

Caesar v. Trinidad and Tobago

ABSTRACT¹

This is a case about Trinidad and Tobago's imposition of corporal punishment. Under the Corporal Punishment Act of 1953, domestic courts may order any male offender above the age of sixteen years to be struck, or flogged, with an object called a "cat-o-nine tails," when convicted of certain crimes. The victim in this case, Mr. Winston Caesar, was convicted before the High Court of Trinidad and Tobago of attempted rape and was sentenced to serve twenty years in a penitentiary with hard labor. As part of his sentence, Mr. Caesar was whipped fifteen times with a "cat-o-nine tails." Caesar v. Trinidad and Tobago is unique because the State denounced the American Convention while Mr. Caesar was in custody, and did not participate in the process before the Inter-American Commission or Court.

I. FACTS

A. Chronology of Events

November 11, 1983: Mr. Winston Caesar is arrested for alleged rape.²

November 16, 1983: Mr. Caesar is released on bail.³

1985-1986: Proceedings for incarceration take place at the Port of Spain Magistrate's 4th Court.⁴ The Court orders Mr. Caesar to stand trial on February 21, 1986.⁵

1. Grace Kim, Author; Jennifer Barrera, Elise Cossart-Daly, Sarah Frost, Erika Green, Melissa Kurata, and Shamin Rostami, Editors; Laura Ybarra, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. *Caesar v. Trinidad & Tobago*, Merits, Reparation, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132, ¶ 49(1) (March 11, 2005).

3. *Id.*

4. *Id.* ¶ 121.

5. *Id.*

February 21, 1986: Mr. Caesar fails to appear in court for his trial.⁶

September 10, 1991: State agents arrest Mr. Caesar for failing to appear in court, and place him in custody.⁷ He is held in the Port of Spain prison during his trial.⁸

While in detention, Mr. Caesar witnesses State agents take prisoners out for flogging, every morning, and return them with severe injuries.⁹

January 1992: The High Court of Trinidad and Tobago hears Mr. Caesar's trial.¹⁰

January 10, 1992: Under Trinidad and Tobago's *Offences Against the Person Act*, the High Court convicts Mr. Caesar of attempted rape and sentences him to twenty years in a penitentiary with hard labor.¹¹ The Court also orders State agents to whip Mr. Caesar with fifteen strokes of a cat-o-nine tails, a whip-like weapon that consists of nine braided, knotted ropes that are approximately thirty inches long and less than an inch in diameter.¹² In response, Mr. Caesar signs a Notice of Appeal and remains in detention.¹³

November 26, 1993: Mr. Caesar's attorney files an application for leave to appeal at the Court of Appeal of Trinidad and Tobago, challenging the legal basis of the ruling.¹⁴

February 28, 1996: The Court of Appeal of Trinidad and Tobago confirms Mr. Caesar's conviction and sentence and dismisses his application for leave to appeal without an explanation.¹⁵

February 5, 1998: Mr. Caesar is strapped naked, with his arms and legs spread, to a metal structure and whipped fifteen times with the "cat-o-nine tails," in accordance with his sentence.¹⁶ He is flogged despite

6. *Id.* ¶ 49(1).

7. *Id.* ¶ 121.

8. *Id.*

9. *Id.* ¶ 49(25).

10. *Id.* ¶ 49(3).

11. *Id.* ¶ 49(2).

12. *Id.* ¶¶ 49(2), 72.

13. *Id.* ¶ 49(2).

14. *Id.* ¶ 49(3).

15. *Id.* ¶ 49(4).

16. *Id.* ¶¶ 49(26), (27).

deteriorated physical conditions.¹⁷ There are no medical records of the administration of his flogging.¹⁸

February - April 1998: Mr. Caesar suffers from pain in his shoulders, along with depression and acute anxiety.¹⁹ He remains in the infirmary for two months.²⁰ He does not receive any medical treatment for the flogging except for orally administered painkillers.²¹

May 26, 1998: The State notifies the Secretary General of the Organization of American States that it has denounced the American Convention.²²

May 26, 1999: The State's denunciation of the American Convention comes into effect.²³

B. Other Relevant Facts

1. Regarding the Laws of Trinidad and Tobago At the Time of Judgment

There are two principal laws that authorize the use of corporal punishment in Trinidad and Tobago.²⁴ One of them is the *Corporal Punishment (Offenders Over Eighteen) Act*.²⁵ The terms of this legislation provide for the application of corporal punishment for certain crimes that include whipping with a rod of tamarind or similar switch and flogging with strokes of an object called a "cat-o-nine tails."²⁶

The *Corporal Punishment (Offenders Over Sixteen) Act* was adopted in 1953 and amended in 1994 and 2000.²⁷ The 1994 amendment provided for the suspension of the original six-month time limit for the carrying out of a sentence of corporal punishment while an

17. *Id.* ¶ 49(28).

