Convention, which is to protect basic human rights, and Article 29 (Restrictions on Interpretation) of the Convention, which suggests that a reservation should not be interpreted to limit the rights guaranteed by the Convention.⁸⁴ The Court concludes that the State excluded from its reservation any mention of the mandatory death penalty for the crime of murder; therefore, it did not intend to exclude the Court from exercising jurisdiction over this matter.⁸⁵

Second, the State declares that the questions of mandatory death penalty and capital punishment by hanging are moot, since none of the prisoners in question await the death penalty.⁸⁶ Mr. Atkins died in prison in 2005 due to illness.⁸⁷ Mr. Boyce and Mr. Joseph had their sentences commuted to life imprisonments on appeal in 2005.⁸⁸ Although Mr. Huggins's death sentence has not been formally commuted, the death sentence cannot be lawfully carried out because over five years have passed since the date of Mr. Huggins's conviction, which is the State's statutory period of time during which an execution must take place after sentencing.⁸⁹ The Court concludes that until Mr. Huggins's death sentence is formally commuted, there exists a possibility that Bajan case law may change; thus, Mr. Huggins has no legal certainty that he will not face execution by hanging until his sentence is formally commuted.⁹⁰ Additionally, the Court explains that mandatory death penalty and death by hanging give rise to State

80. *Id.* ¶ 13.

81. *Id.* ¶ 14.

82. *Id.*

83. *Id.* ¶ 15.

84. *Id.*

85. *Id.* ¶ 17.

86. *Id.* ¶ 18.

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.* ¶ 20.

violations when the victims are sentenced, not when the sentence is carried out.⁹¹ Since the State's violations occurred at the sentencing stage, the case before the Court is not moot.⁹²

III. MERITS

A. *Composition of the Court*

Sergio García Ramírez, President
Cecilia Medina Quiroga, Vice President
Manuel E. Ventura-Robles, Judge
Diego García-Sayán, Judge
Leonardo A. Franco, Judge
Margarette May Macaulay, Judge
Rhadys Abreu Blondet, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

November 20, 2007: The Court issues its Judgment on Preliminary Objection, Merits, Reparations and Costs.⁹³

The Court found unanimously that Barbados had violated:

Articles 4(1) (Prohibition of Arbitrary Deprivation of Life) and 4(2) (Death Penalty Limitations), in relation to Article 1(1) of the Convention, to the detriment of Mr. Boyce, Mr. Joseph, Mr. Atkins, and Mr. Huggins,⁹⁴ because:

The issue was whether the mandatory death sentence imposed by the

91. *Id.* ¶ 21.

92. *Id.*

93. *Id.* ¶ 1.

94. *Id.* ¶ 63.

State for the crime of murder violated the Convention.⁹⁵ The Court stated that Articles 4(1) (Prohibition of Arbitrary Deprivation of Life) and 4(2) (Death Penalty Limitations) of the Convention must be interpreted *pro persona*, or in favor of the individual, in order to gradually bring about the disappearance of the death penalty.⁹⁶ The Convention does not prohibit the death penalty;⁹⁷ however, it reserves the death penalty only for the most severely illicit acts.⁹⁸ Section 2 of the Offences Against the Person Act violated the Convention because it merely provided that where a person was found guilty of murder, that person must be sentenced to death.⁹⁹ Thus, the State failed to differentiate between intentional killings punishable by death and intentional killings not punishable by death based on the particular circumstances of the crime.¹⁰⁰ Although capital punishment was lawfully sanctioned by the State, the Court determined that the State's mechanical application of the sentence to all murder cases was an arbitrary deprivation of life, and hence a violation of Article 4 (Right to Life) of the Convention.¹⁰¹

Articles 5 (Right to Humane Treatment) and 8 (Right to a Fair Trial) of the Convention, to the detriment of Mr. Boyce, Mr. Joseph, Mr. Atkins, and Mr. Huggins,¹⁰² because:

The Court found that the State violated Articles 5 (Right to Humane Treatment) and 8 (Right to a Fair Trial) for the same reasons it violated 4(1) (Prohibition of Arbitrary Deprivation of Life) and 4(2) (Death Penalty Limitations) in conjunction with the State's application of the death penalty.¹⁰³ The Court found it unnecessary to address Articles 5 and 8 further.¹⁰⁴

Article 2 (Domestic Legal Effects), in relation to Articles 1(1) (Obligation to Respect the Rights), 4 (Right to Life), 5 (Right to

95. *Id.* ¶ 49.

