

# WorldCourts™

---

Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 50/01; Case 12.069
Session:	Hundred and Eleventh Special Session (3 – 6 April 2001)
Title/Style of Cause:	Damion Thomas v. Jamaica
Doc. Type:	Report
Decided by:	Chairman: Claudio Grossman; First Vice-Chairman: Juan Mendez; Second Vice-Chairman: Marta Altolaguirre; Commissioners: Helio Bicudo, Robert K. Goldman, Peter Laurie, Julio Prado Vallejo.
Dated:	4 April 2001
Citation:	Thomas v. Jamaica, Case 12.069, Inter-Am. C.H.R., Report No. 50/01, OEA/Ser.L/V/II.111, doc. 20, rev. (2000)
Represented by:	APPLICANT: Allen & Overy (a firm of Solicitors in London)
Terms of Use:	Your use of this document constitutes your consent to the Terms and Conditions found at <a href="http://www.worldcourts.com/index/eng/terms.htm">www.worldcourts.com/index/eng/terms.htm</a>

---

## I. SUMMARY

1. On November 12, 1998, the Inter-American Commission on Human Rights (the “Commission”) received a petition from Allen & Overy, a firm of Solicitors in London, United Kingdom (the “petitioners”) against the Government of Jamaica (the “State” or “Jamaica”). The petition was presented on behalf of Mr. Damion Thomas, and stated that on May 3, 1996, Mr. Thomas was convicted in the Home Circuit Court II, Kingston, Jamaica, of non-capital murder and was subsequently imprisoned in St. Catherine's District Prison, where he currently remains incarcerated.

2. In their petition, the petitioners allege that the State violated Mr. Thomas' rights under Articles 5(1) and 5(2) of the American Convention on Human Rights (the “Convention”), because he has been the victim of systematic and sustained physical and mental abuse and cruelty at St. Catherine's District Prison.

3. In the present Report, after having analyzed the information and arguments provided by the parties, the Commission concluded that the State is responsible for violations of Article 5(1) and 5(2) of the Convention, in conjunction with violations of Article 1(1) of the Convention, in respect of certain aspects of Mr. Thomas' treatment during his incarceration at St. Catherine's District Prison. Accordingly, the Commission decided to recommend to the State of Jamaica that it provide Mr. Thomas with an appropriate remedy, which includes compensation, and that it conduct thorough and impartial investigations into the facts of the pertinent incidents denounced by the petitioners in order to identify those accountable for the violations concerned and undertake appropriate remedial measures. The Commission also decided to recommend to the

State of Jamaica that it review its practices and procedures to ensure that officials involved in the incarceration and supervision of persons imprisoned in Jamaica are provided with appropriate training concerning the standards of humane treatment of such persons, including restrictions on the use of force against such persons, and to ensure that complaints made by prisoners concerning alleged mistreatment by prison officials and other conditions of their detention are properly investigated and resolved.

## II. PROCEEDINGS BEFORE THE COMMISSION

4. On December 11, 1998, the Commission opened Case N° 12.069 in respect of Mr. Thomas' complaint and transmitted the pertinent parts of the petition to the Government of Jamaica by note of the same date, with a request for information within 90 days as established by the Commission's Regulations. Also in a communication dated December 11, 1998, the Commission informed the petitioners that it had opened a case in respect of Mr. Thomas' complaint, that the pertinent parts of their petition had been transmitted to the State, and that the petitioners would be advised of any reply that the State might make.

5. The State responded to the petition in a note dated January 12, 1999, in which it indicated, inter alia, that it would investigate the petitioners' alleged acts of ill-treatment and advise the Commission as soon as the results of its investigations were available. The Commission transmitted the pertinent parts of the State's response to the petitioners on February 1, 1999, with a request for information within 30 days.

6. By communication dated February 26, 1999, the petitioners delivered to the Commission a "First Additional Communication" which included descriptions of further incidents of ill-treatment alleged to have been experienced by Mr. Thomas since the submission of the petitioners' petition on November 12, 1998. The Commission transmitted the pertinent portions of the petitioners' communication to the State in a note dated August 4, 1999, with observations requested within 30 days.

7. The State responded to the Commission's August 4, 1999 correspondence by note dated September 9, 1999, in which it indicated that it would have the petitioners' additional allegations of ill-treatment investigated and the results thereof submitted to the Commission. The State also indicated that the results of the investigations into the ill-treatment alleged in the petitioners' original petition were not yet available, but that they would be provided to the Commission as soon as they were on hand. In a note dated September 15, 1999, the Commission transmitted the pertinent parts of the State's observations to the petitioners, with a response requested within 30 days.

8. By letter dated October 26, 1999, the petitioners delivered to the Commission a "Second Additional Communication", which, like the petitioners' First Additional Communication, described further instances of ill-treatment alleged to have been experienced by Mr. Thomas since the petitioners' last submission to the Commission. The Commission transmitted the pertinent parts of the petitioners' Second Additional Communication to the State by note dated October 29, 1999, and observed in its note to the State that the Commission had not yet received the results of the investigations that the State had previously indicated would be conducted into

the petitioners' complaints. Accordingly, the Commission requested that the State deliver all relevant information in the case, including information as to the status and results of the State's investigation into the petitioners' complaints, within 21 days.

9. By communication dated November 22, 1999, the State requested an extension of time to December 10, 1999 to respond to the Commission's communication of October 29, 1999. By note dated December 9, 1999, the Commission granted the State an extension of time of 30 days within which to deliver a response. Subsequently, in a communication dated December 14, 1999, the State delivered observations on the petitioners' petition to the Commission, and the Commission transmitted the pertinent parts of the State's observations to the petitioners in a note dated January 31, 2000, with observations requested within 30 days.

10. The petitioners subsequently delivered to the Commission a "Third Additional Communication" in a letter dated March 17, 2000, the pertinent parts of which the Commission subsequently transmitted to the State by note dated April 3, 2000, with a response requested within 30 days. By communication dated May 2, 2000, the State responded to the Commission's communication of April 3, 2000.

11. On June 15, 2000, during its 107th period of sessions, the Commission adopted Report N° 54/00, in which it found the petitioners' complaint to be admissible and decided to continue with consideration of the merits of the case. The Commission transmitted the Report to the petitioners and to the State by notes dated June 21, 2000, in which the Commission also placed itself at the disposal of the parties in accordance with Article 48(1)(f) of the American Convention, with a view to reaching a friendly settlement of the matter on the basis of respect for the human rights recognized in the Convention.

12. In a letter dated July 5, 2000, the petitioners informed the Commission that, in the circumstances of the case, any friendly settlement negotiations would only further delay the resolution of Mr. Thomas' situation, and therefore asked the Commission to consider the substance of their petition.

13. Subsequently, by notes dated July 11, 2000 to the petitioners and to the State, the Commission requested that the parties deliver to the Commission any additional information pertinent to the case, including any additional evidence that they may consider relevant to the matter, within 30 days. The petitioners informed the Commission in a communication dated July 14, 2000 that they had no additional information relevant to the case to submit to the Commission.

14. Finally, in their original petition and in subsequent communications to the Commission, the petitioners requested that the Commission adopt precautionary measures in Mr. Thomas' case pursuant to Article 29(2) of the Commission's Regulations, based upon an immediate threat posed to Mr. Thomas' mental and physical health. In a note to the petitioners dated April 3, 2000, the Commission indicated that, based upon the information provided by both parties in the matter, it considered that it could effectively address the concerns raised by the petitioners through the Commission's complaint procedure and without the need to adopt precautionary measures at that time.

### III. POSITIONS OF THE PARTIES

#### A. Position of the petitioners

15. In their petition and subsequent observations, the petitioners describe approximately 10 incidents between July 1997 and July 1999 in which they allege that Mr. Thomas has been subjected to ill-treatment while incarcerated at St. Catherine's District Prison in Jamaica. Information concerning these incidents, as set forth below, is essentially the same as that canvassed by the Commission in its admissibility report in this case, as neither party provided further substantive information or evidence concerning Mr. Thomas' situation since the adoption by the Commission of its report on the admissibility of the complaint.

16. The first incident of ill-treatment is alleged to have occurred on July 20, 1997, when the petitioners claim that a Prison Warder named Mr. Gardner beat Mr. Thomas. The petitioners allege that Mr. Gardner struck Mr. Thomas twice in the face, hit him with a baton and threatened to kill him, and that Mr. Thomas was subsequently denied medical treatment for his injuries.

17. The next series of incidents are alleged to have occurred on October 25, 1997, when Mr. Thomas claims to have been beaten by a Prison Warder identified as Mr. Peter, on October 31, 1997 when Mr. Thomas alleges to have been beaten by a warder named Mr. Hammond, and on December 11, 1997 when Mr. Thomas alleges that he was beaten by four prison warders, Messrs. Fergusson, Campbell, McDermott and Wong. In respect of this latter incident, Mr. Thomas claims that two of the warders, Fergusson and Campbell, accused him of having a knife in his cell and of lying and hit him in the face. The warders then took Mr. Thomas to the prison hospital, and instead of giving him medication, locked the door and, together with warders McDermott and Wong, brutally beat him. Mr. Thomas claims in particular that warders McDermott and Wong stepped on his chest.

18. Subsequently, on December 16, 1997, the petitioners claim that prison guards cut off Mr. Thomas' Rastafarian hair, on the pretext that he had head lice, and that as a consequence Mr. Thomas was discriminated against due to his religious beliefs.

19. The petitioners further allege that on February 4, 1998, a number of warders accused Mr. Thomas of having an ice pick in his cell, which they alleged he had used to stab a fellow prisoner. On this pretext, the warders beat and kicked Mr. Thomas, following which he was taken to a doctor. Further, Mr. Thomas claims to have been informed on March 20, 1998 that the inmate whom authorities claimed he had stabbed had died. On that day he was also accused of the inmate's murder and was further brutalized. Mr. Thomas claims that he knows nothing of the matter, but has now been formally charged with the prison murder.

20. The petitioners next allege that on August 4, 1998, five prison warders, including Messrs Adams, Hunter, Richards and two other warders whose names Mr. Thomas did not know, found a knife under a car, claimed that it belonged to Mr. Thomas and beat him as a result.

21. Further, on September 19, 1998 the petitioners claim that a group of prison warders again falsely accused Mr. Thomas of keeping a knife and beat him viciously. Mr. Thomas claims that in addition to having been beaten on his face, arms, back and feet, he was told that a death sentence was being arranged for him and that since he was a killer, he should be dead. As punishment for the incident, Mr. Thomas claims that on September 20, 1998, the prison guards prevented him from leaving his cell, emptying his slop bucket, or eating for the entire day.

22. Finally, the petitioners claim that on July 28, 1999, a number of prison officers, including Assistant Superintendent Ramsey and Staff Warder Green, brutalized and threatened Mr. Thomas in the presence of a police officer, Mr. Phipps, and that Mr. Thomas was subsequently denied timely medical assistance for his injuries.

23. In support of their allegations, the petitioners rely upon two reports prepared by Amnesty International, one dated December 1993 and entitled "Jamaica: Proposal for an Enquiry into Deaths and Ill-Treatment of Prisoners in St. Catherine's District Prison", and another dated October 1997, which the petitioners indicate summarizes concerns about human rights issues in Jamaica, including the treatment and conditions of prisoners in St. Catherine's District Prison and the deaths of prisoners at the hands of prison warders. According to the petitioners, the content of these publications reinforces their allegations of Mr. Thomas' ill-treatment and supports the existence of a pattern of systematic abuse of prisoners at St. Catherine's District Prison.

24. The petitioners also claim that several individuals have witnessed evidence of the abuse suffered by Mr. Thomas. These include a representative from the Center for Justice and International Law, who is said to have visited Mr. Thomas at St. Catherine's District Prison on February 11 and 13, 1998, and a representative from the Jamaican Council for Human Rights, who the petitioners claim visited Mr. Thomas on July 29, 1998 and in September 1998. None of the petitioners' observations to-date have included the names or other particulars of these alleged witnesses, nor have they provided affidavit or other evidence confirming or particularizing the involvement or observations of these individuals.

#### B. Position of the State

25. As with the particulars of the allegations of ill-treatment put forward by the petitioners, the State's observations in respect of these various incidents remain as they were described in the Commission's admissibility report in this matter, due to the absence of any further submissions from the State following the adoption of Report N° 54/00 on June 15, 2000. More particularly, the State has claimed in its various observations in this matter that it has investigated, or attempted to investigate, each of Mr. Thomas' allegations of ill-treatment, and reached numerous conclusions, as described below.

26. First, the State denies the occurrence of the incident alleged by the petitioners to have occurred on July 20, 1997, on basis that two warders at St. Catherine's District Prison with the name "Gardner" deny having struck or threatened Mr. Thomas.

27. In addition, the State claims that it was unable to investigate the incidents alleged to have occurred on October 25, 1997, October 31, 1997, September 19, 1998 and September 20, 1998,

either because Mr. Thomas provided insufficient details of the incidents, or because no official records of these incidents existed.

28. With respect to the mistreatment that Mr. Thomas was alleged to have experienced on December 11, 1997, the State claims that it has been unable to investigate the incident, because two of the prison officials alleged to have been involved, Warders Campbell and Fergusson, were on leave or on interdiction and therefore could not be contacted.

29. Further, the State acknowledges that on December 16, 1997, officials cut Mr. Thomas's hair against his will. The State claims, however, that this action was taken in the interests of hygiene, as Mr. Thomas's hair was reported as having lice.

30. With respect to the beating incident alleged to have occurred on February 4, 1998, the State indicates that Mr. Thomas was on this occasion accused by other inmates of having stabbed a fellow inmate, Donovan Brown. The State also indicates that when members of the prison staff went to Mr. Thomas' cell, they had to use force to take Mr. Thomas to the Overseers office, and contends that Mr. Thomas admitted that he was found with an ice pick but denied having stabbed any one. Further, the State specifically observes that "it does appear that, in this incident, more force than was necessary was used against the applicant".

31. The State similarly claims that on August 4, 1998, Mr. Thomas was searched on his return from Court, whereupon a knife was discovered on his person. The State also contends that Mr. Thomas appeared to resist the search, but that no more force than was necessary was used to take the knife away from him.

32. Additionally, according to the State there is no evidence to support the petitioners' allegations respecting the alleged July 28, 1999 incident in which he claims to have been threatened and beaten by two warders. Rather, the State contends that a "reasonably cordial" relationship existed between assistant Superintendent Ramsey and Mr. Thomas.

33. The State further denies that the information contained in the Amnesty International reports relied upon by the petitioners substantiates allegations of ill-treatment, but rather argues that each of Mr. Thomas's complaints should be considered individually and on its own merits.

34. Finally, in its December 14, 1999 observations, the State informed the Commission that on July 28, 1999, the Correctional Services Department issued standing orders in respect of Mr. Thomas, stating that "as a result of constant aggression being demonstrated", he was being put in a program of constant counselling and evaluation for the next two years and would be located on a security block where constant and individual supervision could be maintained. The State also indicated that Mr. Thomas "has given the impression that he has serious social adjustment problems that have led him to highly fabricate or exaggerate some incidents and genuinely forget his involvement with others". The petitioners have claimed in response that these assertions appear to be "unsubstantiated prejudice" and have therefore asked the Commission not to consider them.

#### IV. ANALYSIS

35. The petitioners allege that the State has violated Mr. Thomas' rights under Article 5(1) and 5(2) of the Convention, as a consequence of his treatment while in detention at St. Catherine's District Prison in Jamaica. Article 5(1) and 5(2) of the Convention provide as follows:

5(1) Every person has the right to have his physical, mental, and moral integrity respected.

(2) No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

36. At base, Article 5 of the Convention incorporates and prescribes specific protections for the fundamental respect for individual human dignity and integrity that informs the American Convention and its rights and protections as a whole. As is recognized in the Preamble to the Convention, "the essential rights of man are not derived from one's being a national of a certain state, but are based upon attributes of the human personality". Accordingly, securing respect for the basic human integrity of all individuals in the Americas, regardless of their personal circumstances, is a central purpose of the Convention, and of Article 5 in particular.

37. Consistent with this fundamental precept, individuals who are deprived of their liberty are entitled to live in conditions of detention compatible with their dignity. Moreover, since the state is the institution responsible for detention establishments, the state must guarantee to prisoners detained in those establishments the right to life and to humane treatment.[FN1] Indeed, as the state exercises exclusive control over all aspects of a prisoner's life and well-being, it is subject to an enhanced obligation to supervise and secure for prisoners the minimum standards of humane treatment prescribed under Article 5 of the Convention. As the Commission has held previously, these minimum standards apply irrespective of the nature of the conduct for which a particular individual has been imprisoned.[FN2] In addition, these minimum standards must be satisfied even if the economic or budgetary circumstances of a State Party may render compliance difficult.[FN3]

---

[FN1] I/A Court H.R., Neira Alegria et al. Case, Judgment of June 19, 1995, Series C N° 20, para. 60.

[FN2] See similarly Eur. Court H.R., Ahmed v. Austria, Judgment of 17 December 1996, Reports of Judgments and Decisions 1996-VI, p. 220, para. 38.

[FN3] See Baptiste v. Grenada, Report N° 38/00, Annual Report of the IACHR 1999, p. 721, para. 136; McKenzie et al. v. Jamaica, Report N° 41/00, Annual Report of the IACHR 1999, p. 918, para. 289. See similarly UNHRC, Mukong v. Cameroon, Communication N° 458/1991, U.N. Doc. CCPR/C/5/51/D/458/1991 (1994), para. 9.3.

---

38. In this regard, the Commission has in past decisions referred to and endorsed the U.N. Standard Minimum Rules for the Treatment of Prisoners[FN4] as prescribing basic benchmarks against which to evaluate whether the treatment of prisoners satisfies the standards under Article 5 of the Convention, in such areas as accommodation, hygiene, medical treatment and

discipline.[FN5] Of particular significance in the present case, the standards prescribed in the U.N. Standard Minimum Rules and by other international instruments and authorities prohibit any use of force against prisoners that is not strictly necessary for the maintenance of security and order in an institution or where personal safety is threatened.[FN6] Moreover, in light of the serious consequences for prisoners and other detainees of excessive or inappropriate uses of force by their custodians, and in light of the obligations of States Parties under Article 1(1) of the Convention as discussed below, the Commission considers that States are subject to a particularly strict duty to conduct proper and thorough investigations of allegations that prisoners have been subjected to mistreatment by officials at prison facilities, and, if those allegations are determined to be well-founded, to take appropriate remedial measures.[FN7]

---

[FN4] United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted August 30, 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, U.N. Doc. A/CONF/611, annex I, E.S.C. res. 663C, 24 U.N. ESCOR Supp. (N° 1) at 11, U.N. Doc. E/3048 (1957), amended E.S.C. res. 2076, 62 U.N. ESCOR Supp. (N° 1) at 35, U.N. Doc E/5988 (1977).

[FN5] See e.g. McKenzie et al. v. Jamaica, supra, para. 288.

[FN6] The Inter-American Court of Human Rights has held in this connection that any use of force that is not strictly necessary to ensure proper behavior on the part of a detainee constitutes an assault on the dignity of the person. See I/A Court H.R., Loayza Tamayo Case, Judgment of September 17, 1997, Series C N° 33, para. 57. See also Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, Art. 15 (providing that "[l]aw enforcement officials, in their relations with persons in custody or detention, shall not use force, except where strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened"); UN Minimum Standard Rules, supra, Art. 27 (providing that "[d]iscipline and order shall be maintained with fairness, but with no more restriction than is necessary for safe custody and well-ordered community life"); Art. 31 (prohibiting corporal punishment and all cruel, inhumane or degrading punishment for disciplinary offenses).

[FN7] Consistent with the State's heightened obligation to secure the protections under Article 5 of the Convention for prisoners, the Commission considers that State authorities also have an enhanced duty to supervise the manner in which officials exercise powers of authority over prisoners and other detainees and to investigate alleged abuses of that authority. See Declaration on the Protection of all Persons Being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, GA Res. 3452 (XXX), annex, 30 UN GAOR Supp. (N° 34) at 91, UN Doc. A/10034(1975), Art. 6 (providing that "[e]ach State shall keep under systematic review interrogation methods and practices as well as arrangements for the custody and treatment of persons deprived of their liberty in its territory, with a view to preventing any cases of torture or other cruel, inhuman or degrading treatment or punishment"); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. res. 43/173, annex, 43 U.N. GAOR Supp. (N° 49) at 298, U.N. Doc. A/43/49 (1988), Principle 7(1) "States should prohibit by law any act contrary to the rights and duties contained in these principles, make any such act subject to appropriate sanctions and conduct impartial investigations upon complaints (2) Officials who have reason to believe that a violation of this

Body of Principles has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial powers. (3) Any other person who has ground to believe that a violation of this Body of Principles has occurred or is about to occur shall have the right to report the matter to the superiors of the officials involved as well as to other appropriate authorities or organs vested with reviewing or remedial powers"; UN Standard Minimum Rules, *supra*, Art. 36(4) (providing in respect of requests or complaints made by prisoners to prison authorities that "[u]nless it is evidently frivolous or groundless, every request or complaint shall be properly dealt with and replied to without delay").

-----

39. In the present case, the petitioners have provided particulars of numerous incidents, as described in Part III.A of this Report, in which Mr. Thomas is alleged to have been subjected to excessive uses of force by prison officials. In addressing these complaints, the Commission must determine whether any or all of these incidents may properly be considered to have occurred, give the information presented and, if so, whether the incidents disclose violations of Mr. Thomas' rights under the Convention.

40. Upon examining the record in this case, the Commission first considers that it has insufficient information in respect of the incidents alleged to have occurred on July 20, 1997, December 16, 1997, August 4, 1998 and July 28, 1999 from which to determine whether the incidents occurred or whether they disclose violations of the Convention. In respect of each of these incidents, both the petitioners and the State have provided a different version or explanation for the incidents, and neither party has presented compelling independent or corroborating affidavit or other evidence or information from which the Commission may determine whether or in what manner these events may have occurred. Consequently, the Commission reaches no conclusions with respect to these alleged incidents.

41. With respect to several other incidents, however, the Commission finds that the State has failed to respond effectively or adequately to the petitioners' allegations. In particular, with respect to the incidents alleged to have occurred on October 25, 1997, October 31, 1997, March 20, 1998, September 19, 1998 and September 20, 1998, the State suggests that it was unable to investigate the complaints because Mr. Thomas provided insufficient details of the incidents, or because of the absence of official records of the incidents. In light of the applicable principles and standards under Article 5 of the Convention as outlined above, however, and the serious nature of Mr. Thomas' allegations, the Commission considers that the State was obliged to take further steps to investigate these incidents. The Commission notes in this respect that Mr. Thomas provided specific dates for each of the incidents, and in most instances provided the names of some or all of the officials warders alleged to have been involved. Accordingly, it should have been reasonably possible for the State to, for example, identify and speak with the identified warders or any other prison officials who were on duty in Mr. Thomas' area of the prison and who therefore may have information regarding events on these dates.

42. Similarly, with respect to the incident alleged to have occurred on December 11, 1997, the Commission does not consider it sufficient for the State to simply claim that the prison officials alleged to have been involved in the incident were unavailable at the time that inquiries

were made by the State. Rather, the State should have, at a minimum, made efforts to contact Warders Campbell and Fergusson following their return from leave or interdiction. In addition, the State should have reasonably investigated whether any other officials at the institution may have had information regarding activities on December 11, 2000, including in particular Warders McDermott and Wong, who were also identified by Mr. Thomas as having participated in the incident on this date.

43. Further, with respect to the "ice pick" incident alleged to have occurred on February 4, 1998, the State has not specifically denied Mr. Thomas' account of the events, but rather acknowledged to the Commission that "it does appear that...more force than was necessary was used against the applicant" when prison officials took Mr. Thomas to the Overseers office. The State has not, however, indicated whether any disciplinary or other steps were taken to remedy this incident.

44. Based upon the foregoing analysis, the Commission concludes that Mr. Thomas was the victim of the incidents alleged to have occurred on October 25, 1997, October 31, 1997, December 11, 1997, February 4, 1998, March 20, 1998 and September 19 and 20, 1998. In addition, in light of the requirements of Article 5 of the Convention, the Commission considers that the State has failed to respect Mr. Thomas' physical, mental and moral integrity and, in all of the circumstances, has subjected him to cruel or inhuman punishment or treatment. In reaching this conclusion, the Commission has considered in particular the recurring nature of abuse suffered by Mr. Thomas, together with its serious nature, which has on at least one occasion necessitated medical treatment.

45. Finally, the Commission observes that under Article 1(1) of the Convention, the State is obliged to respect the rights and freedoms recognized in the Convention and to ensure to all persons subject to its jurisdiction the free and full exercise of those rights and freedoms. These obligations in turn require the State to organize the governmental apparatus and, in general, all the structures through which public power is exercised, so that they are capable of juridically ensuring the free and full enjoyment of human rights. Flowing from these obligations are correspondent duties to prevent, investigate and punish any violation of the rights recognized in the Convention.[FN8]

---

[FN8] I/A Court H.R., Case of Velásquez Rodríguez, Merits, Judgment of July 29, 1988, Series C N° 4, para. 170.

---

46. As indicated by the Commission's analysis in this case, the State has failed to prevent its officials from using excessive force against Mr. Thomas on numerous occasions, and moreover, has failed to properly investigate those incidents or to identify or punish the officials who are responsible. Consequently, the Commission concludes that the State has also failed to carry out its obligations under Article 1(1) of the Convention.

## V. ACTIONS TAKEN SUBSEQUENT TO REPORT N° 114/00

47. The Commission examined this case in the course of its 109th special session, and on December 8, 2000, adopted Report N° 114/00, pursuant to Article 50 of the American Convention.

48. On December 12, 2000, the Commission transmitted Report N° 114/00 to the State, and requested that the Government of Jamaica inform the Commission within two months as to the measures adopted to comply the recommendations made to resolve the situation denounced.

49. As of February 12, 2001, the date of expiration of the prescribed two-month period, the Commission had not received a response from the State to Report N° 114/00.

## VI. CONCLUSIONS

50. The Commission, based on the foregoing considerations of fact and law, and in the absence of a response from the State to Report N° 114/00, ratifies its conclusions that the State is responsible for failing to respect the physical, mental and moral integrity of Damion Thomas and, in all of the circumstances, subjecting Damion Thomas to cruel or inhuman punishment or treatment, contrary to Articles 5(1) and 5(2) of the Convention, all in conjunction with violations of the State's obligations under Article 1(1) of the Convention.

## VII. RECOMMENDATIONS

Based upon the analysis and the conclusions in the present report,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS REITERATES THE FOLLOWING RECOMMENDATIONS TO THE STATE OF JAMAICA:

1. Grant Damion Thomas an effective remedy, which includes compensation.
2. Conduct thorough and impartial investigations into the facts of the pertinent incidents denounced by the petitioners in order to determine and attribute responsibility to those accountable for the violations concerned and undertake appropriate remedial measures.
3. Review its practices and procedures to ensure that officials involved in the incarceration and supervision of persons imprisoned in Jamaica are provided with appropriate training concerning the standards of humane treatment of such persons, including restrictions on the use of force against such persons.
4. Review its practices and procedures to ensure that complaints made by prisoners concerning alleged mistreatment by prison officials and other conditions of their detention are properly investigated and resolved.

## VIII. PUBLICATION

51. On February 22, 2001, the Commission transmitted Report N° 6/01 adopted pursuant to Article 51 of the Convention to the State and to the petitioners pursuant to Article 51(2) of the Convention and granted the State a period of one month within which to comply with the Commission's recommendations. The State failed to present a response within the time limit prescribed by the Commission.

52. Based upon the foregoing considerations, and in the absence of a response by the State to Report N° 6/01, the Commission in conformity with Article 51(3) of the American Convention and Article 48 of its Regulations decides to ratify the conclusions and reiterate the recommendations in this Report, to make this Report public, and to include it in its Annual Report to the General Assembly of the Organization of American States. The Commission, according to the norms contained in the instruments which govern its mandate, will continue evaluating the measures adopted by the State of Jamaica with respect to the above recommendations until they have been complied with by Jamaica.

Done and signed in the city of Santiago, Chile, on the 4 day of the month of April, 2001.  
(Signed): Claudio Grossman, Chairman; Juan Mendez, First Vice-Chairman; Marta Altolaguirre, Second Vice-Chair; Hélio Bicudo, Robert K. Goldman, Peter Laurie, and Julio Prado Vallejo, Commissioners.