18. *Id.* ¶ 49(29).

19. *Id.* ¶¶ 49(26), (28)-(32).

20. *Id.*

21. *Id.*

22. *Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Separate Opinion of Judge Manuel E. Ventura Robles, Inter-Am. Ct. H.R. (ser. C) No. 54, ¶ 2 (March 11, 2005).*

23. *Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Separate Opinion of Judge A.A. Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 54 (March 11, 2005).*

24. *Caesar v. Trinidad & Tobago, Merits, Reparation, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132, ¶ 49(6) (March 11, 2005).*

25. *Id.*

26. *Id.*

27. *Id.* ¶ 49 (9).

appeal is pending.²⁸ The 2000 amendment provides that corporal punishment may be administered only to persons over the age of eighteen.²⁹

The Constitution of Trinidad and Tobago, like those of other Caribbean states,³⁰ contains a “Savings Clause” (Section 6) that precludes individuals from challenging all laws or acts carried out pursuant to any law in force in Trinidad and Tobago before 1976, the year the Constitution entered into force.³¹

The Constitution of Trinidad and Tobago does not provide among its prescribed fundamental rights and freedoms the right to a trial within a reasonable time.³²

2. Regarding Mr. Caesar’s Detention and Health Conditions

Throughout his proceedings and after his initial incarceration in 1991, Mr. Caesar spent time in five different prisons: Port of Spain Prison, Golden Grove Prison, Carrera Convict Prison and Tobago Prison, and Maximum Security Prison. He resides in Maximum Security Prison at the time of this Judgment.³³

After his first stay in the Port of Spain Prison, he is subsequently transferred to Golden Grove Prison and then Carrera Convict Prison.³⁴ At these two prisons, he “[shares] a cell with four or five other men and [sleeps] on the floor with a thin mat or an old piece of carpet. There [is] no toilet facilities and a ‘slop pail’ is used by everyone in the cell. There is always a stench of human waste in the cell, which [has] little ventilation and [is] hot.”³⁵ At the Maximum Security Prison, Mr. Caesar is “allowed outside his prison cell for one hour during the mornings and one hour during the evenings.”³⁶

Since his incarceration, Mr. Caesar has suffered from severe health problems, aggravated as a result of lack of care from State officials.³⁷ He lost most of his teeth on his lower jaw, and suffers from chronic hemorrhoids, along with a cyst on his testicles.³⁸ These problems could

28. *Id.*

29. *Id.*

30. See also *DaCosta Cadogan v. Barbados*, Merits, Preliminary Objections, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 204 (Sep. 24, 2009).

31. *Id.* ¶ 49 (11).

32. *Id.* ¶ 49 (12).

33. *Id.* ¶¶ 49 (14), (15).

34. *Id.*

35. *Id.* ¶ 49 (16).

36. *Id.* ¶ 49(17).

37. *Id.* ¶¶ 49(18)-(22).

38. *Id.*

have been treated, but the conditions only worsen because State authorities fail to provide medical aid.³⁹ At the time of the judgment, Mr. Caesar is still in severe pain and is in urgent need of surgery.⁴⁰ Mr. Caesar's detention conditions are standard in the prisons of Trinidad and Tobago.⁴¹

II. PROCEDURAL HISTORY

A. *Before the Commission*

May 13, 1999: The British law firm Lovell, White, and Durant files a petition before the Inter-American Commission.⁴²

October 10, 2001: The Commission finds Mr. Caesar's petition admissible in Report No. 88/01.⁴³

October 10, 2002: The Commission adopts Merits Report No. 88/01, in which it finds that Trinidad and Tobago violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection) in relation to Article 1(1) (Obligation to Respect Rights) to the detriment of Mr. Caesar.⁴⁴ The Commission also finds that the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time), and 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) in relation to Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention because the State did not provide for trials within a reasonable time and authorized punishment that is incompatible with the standards of the American Convention.⁴⁵ The victim's representatives assert the violation of Mr. Caesar's right to counsel under Article 8(2) (Right to Be Presumed Innocent) of the Convention, but the Commission does not find that the

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.* ¶ 12.

