
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 18/2024**

Precautionary Measure No. 53-99

Mary and Carrie Dann regarding the United States of America

April 8, 2024

Original: English

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures in favor of Mary and Carrie Dann regarding the United States of America. At the time of taking the decision, the Commission observes that the merits of the case have been resolved and the scope of the State's obligations has been settled, rendering the precautionary measures at hand moot. In addition, the Commission verified that it is not possible to identify a current situation that places the beneficiaries at risk in the terms of Article 25 of the Rules of Procedure. The IACHR will continue to follow up on Report N° 75/02, published on December 27th, 2002.

II. BACKGROUND INFORMATION

2. On April 7th, 1993, a petition was filed with the IACHR on behalf of sisters Mary and Carrie Dann of the Western Shoshone Indian people, who reside on a homestead in the rural community of Crescent Valley, Nevada. The petitioners alleged that the United States is responsible for violating Articles II, III, VI, XIV, XVIII and XXIII of the American Declaration in connection with the use and occupation of Western Shoshone ancestral lands. On June 28th, 1999, the Inter-American Commission on Human Rights granted precautionary measures in favor of Mary and Carrie Dann in the United States in connection with said petition (numbered case 11.140). The Commission requested the State to take appropriate measures to stay the efforts of the Bureau of Land Management to impound their livestock, until the Commission had the opportunity to fully investigate the claims raised in the petition.

3. Through its Report N° 75/02, published on December 27th, 2002, the IACHR concluded that the United States had failed to ensure the Danns' right to property under conditions of equality contrary to Articles II, XVIII and XXIII of the American Declaration in connection with their claims to property rights in the Western Shoshone ancestral lands.¹ In publishing the report, the Commission recommended that the United States:

1. Provide Mary and Carrie Dann with an effective remedy, which includes adopting the legislative or other measures necessary to ensure respect for the Danns' right to property in accordance with Articles II, XVIII and XXIII of the American Declaration in connection with their claims to property rights in the Western Shoshone ancestral lands.
2. Review its laws, procedures and practices to ensure that the property rights of indigenous persons are determined in accordance with the rights established in the American Declaration, including Articles II, XVIII and XXIII of the Declaration.

¹ IACHR. [Report N° 75/02](#). Case 11.140. Mary and Carrie Dann. United States. December 27th, 2002.

4. Through public information, the Commission learned that both beneficiaries Mary and Carrie Dann have passed away respectively in 2005 and 2021.²

5. Through its monitoring functions, the Commission remains following-up with the parties on the implementation its recommendations. In its 2022 Annual Report, the Commission concluded that the implementation of the recommendations remains pending.³

III. RELEVANT INFORMATION PROVIDED DURING THE TIME THE PRECAUTIONARY MEASURES WERE IN FORCE

6. The IACHR has followed-up on the situation of the beneficiaries through requesting information on the implementation of the recommendations derived from the 11.140 case. In addition, in March 2007, and in October 2018, the IACHR held working meetings with the parties during its 127th and 169th Period of Sessions, respectively, regarding the follow-up of the recommendations issued in Merits Report No. 75/02.

7. Specifically on the precautionary measures, the IACHR requested the parties for updated information on January 10th, 2023, and, on March 10th, 2023, it requested information to the representatives in compliance with Article 25(9) of the IACHR's Rules of Procedure. The United States has not replied to the Commission to date.

8. On April 10th, 2023, the representatives provided information indicating that the United States is yet to implement the recommendations issued in the Merits Report No. 75/02. In accordance with the representatives "the United States has continued to take no action on the recommendations and has continued to participate in and allow destructive resource extraction activities on the ancestral land of the Western Shoshone with no attempt to sit down and resolve the long-standing and ongoing human rights violations identified in the Commission's Report No. 75/02". In addition, they stated:

For example, as recently as March 15, 2023, the Elko County Board of Commissioners is seeking support from other Counties in Nevada to transfer "Nevada public land" to county jurisdiction. The effort is aimed to ease any Nevada county with the acquisition of pieces of "federal land". This is concerning as Western Shoshone territory continues to be depleted and these types of efforts make it increasingly difficult to protect Western Shoshone culture and the health of land and water for future generations.

In addition, on February 3, 2023, and again on March 3, 2023, the Western Shoshone Defense Project made comments regarding the Rhyolite Ridge lithium project that is being proposed within the western region of Treaty boundaries. These comments included the United States continued exploitation of Shoshone lands as an abuse of power by the United States when there is a Treaty of Peace and Friendship between the Western Shoshone Nation and the United States.