96. *Id.* ¶ 52.

97. *Id.* ¶ 50.

98. *Id.* ¶¶ 50, 54.

99. *Id.* ¶ 54.

100. *Id.*

101. *Id.* ¶ 56.

102. *Id.* ¶ 64. The Court did not indicate that Articles 5 (Right to Human Treatment) and 8 (Right to a Fair Trial) were violated in relation to Article 1(1).

103. *Id.*

104. *Id.*

Humane Treatment), 8 (Right to a Fair Trial), and 25(1) (Right to Judicial Protection) of the Convention, to the detriment of Mr. Boyce, Mr. Joseph, Mr. Atkins, and Mr. Huggins,¹⁰⁵ because:

The issues were whether the State's death penalty legislation and the "savings clause" in the State's constitution violated Article 2 (Domestic Legal Effects) of the Convention based on their incompatibility with Articles 1(1) (Obligation to Respect Rights), 4 (Right to Life), 5 (Right to Humane Treatment), 8 (Right to a Fair Trial).¹⁰⁶ Article 2 required States to ensure that all provisions of the Convention were effectively fulfilled in the State's domestic legal system.¹⁰⁷ Section 2 of the State's Offences Against the Person Act of 1994 imposed a mandatory death sentence regardless of the particular circumstances of the crime and degree of culpability of the accused.¹⁰⁸ The Court declared that Section 2 impeded an individual's right not to be arbitrarily deprived of life.¹⁰⁹ Thus, the Court required the State to invalidate Section 2 in order to bring its domestic laws in compliance with the Convention.¹¹⁰ Failure to do so constituted a violation of Article 2 (Domestic Legal Effects).¹¹¹

The Court also addressed the impact of Section 26 of the Constitution of Barbados on Article 2 (Domestic Legal Effects).¹¹² Section 26, also known as the "savings clause," saved current laws that were enacted before the State's adoption of the constitution from judicial scrutiny.¹¹³ In effect, certain laws that may have violated fundamental rights were immune from constitutional challenge.¹¹⁴ Section 2 of the State's Offences Against the Person Act could not be challenged on constitutional grounds because it existed before the current constitution came into force.¹¹⁵ Since Section 2 denied citizens the right to seek judicial protection against violations of the right to life, it violated Article 2 (Domestic Legal Effects) of the Convention.¹¹⁶

105. *Id.* ¶ 80.

106. *Id.* ¶ 66.

107. *Id.* ¶ 69.

108. *Id.* ¶ 71.

109. *Id.* ¶ 72.

110. *Id.*

111. *Id.* ¶ 74.

112. *Id.* ¶¶ 75-80.

113. *Id.* ¶ 75.

114. *Id.*

115. *Id.*

116. *Id.* ¶ 80.

*The Court did not include a discussion of Article 25(1) (Right to Recourse Before a Competent Court).*¹¹⁷

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhuman or Degrading Treatment), in relation to Article 1(1) of the Convention, to the detriment of Mr. Boyce, Mr. Joseph, Mr. Atkins, and Mr. Huggins,¹¹⁸ because:

*Although the representatives presented arguments supporting the view that the Court should find the State's method of capital punishment by hanging to be in violation of the Convention's prohibition on cruel, inhumane, or degrading punishment, the Court did not find it necessary to comment on this matter.*¹¹⁹ *Instead, the Court focused on whether the State's prison conditions violated the victims' rights to personal integrity.*¹²⁰ *According to the Commission and the representatives, prisoners at Glendairy Prison and Harrison's Point Temporary Prison were subjected to a lack of lighting and ventilation, overcrowding, enclosure for twenty-three hours a day, lack of privacy, lack of contact with the outside world, lack of exercise, confinement in cages, and forced use of slop buckets in plain view of others.*¹²¹ *The Court found that the conditions in which the parties were detained constituted inhumane and degrading treatment in violation of Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhuman or Degrading Treatment).*¹²²

*Finally, the Court addressed whether the State violated the victims' rights by reading warrants of execution to them while their appeals were pending.*¹²³ *Litigants must be able to complete their appeals at the national level, as well as petitions and applications before the Commission and the Court, before any warrants of execution may be read or any execution may be carried out.*¹²⁴ *The State thus violated its duty to guarantee the right to life and the right to be free from cruel treatment by reading the execution warrants to the victims while their*

117. *Id.*

118. *Id.* ¶ 81.

119. *Id.* ¶¶ 81, 85.

120. *Id.* ¶ 81.

121. *Id.* ¶¶ 94, 102.