43. *Id.* ¶ 13.

44. *Id.* ¶ 14.

45. *Id.*

State violated Article 8(2).⁴⁶

The Commission recommends that the State make reparations to and compensate Mr. Caesar, provide trials within a reasonable time, abrogate the punishment of flogging provided by the Corporal Punishment (Offenders Over Sixteen) Act of 1953, and ensure that Mr. Caesar's detention complies with Article 5 (Right to Humane Treatment) of the Convention.⁴⁷

November 27, 2002: The Commission sends Report No. 65/02 to the State in which it requests it to report on the measures of compliance within two months from the date of transmission.⁴⁸

B. Before the Court

February 26, 2003: The Commission submits the case to the Court, after the State fails to adopt its recommendations.⁴⁹

1. Violations Alleged by Commission⁵⁰

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment)

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights) of the American Convention.

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment)

Article 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time)

Article 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal)

all in relation to:

46. *Id.*

47. *Id.*

48. *Id.* ¶ 15.

49. *Id.* ¶ 18.

50. *Id.* ¶ 14.

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.

2. Violations Alleged by Representatives of the Victims⁵¹

Same violations alleged by the Commission, plus:

Article 3 (Right to Juridical Personality)

Article 8(2) (Right to be Presumed Innocent) of the American Convention.

April 20, 2003: The State fails to designate agents or a Judge *ad hoc*.⁵²

May 20, 2003: The State fails to file an answer to the Court within the allotted time period.⁵³

April 12, 2004: The non-governmental organizations Harvard Law Student Advocates for Human Rights and Global Justice Centre submit an *amici curiae* brief to the present case.⁵⁴

September 6, 2004: The non-governmental organization, Interights, also submits an *amicus curiae* brief.⁵⁵

November 15, 2004: The Court holds a public hearing on the merits.⁵⁶ The State does not appear at the hearing.⁵⁷

December 6, 2004: The Court requires the State to submit all of the medical records regarding Mr. Caesar, including before and after corporal punishment.⁵⁸ The State does not submit these documents.⁵⁹

December 13 and 16, 2004: The representatives of the victim and the Commission present their final written arguments on the merits, along

51. Jon Holland, Andrea Monks, Yasmin Walijje, Yvonne Gray and Peter Carter represented Mr. Caesar in the proceedings before the Court.

52. *Id.* ¶ 25.

53. *Id.* ¶ 24.

54. *Id.*

55. *Id.* ¶ 26.

56. *Id.* ¶ 29.

57. *Id.*

58. *Id.* ¶ 32.

59. *Id.*

with possible reparations and costs.⁶⁰ The State does not present any final written arguments.⁶¹ Throughout the entire proceedings, the State does not respond to the Court's requests, appear before the Court or engage in the Court's process whatsoever.⁶²

III. MERITS

A. *Composition of the Court*

Sergio García Ramírez, President
Alirio Abreu Burelli, Vice President
Oliver Jackman, Judge
Antônio A. Cançado Trindade, Judge
Cecilia Medina Quiroga, Judge
Manuel E. Ventura Robles, Judge
Diego García Sayán, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

March 11, 2005: The Court issues its Judgment on Merits, Reparations, and Costs.⁶³

The Court found unanimously that Trinidad and Tobago had violated:

Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) of the Convention, to the detriment of Mr. Caesar,⁶⁴ because:

Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), and 1(1) (Obligation to Respect Rights) require that States abstain from

60. *Id.* ¶ 33.

61. *Id.*

62. Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Separate Concurring Opinion of Judge Antônio A. Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 132, ¶ 67 (March 11, 2005).

63. Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132 (March 11, 2005).

64. *Id.* "Declares" ¶ 1.

*imposing and prevent corporal punishment.⁶⁵ *The State's corporal punishment of flogging is a form of torture, and is a per se violation of Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment).⁶⁶**

Furthermore, the State subjected Mr. Caesar to conditions in the detention facilities that failed to respect his physical, mental, and moral integrity, as required under Article 5(1), and that constituted inhumane and degrading treatment contrary to Article 5(2).⁶⁷

As a result, the Court found that the State violated these Articles in conjunction with Article 1(1) (Obligation to Respect Rights).⁶⁸

Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 2 of the Convention (Obligation to Give Domestic Legal Effect to Rights), to the detriment of Mr. Caesar,⁶⁹ because:

*The State failed to abrogate the Corporal Punishment Act although it was incompatible with the Convention.⁷⁰ *As a result, the Court found that the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 2 of the Convention (Obligation to Give Domestic Legal Effect to Rights).⁷¹**

Article 25 (Right to Judicial Protection), in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of Mr. Caesar,⁷² because:

The State's domestic law does not provide an effective remedy against either the existence or the application of corporal punishment.⁷³

65. *Id.* ¶ 73.

66. *Id.* ¶ 70.

67. *Id.* ¶¶ 95-100.

68. *Id.* "Declares" ¶ 1.

69. *Id.* "Declares" ¶ 2.

70. *Id.* ¶¶ 90-94.

71. *Id.* "Declares" ¶ 2.

72. *Id.* "Declares" ¶ 4.

73. *Id.* ¶¶ 113-17.

The Court found unanimously that Trinidad and Tobago had not violated:

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of Mr. Caesar,⁷⁴ because:

Though Mr. Caesar's first arrest occurred on November 11, 1983, the Court only had jurisdiction over the proceedings after Trinidad and Tobago accepted the Court's jurisdiction on May 28, 1991.⁷⁵ Therefore, the Court only considered the proceedings between May 28, 1991, and the final judgment against Mr. Caesar, issued on February 28, 1996.⁷⁶ Given this limitation, the Court found that the length of Mr. Caesar's criminal proceedings was reasonable, and the State did not violate Article 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal).⁷⁷

The Court did not refer to the alleged violations of:

Article 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within Reasonable Time) of the Convention to the detriment of Mr. Caesar,⁷⁸ because:

The Commission alleged violation of Article 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within a Reasonable Time) in conjunction with Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and the Court did not find the State violated Article 8(1).⁷⁹

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Oliver Jackman

Judge Oliver Jackman concurred to note the importance of the

74. *Id.* "Declares" ¶ 4.

75. *Id.* ¶ 111.

76. *Id.*

77. *Id.* ¶¶ 111- 112.

78. *See generally* Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132 (March 11, 2005).

79. *Id.* ¶¶ 101(f), 112.

present judgment.⁸⁰ He asserted that this judgment was of particular importance for at least three reasons.⁸¹ First, it reaffirms that corporal punishment by state parties to the Convention is in flagrant breach of that treaty.⁸² Second, it insists on the absolute necessity of states respecting their treaty obligations.⁸³ Third, it rejects the “savings clauses” which have the effect of permitting certain states in the Commonwealth Caribbean to engage in internationally illicit behaviors.⁸⁴

2. Concurring Opinion of Judge Antônio A. Cançado Trindade

In a separate, concurring opinion, Judge Cançado Trindade highlighted several points.⁸⁵ He discussed the humanization of the law of the treaties, as illustrated by developments concerning interpretation of treaties, reservations to treaties, denunciation of treaties, and termination and suspension of the operation of treaties.⁸⁶

Judge Cançado Trindade also observed that the State did not respond to or appear before the Court after the Court’s decision in *Hilaire, Constantine, et al. v. Trinidad and Tobago*, and did not appear before the Court in the present case.⁸⁷ He then discussed the importance of the international rule of law, non-appearance before an international tribunal, and the duty of compliance with its judgment.⁸⁸

Judge Cançado Trindade also explored the expanding material content and scope of *jus cogens* in contemporary international law.⁸⁹

He asserted that these points are of key importance for a better understanding of the Court’s decision in the present case and for handling future cases.⁹⁰

80. *Caesar v. Trinidad & Tobago*, Merits, Reparation and Costs, Separate Opinion of Judge Oliver Jackman, Inter-Am. Ct. H.R. (ser. C) No. 132, 1 (March 11, 2005).

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.*

85. *Caesar v. Trinidad & Tobago*, Merits, Reparation and Costs, Separate Concurring Opinion of Judge Antônio A. Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 132 (March 11, 2005).

86. *Id.* ¶¶ 4-66.

87. *Id.* ¶ 67.

88. *Id.* ¶¶ 67-84.

89. *Id.* ¶¶ 85-92.

90. *Id.* ¶ 1.

3. Concurring Opinion of Judge Manuel E. Ventura Robles

Judge Manuel E. Ventura Robles wrote a separate concurring opinion to discuss potential solutions to the State's failure to participate in the proceedings before the Inter-American Court.⁹¹ Judge Ventura Robles discussed Article 65 of the American Convention, which states that the Court shall provide the General Assembly of the Organization of American States ("OAS") with an annual report on state compliance with Court judgments.⁹² He noted, however, that reports of non-compliance with a Court judgment are not directly known or debated by the OAS General Assembly, or by the Permanent Council or by its Committee on Juridical and Political Affairs.⁹³

He suggested that the best solution for the State's failure to participate would be to amend the procedural provisions of the American Convention.⁹⁴ In the short-term, he argued, the OAS should be able to debate reports on non-compliance with judgments pronounced by the Court.⁹⁵ Judge Ventura Robles argues that, in many cases, this provision would encourage States to promptly and fully comply with judgments, and would allow the the Court to close cases.⁹⁶

Judge Ventura Robles suggested that the Committee on Juridical and Political Affairs create a permanent working group that would receive oral and written reports from the Court, the Commission, victims' representatives, and States regarding failure to comply with judgments, and would ultimately make recommendations to the General Assembly.⁹⁷

4. Dissenting Opinion of Judge Sergio García Ramírez

In Judge García Ramírez's dissenting opinion, he raised several issues.⁹⁸ First, he discussed the State's failure to participate in the proceedings before the Court and the scope and effectiveness of the obligations undertaken by a State party to an international convention.⁹⁹

91. *Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Separate Concurring Opinion of Judge Manuel E. Ventura Robles, Inter-Am. Ct. H.R. (ser. C) No. 132 (March 11, 2005).*

92. *Id.* ¶ 18.

93. *Id.* ¶ 30.

94. *Id.* ¶ 31.

95. *Id.*

96. *Id.*

97. *Id.* ¶ 33.

98. *Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Separate Dissenting Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. (ser. C) No. 132 (March 11, 2005).*

99. *Id.* ¶¶ 2-9.

He also contemplated the legality of certain forms of punishment in the light of domestic and international laws on torture and other cruel, inhuman or degrading treatment.¹⁰⁰ Judge García Ramírez then reflected on aspects of the due process of the law, particularly compliance with the “reasonable time” requirement; conditions of arrest for accused or convicted persons; and the proportionality between an offense and the punishment prescribed by law and enforced by a court.¹⁰¹

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 found that the judgment constitutes, *per se*, a form of reparation.¹⁰²

2. Provide Medical and Psychological Treatment

The State must provide Mr. Caesar with free medical and psychological care and medication through its national health services and for as long as necessary.¹⁰³

3. Repeal the Corporal Punishment Act

The State must adopt, within a reasonable time, such legislative or other measures as may be necessary to repeal the Corporal Punishment Act.¹⁰⁴

4. Amend the Savings Clause in the Constitution

The State must amend, within a reasonable time, Section 6 of Trinidad and Tobago’s Constitution because that “savings clause”

100. *Id.* ¶¶ 10-28.

101. *Id.* ¶¶ 29-36.

102. *Id.* ¶¶ 120-35.

103. *Id.* ¶ 131.

104. *Id.* ¶ 132.

denies persons effective recourse to a competent court or tribunal for remedy against violations of their human rights.¹⁰⁵

5. Reform State Prisons

The State must adopt, within a reasonable time, all necessary measures to bring the conditions of its prisons into compliance with the relevant international human rights norms.¹⁰⁶

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

[None]

2. Non-Pecuniary Damages

The Court ordered the State to pay \$50,000 to Mr. Caesar.¹⁰⁷

3. Costs and Expenses

[None]

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

\$50,000

C. Deadlines

The Court ordered the State to provide medical and psychological treatment immediately.¹⁰⁸ The Court ordered the State to pay the compensation ordered within one year of the notification of this judgment.¹⁰⁹ The State must amend its Constitution and laws, and

105. *Id.* ¶ 133.