9. The representatives added that the situation of the Western Shoshone Indian People was raised during the United Nations Committee on the Elimination of Racial Discrimination, (CERD) held its 107th Session in August 2022 when the United States was up for a country review. As a result, the Committee expressed its concern on:

(d) The negative impact of, inter alia, extractive industries, infrastructure projects, border walls and fences on indigenous peoples' rights and way of life, as exemplified by the situations that the

² Right Livelihood. [Mary and Carrie Dann of the Western Shoshone Nation](#); NYT. [Carrie Dann, Defender of Her Ancestral Lands, Dies](#). January 13, 2021.

³ IACHR. [Annual Report 2022](#). Chapter 2. April 1st, 2023.

Committee has considered under its early warning and urgent action procedure regarding the Western Shoshone, Native Hawaiian, Gwich'in and Anishinaabe indigenous peoples.⁴

10. In addition, the representatives informed that there was no engagement from the State to proposals raised by them during the 169th Period of Sessions and requested the precautionary measures not to be lifted “given the ongoing nature of the activities engaged in by the U.S.”

IV. ANALYSIS OF THE REQUIREMENTS OF URGENCY, SERIOUSNESS, AND IRREPARABLE HARM

11. The precautionary measures mechanism is part of the Commission’s function of overseeing compliance with the human rights obligations set forth in the Charter of the Organization of American States, and in the case of the Member States that have not yet ratified the American Convention, the Declaration of the Rights and Duties of Man. These general oversight functions are established in Article 18 of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Commission’s Rules of Procedure. In accordance with this Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

12. The Inter-American Commission and the Inter-American Court of Human Rights have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding their protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights⁵. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are under consideration by the IACHR. In the process of reaching a decision, according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a) “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b) “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c) “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

13. With respect to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that “[t]he decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) sets forth that “[t]he Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force.” In this regard, the Commission shall assess whether the serious and urgent situation and the risk of irreparable harm that caused the adoption of the precautionary measures persist. Furthermore, it shall consider whether there are new situations that may comply with the requirements set forth in Article 25 of the Rules of Procedure.

⁴ CERD/C/USA/CO/10-12. September 21, 2022, para. 49.

⁵ See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional measures regarding Guatemala, Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5.

14. The Commission highlights that these precautionary measures were granted in 1999 through the precautionary nature of the mechanism to preserve a legal situation, allowing the IACHR to fully investigate the claims raised in the petition. On December 27th, 2002, the Commission made its Report N° 75/02 public, through which it concluded that the United States had failed to ensure the Danns' right to property under conditions of equality contrary to Articles II, XVIII and XXIII of the American Declaration in connection with their claims to property rights in the Western Shoshone ancestral lands, enacting related recommendations (*vid. supra* para. 3).

15. Upon approving Report N° 75/02, considering the issuance of a decision on the merits, the Commission observes that the initial objective of the precautionary measure has ceased to exist. In this manner, the Commission has been following-up on the implementation of its merit recommendations with the parties through its monitoring function (*vid. supra* para. 6). However, to lift the precautionary measures, the Commission shall also consider whether there are new situations that may comply with the requirements set forth in Article 25 of the IACHR's Rules of Procedure.

16. In this manner, the Commission has requested information from the parties on January 10th, 2023, and later from the representatives on March 10th, 2023. While the IACHR regrets the absence of response from the State, it observes that the information provided by the representatives is focused on the lack of implementation of the recommendations issued in Report N° 75/02 and provides information on the broader situation of the Western Shoshone Indian People, who are not beneficiaries in this matter. Considering the above, the Commission recalls that it is beyond the scope of this mechanism to analyze the level of compliance with the recommendations of the aforementioned Report. Notwithstanding the foregoing, the Commission decided to continue following up on its recommendations through the mechanism for the Follow-up of Recommendations.

17. In addition to the above, the Commission considers that it does not have the possibility to continue analyzing the situation of the beneficiaries under article 25 of the Rules of Procedure, since the two beneficiaries have passed away, according to public information.

18. As a consequence, the Commission decides to lift the precautionary measures at hand, without detriment to the exercise of the IACHR's mandate through other mechanisms, including follow-up of the implementation of Report N° 75/02.

V. DECISION

19. The Commission decides to lift the precautionary measures granted in favor of Mary and Carrie Dann regarding the United States of America.

20. The Commission instructs the Executive Secretariat of the IACHR to notify the United States of America and the representatives of this Resolution.

21. Approved on April 8, 2024, by Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice-President; Arif Bulkan; Andrea Pochak; and Gloria Monique de Mees, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary