



CORTE INTERAMERICANA DE DERECHOS HUMANOS
COUR INTERAMERICAINE DES DROITS DE L'HOMME
CÔRTE INTERAMERICANA DE DIREITOS HUMANOS
INTER-AMERICAN COURT OF HUMAN RIGHTS



PRESIDENTE DE LA CORTE

**ORDER OF THE PRESIDENT
OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS
OF MAY 29, 2007**

CASE OF BOYCE *ET AL.* V. BARBADOS

HAVING SEEN:

1. The application submitted by the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") to the Inter-American Court of Human Rights (hereinafter "the Inter-American Court", "the Court" or "the Tribunal") on June 23, 2006, in which three expert witnesses were proposed.
2. The brief containing pleadings, motions and evidence (hereinafter "the representatives' brief") submitted by the representatives of the alleged victims and their next of kin (hereinafter "the representatives") on October 18, 2006, by which the representatives informed the Court that five "further affidavits and reports" were "yet to be filed".
3. The communication of October 27, 2006, by which the Secretariat of the Court (hereinafter "the Secretariat") informed the representatives that "the Court will timely assess the necessity of requesting the 'affidavits and reports' that were not submitted at th[at] procedural juncture, pursuant to article 44.1 of its Rules of Procedure" and requested them to submit the *curricula vitarum* of Mr. Adrian King, Dr. Harold Hillman and Dr. Albert Hunt.
4. The communications received on November 13 and 17, 2006, by which the representatives provided the *curricula vitarum* requested by the Secretariat.
5. The answer to the application and observations to the representatives' brief received on December 18, 2006, in which, *inter alia*, the Illustrious State of Barbados (hereinafter "the State" or "Barbados") submitted the preliminary objection of non-exhaustion of domestic remedies and proposed two expert witnesses.
6. The communications of January 17, 2007, by which the Secretariat asked the State to submit to the Court the *curricula vitarum* of its proposed expert witnesses, Mr. Charles Leacock and Mr. John Nurse, and requested the Commission and the representatives to submit written briefs on the preliminary objection presented by the State (*supra* Having Seen 5).

7. The communications of February 21, 2007, by which the Inter-American Commission and the representatives submitted briefs on the State's preliminary objection (*supra* Having Seen 6).

8. The communications of February 23, 2007, in which the Secretariat, following the instructions of the Court's President, requested the representatives to confirm, no later than March 6, 2007, their intention to submit the five "affidavits and reports" identified in their brief. Furthermore, the Secretariat asked the Inter-American Commission and the State to submit, no later than March 6, 2007, their definitive list of expert witnesses. Additionally, for reasons of procedural economy, the Secretariat asked the State and the Commission to indicate which of the expert witnesses could render their declaration by affidavit, pursuant to Article 47(3) of the Court's Rules of Procedure. Finally, the Secretariat reiterated the request made in its January 17, 2007 communication (*supra* Having Seen 6) that the State submit to the Court the *curricula vitarum* of its proposed expert witnesses.

9. The communication of March 2, 2007, in which the representatives requested permission to submit an additional written pleading, pursuant to Article 39 of the Court's Rules of Procedure.

10. The Secretariat's communication of March 6, 2007, in which the Court's President, pursuant to Article 39 of the Court's Rules of Procedure, allowed the representatives to submit an additional written pleading, no later than March 30, 2007. Additionally, the Inter-American Commission and the State were given a period of two weeks, counted from the date on which they each received the representatives' submission, to present their respective observations.

11. The communication submitted on March 6, 2007, by which the representatives presented their definitive list of witnesses and expert witnesses (*supra* Having Seen 8). The representatives offered three expert witnesses to present oral expert opinion, four witnesses and two expert witnesses to provide declarations by affidavit, and requested the inclusion of two additional expert witnesses to provide their expert opinion by affidavit. Furthermore, they submitted the *curricula vitarum* of the two additional proposed expert witnesses. Finally, the representatives asked the Court to request the State to grant access to Harrison Point Prison to two expert witnesses for the preparation of their proposed expert declarations, in accordance with Article 24 of the Court's Rules of Procedure.