106. *Id.* ¶ 134.

107. *Id.* ¶ 128.

108. *Id.* ¶ 131.

109. *Id.* ¶¶ 128, 136.

reform its prisons within a reasonable time.¹¹⁰

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

June 29, 2005: The Court applied Article 65 (Report of Non-Compliance to the General Assembly of the Organization of American States) and Article 30 of the Statute of the Court and included information regarding the State's lack of compliance with the Court's judgment in its Annual Report to the OAS.¹¹¹ The Court determined that if the State does not comply after the report to the OAS, the Court will continue to declare the State's noncompliance in its Annual Report.¹¹²

May 25, 2006: The President of the Court ordered the State to submit a report on its compliance with the Judgment as soon as possible, as the State has not done so.¹¹³

May 2, 2007: The President ordered the State, again, to submit the report on measures taken in compliance with the Judgment as soon as possible.¹¹⁴ Regardless, the State still failed to produce the report.¹¹⁵

August 28, 2007: The President ordered the State to submit a report on the measures taken in compliance with the Judgment no later than October 15, 2007.¹¹⁶ In addition, the Secretariat ordered the Commission and the representatives of Mr. Caesar to submit, within the same deadline, any relevant information so that it may be available to the Court.¹¹⁷ Neither report is submitted within the deadline.¹¹⁸

October 24, 2007: The President of the Court requested the representatives and the State submit, no later than November 9, 2007,

110. *Id.* ¶ 132-34.

111. *Caesar v. Trinidad & Tobago, Monitoring Compliance, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 132, "Having Seen" ¶ 2 (Nov. 21, 2007).*

112. *Id.*

113. *Id.* "Having Seen" ¶ 3.

114. *Id.* "Having Seen" ¶ 4.

115. *Id.*

116. *Id.* "Having Seen" ¶ 5.

117. *Id.*

118. *Id.*

all relevant information on the measures taken in compliance with the Judgment.¹¹⁹

November 21, 2007: The Court declared the State had not complied with its obligation to inform the Court about the steps taken to comply with the Judgment.¹²⁰ The Court explained that the State must comply with the Court's Judgment and that the Court will continue to monitor compliance with all the reparations ordered.¹²¹ The Court required the State to comply with the Judgment and submit a detailed compliance report.¹²²

2009: The State was still one of the few Caribbean nations that continued to administer corporal punishment, including punishment by flogging with the cat-o-nine tails.¹²³

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Caesar v. Trinidad & Tobago, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 132 \(March 11, 2005\).](#)

[Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Separate Opinion of Judge Oliver Jackman, Inter-Am. Ct. H.R. \(ser. C\) No. 132, 1 \(March 11, 2005\).](#)

[Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Separate Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 132 \(March 11, 2005\).](#)

119. *Id.* "Having Seen" ¶ 7.

120. *Id.* "Declares" ¶ 1.

121. *Id.* "Declares" ¶¶ 2-3.

122. *Id.* "Decides" ¶ 2.

123. Michael P. Scharf and Patrick Dowd, *No way Out? The Question of Unilateral Withdrawals of Referrals to the ICC and Other Human Rights Courts*, 9 CHI. J. INT'L. L. 573, 603 (2009). On December 31st, 2012 Trinidad and Tobago's corporal punishment law, Chap. 13:04, remained in force.

[Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Separate Concurring Opinion of Judge Manuel E. Ventura Robles, Inter-Am. Ct. H.R. \(ser. C\) No. 132 \(March 11, 2005\).](#)

[Caesar v. Trinidad & Tobago, Merits, Reparation and Costs, Separate Concurring Opinion of Judge Antônio A. Cançado Trindade, Inter-Am. Ct. H.R. \(ser. C\) No. 132 \(March 11, 2005\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[Caesar v. Trinidad & Tobago, Compliance Monitoring, Order of the Court, Inter-Am. Ct. H.R. \(ser. C\) No. 132 \(Nov. 21, 2007\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

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2. Report on Admissibility

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3. Precautionary Measures

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4. Report on Merits

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5. Application to the Court

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¹²⁴ The Report number for the application to the Court was unavailable at the time of publication.