122. *Id.*

123. *Id.* ¶ 81.

124. *Id.* ¶¶ 114, 116.

*domestic appeals and their petitions before the Inter-American System were still pending.*¹²⁵

C. *Dissenting and Concurring Opinions*

[None]

IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

A. *Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)*

1. Judgment as a Form of Reparation

The Court's judgment is per se a form of reparation.¹²⁶

2. Commute Mr. Huggins's Death Sentence

In addition, the State must formally commute Mr. Huggins's death sentence and adopt legislative or other measures necessary to ensure that the imposition of the death penalty complies with the American Convention, and that it is not imposed through mandatory sentencing.¹²⁷

3. Adapt Constitution and Domestic Legislation

The State must also adopt legislative or other measures necessary to ensure that the State's Constitution and laws comply with the American Convention, and to remove the immunizing effect of the Section 26 "savings clause" from the State's Constitution.¹²⁸

4. Reform Prisons

Finally, the State must adopt and implement measures necessary to ensure that detention conditions in prisons comply with the American

125. *Id.*

126. *Id.* ¶ 126.

127. *Id.* ¶ 127.

128. *Id.*

Convention.¹²⁹

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

[None]¹³⁰

2. Non-Pecuniary Damages

[None]¹³¹

3. Costs and Expenses

The Court ordered the State to pay \$27,000 to the victims' representatives, Mr. Lehrfreund and Mr. Jabbar, for the costs and expenses related to the domestic and international proceedings in the present case.¹³²

4. Total Compensation (including Costs and Expenses ordered):

\$27,000

C. Deadlines

The State must commute Mr. Huggins's sentence within six months of notification of the judgment.¹³³

The State must comply with the remaining specific performance obligations within a reasonable time of notification of the Judgment.¹³⁴

The State must pay the costs and expenses directly to the victims' representatives within six months of notification of the Judgment.¹³⁵

129. *Id.*

130. *Id.* ¶ 125.

131. *Id.*

132. *Id.* ¶ 133.

133. *Id.* ¶ 128.

134. *Id.*

135. *Id.* ¶ 133.

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

November 21, 2011: The Court determined that the State had fully complied with the obligations to formally commute the death sentence of Mr. Huggins within six months of notification of the Judgment and to reimburse the costs and expenses for the proceedings within six months of notification of the Judgment.¹³⁶

The Court determined that the State had *partially* complied with the obligation to adopt and implement, within a reasonable time, measures necessary to ensure that detention conditions comply with the American Convention.¹³⁷

The Court stated that compliance with two obligations are still pending.¹³⁸ First, the State was still required to adopt, within a reasonable time, legislative or other measures necessary to ensure that the imposition of the death penalty complies with the American Convention and that it is not imposed through mandatory sentencing.¹³⁹ Second, it remained for the State to adopt, within a reasonable time, legislative or other measures necessary to ensure that the State's Constitution and laws are brought into compliance with the American Convention, and to remove the immunizing effect of Section 26 of the State's Constitution.¹⁴⁰

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[Boyce et al. v. Barbados, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 169 \(Nov. 20, 2007\).](#)

136. Boyce et al. v. Barbados, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Declares" ¶ 2 (Nov. 21, 2011).

137. *Id.* "Declares" ¶ 3.

138. *Id.* "Declares" ¶ 1.

139. *Id.*

140. *Id.*

2. Decisions on Merits, Reparations and Costs

[Boyce et al. v. Barbados, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 169 \(Nov. 20, 2007\).](#)

3. Provisional Measures

[Boyce et al. v. Barbados, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(June 14, 2005\).](#)

[Boyce et al. v. Barbados, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Nov. 25, 2004\).](#)

4. Compliance Monitoring

[Boyce et al. v. Barbados, Monitoring Compliance with Judgments, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 21, 2011\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Boyce et al. v. Barbados, Petition No. 12.480, Inter-Am. Comm'n H.R. (Sept. 3, 2004).

2. Report on Admissibility

[None]

3. Provisional Measures

Boyce et al. v. Barbados, Precautionary Measures, Order of the Commission, Inter-Am. Comm'n H.R., Case No. 12.480 (Sept. 17, 2004).

4. Report on Merits

Boyce et al. v. Barbados, Report on Merits, Report No. 03/06, Inter-Am. Comm'n H.R., Case No. 12.480 (Feb. 28, 2006).

5. Application to the Court

[Boyce et al. v. Barbados, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.480 \(December 14, 2006\).](#)

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