12. The communication of March 6, 2007, in which the Inter-American Commission submitted its definitive list of expert witnesses (*supra* Having Seen 8). The Commission confirmed its proposal of two expert witnesses who would render their expert opinion orally during the public hearing. In addition, in accordance with Article 47(3) of the Court's Rules of Procedure, the Commission determined that one expert witness could submit her expert opinion by affidavit. Furthermore, the Commission asked the Court to require the State to "allow the offered expert witnesses to visit Harrison Point facility where the [alleged] victims are currently detained" and highlighted the importance of having said expert opinions for the "Court to benefit from information from both parties on the same contentious issue".

13. The communications of March 15, 2007, in which the Secretariat informed the parties that, since the State of Barbados did not submit its definitive list of expert witnesses, the President of the Court would evaluate the convenience of receiving the declarations of the expert witnesses proposed by the State in its answer to the application, as well as the manner in which said declarations would be received by the Court. Additionally, upon the instructions of the Court's President, the parties were informed that

they had until March 21, 2007 to submit observations on the definitive lists and on the State's offering of expert witnesses as stated in its answer to the application.

14. The communication of March 21, 2007, whereby the Commission stated that it had "no observations" in relation to the final list of witnesses submitted by the representatives, and that it had "no objection" in relation to the two additional expert witnesses proposed by the representatives. In relation to the State's proposed expert witness declarations of Mr. John Nurse and Mr. Charles Leacock, the Commission argued that their declarations should, if deemed otherwise admissible, be submitted as witness testimony.

15. The communication of March 28, 2007, whereby the State of Barbados, pursuant to Article 39 of the Court's Rules of Procedure, sought permission to "respond briefly to the two sets of submissions regarding the State's preliminary objections". Additionally, the State suggested it be allowed to submit said observations within the same deadline established for the State to submit its observations on the representatives' additional pleading.

16. The communication of March 29, 2007, in which the representatives requested an extension of the deadline for the submission of its additional written pleading. In this regard, upon the instructions of the Court's President, the representatives were allowed to submit their additional pleading no later than April 6, 2007.

17. The communication of March 30, 2007, whereby the Secretariat, following the instructions of the Court's President, requested the State, for reasons of procedural economy, and considering that the State's request does not conform with the Court's practice or its Rules of Procedure, to present its arguments regarding the State's preliminary objection (*supra* Having Seen 15) at the appropriate procedural opportunity, namely, during the public hearing that will be held in the present case, and also in its final written arguments. Furthermore, upon the instructions of the Court's President, the Secretariat reminded the State to submit the *curricula vitarum* of its proposed expert witnesses, which were also requested on January 17, 2007 and on February 23, 2007 (*supra* Having Seen 6 and 8).

18. The communications of April 4 and 6, 2007, whereby the representatives submitted an additional pleading pursuant to Article 39 of the Court's Rules of Procedure.

19. The communication of April 11, 2007, in which the Secretariat, upon the instructions of the Court's President, informed the Inter-American Commission and the State that each party would have a period of two weeks, counted from the date on which they each receive the aforementioned representatives' submission (*supra* Having Seen 18), to present their respective observations. The State was also reminded to submit the *curricula vitarum* of its proposed expert witnesses, which were also requested on January 17, 2007, February 23, 2007, and on March 30, 2007 (*supra* Having Seen 6, 8, and 17).

20. The communication of April 11, 2007, whereby the representatives of the alleged victims and their next of kin requested the Court's permission to substitute proposed expert witness Dr. Albert Hunt with alternative expert witness Dr. Deryk Simon James, due to Dr. Hunt's ill health. The representatives further requested that Dr. Deryk Simon James be allowed to submit an affidavit on the subject of hanging, rather than declare in person at the public hearing. In this regard, the Secretariat asked the representatives to submit Dr. Simon James' *curriculum vitae*.

21. The communication of April 20, 2007, whereby the representatives submitted the *curriculum vitae* of Dr. Deryk Simon James, the proposed substitute witness for Dr. Albert Hunt. Accordingly, pursuant to the instructions of the Court's President, the Inter-American Commission and the State of Barbados were given until April 24, 2007 to submit their respective observations.

22. The communication of April 24, 2007, by which the Inter-American Commission informed that it had "no observations" regarding the offering of Dr. Deryk Simon James' declaration.

23. The communications of April 25, 2007, whereby the Inter-American Commission and the State submitted their respective observations to the representatives' additional written pleading submitted pursuant to Article 39 of the Court's Rules of Procedure.

24. The communication of April 25, 2007, by which the State of Barbados stated "it has no basis for an objection to [the] appointment [of Dr. Deryk Simon James] as an expert".

25. The communication of May 4, 2007, in which the Secretariat informed that it had requested the State, on four separate occasions, to submit the *curricula vitarum* of its proposed expert witnesses. However, the Secretariat, following instructions of the Court's President, informed the State that, unless it submitted the aforementioned *curricula vitarum* no later than May 9, 2007, the Court would assume that the State no longer wished to offer the expert witness testimony of Mr. Charles Leacock and Mr. John Nurse.

26. The communication of May 7, 2007, by which the State of Barbados submitted its definitive list of witnesses and expert witnesses. The State offered the witness testimony of Mr. Charles Leacock and Mr. John Nurse, rather than their expert witness declaration. In addition, the State sought the Court's permission to submit by affidavit the witness testimony of Mr. Frank Thornhill, in order to rebut the evidence offered by the representatives regarding hangings, and submitted the *curricula vitarum* of all proposed witnesses. In this regard, upon the instructions of the Court's President, the Commission and the representatives were given until May 11, 2007 to submit any observations they deemed pertinent to the State's communication.

27. The communication received on May 14, 2007, in which the Commission stated it had "no objection to the three witnesses offered" by the State (*supra* Having Seen 26).

28. The communication of May 14, 2007, in which the representatives expressed that they had no observations regarding the witness testimony of Mr. Charles Leacock, Mr. John Nurse and Mr. Frank Thornhill (*supra* Having Seen 26).

CONSIDERING:

1. That regarding the admission of evidence, Article 44 of the Rules of Procedure provides:

1. Items of evidence tendered by the parties shall be admissible only if previous notification thereof is contained in the application and in the reply thereto and, when appropriate, in the document setting out the preliminary objections and in the answer thereto.

[...]

3. Should any of the parties allege *force majeure*, serious impediment or the emergence of supervening events as grounds for producing an item of evidence, the Court may, in that

particular instance, admit such evidence at a time other than those indicated above, provided that the opposing parties are guaranteed the right of defense.

4. In the case of the alleged victim, his next of kin or his duly accredited representatives, the admission of evidence shall also be governed by the provisions of Articles 23, 36 and 37(5) of the Rules of Procedure.

2. That with respect to the admission of evidence presented by the representatives of the alleged victims, Article 23(1) of the Rules of Procedure states that

[w]hen the application has been admitted, the alleged victims, their next of kin or their duly accredited representatives may submit their pleadings, motions and evidence, autonomously, throughout the proceedings.

3. That the Inter-American Commission, the representatives and the State were given the right of defense with regard to the evidentiary proposals made by each of the parties at the different procedural junctures (*supra* Having Seen 13, 19, 21, 22, 23, 27, and 28).

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4. That the Inter-American Commission proposed its expert witness evidence during the appropriate stage of the proceedings (*supra* Having Seen 12). The expert witnesses proposed by the Commission are the following: Adrian King, Andrew Coyle and Baroness Vivien Stern.

5. That the representatives informed the Court in their brief containing pleadings, motions and evidence that five annexes containing "further affidavits and reports" were "yet to be filed" with the Court (*supra* Having Seen 2). The representatives identified these annexes as follows: "Further Affidavits of the 1st, 2nd, and 4th alleged victims (to be filed)"; "Further report of Professor Andrew Coyle and Baroness Vivien Stern CBE on prison conditions (to be filed)"; "Affidavit evidence of Mr. Atkins' next-of-kin (to be filed)"; "Affidavit of Adrian King, Attorney-at-Law in Barbados (to be filed)", and "Further expert evidence from Dr. Hillman and Dr. Hunt on death by hanging (to be filed)".

6. That, when requested to confirm their intention to submit the additional "affidavits and reports" identified in their brief, the representatives offered the oral expert opinion of Mr. Adrian King, Professor Andrew Coyle and Dr. Albert Hunt. Furthermore, they offered the testimony by affidavit of Messrs. Lennox Boyce, Jeffrey Joseph and Michael Huggins, as alleged victims, and of Mrs. Cynthia Esther Atkins, mother of a fourth alleged victim, as well as the expert opinion by affidavit of Baroness Vivien Stern and Dr. Harold Hillman (*supra* Having Seen 11).

7. That this Presidency observes that the persons proposed by the representatives to provide witness testimony by affidavit correspond to three alleged victims and to the mother of a deceased alleged victim. In this regard, the Court has consistently held that the declarations of the alleged victims and other persons with a direct interest in the case are useful insofar as they can provide greater information on the alleged violations and their consequences.¹

¹ Cf. *Case of Chaparro Álvarez and Lapo Iñiguez*. Order of the Inter-American Court of Human Rights of March 15, 2007, Considering seventh; *Case of Cornejo et al.* Order of the President of the Inter-American Court of Human Rights of March 15, 2007, Considering sixth, and *Case of Zambrano Vélez et al.* Order of the President of the Inter-American Court of Human Rights of March 15, 2007, Considering sixth.

8. That the representatives informed the Court that Dr. Albert Hunt will not be able to appear as an expert witness before the Court due to his ill health (*supra* Having Seen 20). As his substitute, the representatives offered the expert opinion by affidavit of Dr. Deryk Simon James (*supra* Having Seen 20). The State and the Commission had no objections to said substitution (*supra* Having Seen 22 and 24).

9. That with regard to the witnesses and expert witnesses proposed by the Commission and the representatives, whose testimony or appearance have not been objected to by the parties, this Presidency considers it convenient to receive said evidence, in order that the Tribunal can assess its evidentiary value within the context of the body of evidence in the case, and according to the rules of sound criticism. Said witnesses and expert witnesses are the following: Messrs. Lennox Boyce, Jeffrey Joseph and Michael Huggins, and Mrs. Cynthiere Esther Atkins, as witnesses, and Professor Andrew Coyle, Baroness Vivien Stern, Dr. Harold Hillman and Dr. Deryk Simon James, as expert witnesses. This Presidency will determine *infra* the object of the aforementioned witnesses and expert witnesses' declarations, as well as the manner in which said evidence will be received by the Court.

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10. That although the proposed expert declaration of Mr. Adrian King was not objected to by any of the parties, this Presidency has noticed from the evidence before the Court that he has represented Jeffrey Joseph, one of the alleged victims in this case, as counsel before the Caribbean Court of Justice, as well as before the Court of Appeal and the High Court of Justice of Barbados.

11. That Article 50.1 of the Court's Rules of Procedure, read in light of Article 19.1 of the Court's Statute, determines the grounds for disqualification that shall apply to expert witnesses. In accordance with said provisions, expert witnesses "may not take part in matters in which, in the opinion of the Court, they or members of their family have a direct interest or in which they have previously taken part as agents, counsel or advocates, or as members of a national or international court or an investigatory committee, or in any other capacity".

12. That the evidence shows that Mr. Adrian King has participated as counsel for one of the alleged victims in the domestic proceedings during the years 2004 to 2006. Therefore, this Presidency considers that, according to Article 50.1 of the Court's Rules of Procedure and Article 19.1 of the Court's Statute, Mr. Adrian King is disqualified to act as an expert witness in the present case.

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13. That the State proposed the declarations of two expert witnesses, Mr. Charles Leacock and Mr. John Nurse, in its answer to the application and observations to the representatives' brief (*supra* Having Seen 5), but did not provide their *curricula vitarum* until May 7, 2007 (*supra* Having Seen 26). Nonetheless, the parties were given appropriate time to present their observations on said proposals with due consideration to the right of defense (*supra* Having Seen 26). In this regard, the Commission maintained that "given their capacity as civil servants, Mr. Charles Leacock and Mr. John Nurse lack the impartiality demanded of expert witnesses according to Article 19.1 of the Statute". Additionally, the Commission considered that, if admissible, said declarations should be submitted as witness testimony (*supra* Having Seen 14). The representatives expressed that they have no

objections to the States' proposal regarding the witness testimonies of Mr. Leacock and Mr. Nurse (*supra* Having Seen 28).

14. That the State noted the Commission's observations on the proposed expert witnesses and informed the Court of its intention to offer the oral testimonies of Mr. Charles Leacock and Mr. John Nurse, rather than their expert witness declarations (*supra* Having Seen 26).

15. That this Presidency finds that the proposed objects of their testimonies are relevant for the adjudication of the present case. Therefore, this Presidency considers it convenient to receive the testimony of Mr. Charles Leacock and Mr. John Nurse, in the manner stated in this Order's operative paragraphs, in order for the Tribunal to assess its evidentiary value within the context of the body of evidence in the case, and according to the rules of sound criticism.

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16. That the representatives extemporaneously proposed the expert witness declarations of professors William Schabas and Roger Hood in order to respond to "a number of issues which have been [allegedly] raised for the very first time" by the State in its answer to the application and observations to the representatives' brief (*supra* Having Seen 11).

17. That the State objected to "the need for, and appropriateness of the testimony of the two additional expert witnesses" on the ground that such proposal was time-barred and that no new arguments were raised in the State's answer. In the alternative, the State argued that the proposed expert witnesses must be disqualified, according to Article 19(1) of the Court's Statute, since they have pursued an abolitionist agenda and have a "direct interest" in the matter. Thus, "they lack the independence, impartiality and objectivity required for experts".

18. That the Commission had no observations with regard to the additional expert witnesses proposed by the representatives.

19. That the proceedings before this Court, as an international tribunal that seeks the protection of human rights, differ from proceedings in domestic law. This Court's procedure is less formal and more flexible than that of the domestic system. Nevertheless this Court's procedure allows for juridical security and for the procedural balance of the parties². For this reason, the Court, in exercise of its contentious function, has expanded faculties to receive evidence it considers necessary or pertinent.

20. That the Court has maintained that the exception established in Article 44(3) of the Rules of Procedure is applicable only when the proponent alleges *force majeure*, grave impediment or supervening events³. In the present case, none of the exceptional circumstances that would justify their admission by the Court are present. However, this Presidency will decide on the admissibility of said expert opinions, taking into consideration

² Cf. *Case of the Saramaka Community*, Order of the President of the Inter-American Court of Human Rights of March 30, 2007, Considering nineteenth; *Case of Chaparro Álvarez and Lapo Iñiguez*, *supra* note 1, Considering sixth, and *Case of Zambrano Vélez et al*, *supra* note 1, Considering fifth.

³ Cf. *Case of the Saramaka Community*, *supra* note 2, Considering eleventh; *Case of Ivcher-Bronstein*, Judgment of February 6, 2001. Series C No. 74, para. 71, and *Case of Cesti Hurtado*, Judgment of September 29, 1999. Series C No. 56, para. 47.

the object of their declarations and the usefulness of the information they may provide to the Court.⁴

21. That Article 45(1) of the Rules of Procedure states that the Court may, at any stage of the proceedings, obtain, "on its own motion, any evidence it considers helpful. In particular, it may hear as a witness, expert witness, or in any other capacity, any person whose evidence, statement or opinion it deems to be relevant". In this case, this Presidency deems it pertinent to admit the expert testimonies of professors William Schabas and Roger Hood, in application of the provisions of Article 45(1) of the Rules of Procedure, as it considers that they are useful for the evaluation of controversial facts⁵ and points of law. This Presidency will determine *infra* the object of the declarations of the aforementioned expert witnesses, as well as the manner in which said evidence will be received by the Court.

22. That this Presidency wishes to recall that whether the declaration of an expert witness provides support for the arguments presented by one of the parties, does not *per se* disqualify the expert⁶. Furthermore, since the proposed expert witnesses will not gain any personal benefit by the determination of facts and their legal consequences in the present case, said experts fail to meet the disqualification requirements stated under Article 19(1) of the Court's Statute.⁷

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23. That the State extemporaneously proposed the witness testimony by affidavit of Mr. Frank Thornhill in order to rebut the evidence offered by the representatives regarding hangings (*supra* Having Seen 26). The Commission and the representatives expressed that they had no objection to the inclusion of said witness (*supra* Having Seen 27 and 28). Furthermore, this Presidency finds the proposed object of this testimony to be relevant for the purpose of adjudicating the present case. Therefore, this Presidency considers it convenient to receive the testimony of Mr. Frank Thornhill, in the manner stated in this Order's operative paragraphs, in order for the Tribunal to assess its evidentiary value within the context of the body of evidence in the case, and according to the rules of sound criticism.

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24. That regarding the convocation of witnesses and expert witnesses, Article 47(3) of the Rules of Procedure provides that

[t]he Court may require, for reasons of procedural economy, that particular witnesses and expert witnesses offered by the parties give their testimony through sworn declarations or affidavits.

⁴ Cf. *Case of the Saramaka Community*, *supra* note 2, Considering eleventh; *Case of Ivcher-Bronstein*, *supra* note 3, para. 71, and *Case of Bámaca-Velásquez*. Judgment of November 25, 2000. Series C No. 70, para. 112.

⁵ Cf. *Case of Servellón García et al.* Judgment of September 21, 2006. Series C No. 152, para. 41; *Case of Ivcher-Bronstein*, *supra* note 3, para. 71, and *Case of Cesti Hurtado*, *supra* note 3, para. 53.

⁶ Cf. *Case of the Saramaka Community*, *supra* note 2, Considering seventeenth, and *Case of Escué Zapata*. Order of the President of the Inter-American Court of Human Rights of December 20, 2006, Considering twenty-first.

⁷ Cf. *Case of García Prieto et al.* Order of the President of the Inter-American Court of Human Rights of December 14, 2006, Considering eleventh.

Once the sworn declaration or affidavit is received, it shall be transmitted to the other parties in order for them to present their observations.

25. That it is essential to assure the effective management of cases under the Court's consideration, whose number has grown considerably and in a constant fashion, as well as assure the determination of the truth and the most complete presentation of facts and arguments from the parties, guaranteeing them the right of defense. In view of the above, and in accordance with the principle of procedural economy, it is necessary to receive the greatest possible number of testimonies by affidavit and to summon to public hearings only those witnesses and expert witnesses whose oral declaration is truly indispensable, taking into account the circumstances of the case and the object of the testimony in question.

26. That, taking into account the statements and observations submitted by the Commission, the representatives and the State, and on the basis of the aforementioned considerations, this Presidency deems it convenient to receive by affidavit the witness testimonies of Lennox Boyce, Jeffrey Joseph, Michael Huggins and Cynthiere Esther Atkins, offered by the representatives, and Frank Thornhill, offered by the State, as well as the expert opinions of Baroness Vivien Stern, proposed by both the Commission and the representatives, and Harold Hillman, William Schabas, Roger Hood and Deryk Simon James, offered by the representatives. This Presidency will determine *infra* the object of their testimonies.

27. That in accordance with the right of defense and the adversarial principle, said testimonies and declarations should be transmitted to the other parties so they may submit the observations they deem pertinent in the period of time specified in the present Order (*infra* Operative Paragraph 2).

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28. That Article 47 of the Rules of Procedure stipulates that

1. The Court shall determine when the parties are to call their witnesses and expert witnesses whom the Court considers it necessary to hear. Furthermore, the summons shall indicate the name of the witness or expert witness as well as the object of the testimony.

2. The party proposing testimonial or expert evidence shall bear the costs of the appearance of its witness or witnesses before the Tribunal.

[...]

29. That in light of the witnesses and expert witnesses' proposals submitted by the Commission (*supra* Having Seen 1 and 12, and Considering 4), the representatives (*supra* Having Seen 2 and 11, and Considering 13) and the State (*supra* Having Seen 5 and 26 and Considering 13), the object of each of the testimonies proposed, the alleged facts of the instant case, and in accordance with the principle of procedural economy, this Presidency deems it convenient to receive in a public hearing the witness testimonies of Charles Leacock and John Nurse, offered by the State, as well as the expert opinion of Andrew Coyle, proposed by both the Commission and the representatives.

30. That the appearance of the above-mentioned witnesses and expert witness in an oral proceeding will contribute to the Court's elucidation of the facts in the present case; thus, it is appropriate to receive these testimonies in a public hearing, in accordance with Article 47(1) and (2) of the Court's Rules of Procedure.

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31. That the Commission and the representatives have asked the Court to require the State to grant the expert witnesses Professor Andrew Coyle and Baroness Vivien Stern access to Harrison's Point Temporary Prison in Barbados, so that they may prepare their respective declarations regarding prison conditions in this facility (*supra* Having Seen 11 and 12).

32. That with regard to the cooperation of States with the Court, Article 24 of the Court's Rules of Procedure provides that the states parties to a case have the obligation to cooperate so as to ensure that any proceeding that the Court decides to conduct or order in the territory of said state is duly executed.

33. That this Presidency deems it necessary to require the State of Barbados, in accordance with Article 24(2) of the Court's Rules of Procedure, to grant Professor Andrew Coyle and Baroness Vivien Stern access to Harrison's Point Temporary Prison in Barbados, so that they may provide their expert declarations to the Court.

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34. That the Inter-American Commission, the representatives, and the State may present before the Tribunal their final oral arguments on the preliminary objection, as well as on possible merits, reparations and costs in the present case, once the witnesses and expert witness have concluded testifying.

35. That in accordance with the Court's practice, the Inter-American Commission, the representatives, and the State may submit their final written arguments on the preliminary objection, as well as on possible merits, reparations and costs in this case, after the conclusion of the public hearing convoked by the present Order.

NOW THEREFORE:

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

in accordance with Articles 24(1) and 25(2) of the Court's Statute and Articles 4, 14(1), 24, 29(2), 40, 42, 43(3), 44, 45, 46, 47, 49, 50, 51 and 52 of its Rules of Procedure, and having consulted the other Judges of the Tribunal,

DECIDES:

1. To require, for the reasons stated in the present Order (*supra* Considering 26) in accordance with the principle of procedural economy and pursuant to the authority granted by Article 47(3) of the Rules of Procedure, that the following persons, proposed by the Commission, the representatives and the State, render their testimonies by affidavit:

A) Witnesses

Proposed by the representatives of the alleged victims and their next of kin

1. *Lennox Ricardo Boyce*, who will specifically testify about:

- (i) the reading of warrants of execution while his application was pending at the Inter-American system,
- (ii) his conditions of confinement at Glendairy Prison, and
- (iii) his conditions of confinement at Harrison's Point Temporary Prison, Barbados.

2. *Jeffrey Joseph*, who will specifically testify about:

- (i) the reading of warrants of execution while his application was pending at the Inter-American system,
- (ii) his conditions of confinement at Glendairy Prison, and
- (iii) his conditions of confinement at Harrison's Point Temporary Prison, Barbados.

3. *Michael McDonald Huggins*, who will specifically testify about:

- (i) the reading of warrants of execution while his application was pending at the Inter-American system,
- (ii) his conditions of confinement at Glendairy Prison, and
- (iii) his conditions of confinement at Harrison's Point Temporary Prison, Barbados.

4. *Cynthiere Esther Atkins*, who will specifically testify about the circumstances surrounding the death of her son, Frederick Benjamin Atkins.

Proposed by the State of Barbados

5. *Frank Thornhill*, who will specifically testify about the mechanical procedures related to hanging.

B) Expert Witnesses

Proposed by the Inter-American Commission on Human Rights and the representatives of the alleged victims and their next of kin

6. *Baroness Vivien Stern*, whose expert opinion will specifically refer to prison conditions at Glendairy Prison and at Harrison's Point Temporary Prison, both at the pre-trial and post-conviction stages, and

Proposed by the representatives of the alleged victims and their next of kin

7. *Harold Hillman*, whose expert opinion will specifically refer to the practice of hanging from a medical point of view.

8. *William Schabas*, whose expert opinion will specifically refer to:

- (i) the mandatory death penalty under customary international law, and
- (ii) Barbados as an alleged persistent objector.

9. *Roger Hood*, whose expert opinion will specifically refer to the status of the mandatory death penalty in retentionist states.

10. *Deryk Simon James*, whose expert opinion will specifically refer to death by hanging.

2. To require the Commission, the representatives and the State to take all of the necessary measures so that the witnesses and expert witness abovementioned may render their testimonies and expert opinions, respectively, by affidavit, and send them to the Inter-American Court by June 18, 2007. This deadline may not be extended.

3. To request the Court's Secretariat, in accordance with the right of defense and the adversarial principle, to transmit the affidavits to the parties, so that they may submit the observations which they deem to be pertinent, within a period of seven days from the time the affidavit is received. This deadline may not be extended.

4. To convoke the Inter-American Commission, the representatives and the State to a public hearing that will take place at the seat of the Inter-American Court of Human Rights, on July 11, 2007, starting at 9:00 a.m., in order to receive their oral arguments on the preliminary objection and on possible merits, reparations and costs in the present case, as well as testimony from the following witnesses and expert witness:

A. Witnesses

Proposed by the State of Barbados

1. *Charles Leacock*, who will specifically testify about:

- (i) the legal procedures followed in prosecutions for the crime of murder, and
- (ii) the exercise of the prerogative of mercy.

2. *John Nurse*, who will specifically testify about prison conditions at Glendairy Prison and at Harrison's Point Temporary Prison, both at the pre-trial and post-conviction stages.

B. Expert Witness

Proposed by the Inter-American Commission on Human Rights and the representatives of the alleged victims and their next of kin

3. *Andrew Coyle*, whose expert opinion will specifically refer to prison conditions at Glendairy Prison and at Harrison's Point Temporary Prison, both at the pre-trial and post-conviction stages.

5. To require the State of Barbados, in accordance with Article 24(2) of the Court's Rules of Procedure, to grant Professor Andrew Coyle and Baroness Vivien Stern access to Harrison's Point Temporary Prison so they can prepare the expert testimony that will be presented to the Court.

6. To require the State of Barbados, in accordance with Article 24(1) of the Court's Rules of Procedure, to facilitate the departure and return of the witnesses and expert witness who may reside therein and have been summoned by the present Order to testify in the public hearing in this case.

7. To require the Inter-American Commission, the representatives, and the State to notify the present Order to each witness and expert witness it has proposed and to advise each one that he or she has been summoned to testify before this Court, in accordance with Article 47(2) of the Court's Rules of Procedure.

8. To inform the Inter-American Commission, the representatives and the State that each must cover the costs incurred in the production of the evidence that each has requested, in accordance with Article 46 of the Court's Rules of Procedure.

9. To require the Inter-American Commission, the representatives, and the State to inform the witnesses and expert witness summoned by the Inter-American Court of Human Rights that, in accordance with Article 52 of the Rules of Procedure, the Inter-American Court of Human Rights will inform States whenever those called upon to testify before this Tribunal do not appear before it or refuse to testify without a legitimate motive, or of those that, in the Court's opinion, have violated their oath or solemn declaration, for whatever purpose foreseen in the corresponding national legislation.

10. To inform the Inter-American Commission, the representatives and the State that, once the witnesses and expert witnesses have concluded their testimonies and declarations, the parties may present their final oral arguments before the Court on the preliminary objection, as well as on possible merits, reparations and costs in the present case.

11. To require the Secretariat of the Court, in accordance with Article 43(3) of the Rules of Procedure, to send to the Inter-American Commission, the representatives, and the State a copy of the audio recording of the public hearing in the present case.

12. To inform the Inter-American Commission, the representatives, and the State that they must submit their final written arguments on the preliminary objection, as well as on possible merits, reparations and costs in the present case no later than August 13, 2007. This deadline may not be extended and is independent of the issuing of the public hearing's audio recording.

13. To require the Secretariat of the Court to notify the present Order to the Inter-American Commission, the representatives of the alleged victims and their next of kin and the State.

Sergio García Ramírez
President

Pablo Saavedra Alessandri
Secretary