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Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolai, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal v. Trinidad and Tobago
Doc. Type:	Order
Decided by:	President: Hernan Salgado-Pesantes
Dated:	19 June 1999
Citation:	James v. Trinidad and Tobago, Order (IAcHR, 19 Jun. 1999)
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HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter “the Court”) of 25 May, 1999, in which it decided

1. With respect to the Provisional Measures adopted by the Court on 29 August 1998:

a. To maintain the Provisional Measures ordered by the Inter-American Court of Human Rights on 29 August 1998, in favour of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste. With respect to Anthony Briggs, to maintain the Provisional Measures ordered in his favour until such time as the Court, having previously considered the reports concerning the present status of his Case, issues a decision on this matter.

b. To urge the State of Trinidad and Tobago to comply with the Order of the Court of 29 August 1998, and henceforth report every fifteen days on the status of the appeals and scheduled executions of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste, and to require the Inter-American Commission on Human Rights to send its observations on these reports to the Inter-American Court of Human Rights within two days of their receipt.

c. To urge the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste.

2. With respect to the Commission's request for amplification of the Provisional Measures in favour of 20 persons:

a. To ratify the Order of the President of the Inter-American Court of Human Rights of 11 May 1999.

b. To order the Republic of Trinidad and Tobago to take all measures necessary to preserve the lives of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester, so as not to hinder the processing of their Cases before the Inter-American system.

c. To require the State of Trinidad and Tobago to include in the fortnightly Reports to which reference is made in operative paragraph 1.b of this Order, information on the status of the appeals and scheduled executions of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester, and to require the Inter-American Commission on Human Rights to include its remarks on this information in its observations.

d. To require the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester.

2. The Order of the Court of 27 May 1999, in which it decided

1. To amplify the provisional measures ordered in the James et al. Cases and to order the Republic of Trinidad and Tobago to take all measures necessary to preserve the lives of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal, so as not to hinder the processing of their Cases before the Inter-American system.

2. To require the State of Trinidad and Tobago to include in the fortnightly Reports to which reference is made in operative paragraph 1.b of the Order of the Court of 25 May 1999 (supra Having Seen 1), information on the status of the scheduled executions of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal, and to require the Inter-American Commission on Human Rights to include its remarks on this information in its observations.

3. To require the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal.

3. The communication of 18 June, 1999, which was received in the Secretariat of the Court on the same date, in which the Inter-American Commission on Human Rights (hereinafter “the Commission”) submitted to the Court, pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) and Article 25 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure”), a request for the amplification of the provisional measures adopted by the Court in the James et al. Cases, to include Mervyn Parris (Case No. 12.156) and Francis Mansingh (Case No. 12.157), whose cases are currently pending before the Commission against the Republic of Trinidad and Tobago (hereinafter “the State” or “Trinidad and Tobago.”)

4. The aforesaid communication, in which the Commission requested the Court to order the State

[to] take the measures necessary to preserve the lives and physical integrity of Mervyn Parris and Francis Mansingh so as not to hinder the processing of their cases before the Inter-American system, and until the situation of extreme gravity and urgency no longer persists in relation to these individuals.

5. The arguments presented by the Commission, to the effect that:

a) there are two additional petitions pending before the Commission that were received by it on 25 May 1999 that indicate that Mervyn Parris and Francis Mansingh have been sentenced to the penalty of death for the crime of murder in Trinidad and Tobago and whose cases have not been submitted for examination under any other procedure of international investigation or settlement to any other international organisation;

b) in each case, the petition states facts that tend to establish a violation of the rights guaranteed under the Convention. In particular, the petitions alleged that the alleged victims’ conditions of detention in prison violate the State’s obligations under Article 5 of the Convention, and that the trials that resulted in their convictions and sentences were unfair, contrary to Article 8 of the said Convention, acts that were taken by the State prior to 26 May 1999, the effective date of the State’s denunciation of the Convention;

c) certain issues raised by circumstances of the alleged victims, in particular the compatibility of their death sentences with the rights protected under the Convention, cannot be effectively challenged before domestic courts in the State, and therefore, effective domestic remedies do not appear to be available;

d) the Commission requested precautionary measures in each of these cases pursuant to Article 29(2) of the Commission’s Regulations, with no response from the State;

e) the State’s denunciation of the Convention, pursuant to Article 78 of said instrument, should not be considered to affect the jurisdiction of either the Court or the Commission to entertain these matters;

f) the Commission has not had the opportunity to complete its examination of these complaints and to issue decisions in all of these cases, and, given these circumstances, it considers that the execution of the two individuals would render any eventual decision of the Commission moot, in terms of the efficacy of potential remedies, causing irreparable harm to the individuals to whom the sentences and complaints relate.

6. The working agenda of the Court, according to which the XLV Regular Session will be held from 20 September to 1 October 1999, at its seat in San José, Costa Rica.

CONSIDERING:

1. That Trinidad and Tobago has been a State Party to the American Convention since May 28, 1991, and that it accepted the jurisdiction of the Court on the same day.

2. That the State gave notice of its denunciation of the Convention to the Secretary General of the Organization of American States on 26 May 1998, and that, pursuant to Article 78(1) of the said Convention, the denunciation became effective on 26 May 1999.

3. That, pursuant to Article 78(2) of the American Convention, the denunciation does not have the effect of releasing the State from its obligations with respect to acts occurring prior to the effective date of denunciation which may constitute a violation of the said Convention.

4. That Article 63(2) of the Convention provides that:

[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

5. That Article 25(4) of the Rules of Procedure provides that:

[i]f the Court is not sitting, the President, in consultation with the Permanent Commission and, if possible, with the other judges, shall call upon the government concerned to adopt such urgent measures as may be necessary to ensure the effectiveness of any provisional measures subsequently ordered by the Court at its next session.

6. That the execution of the death penalty in the cases of the alleged victims would necessarily affect the Court's consideration of the Commission's request for provisional measures, by rendering moot the object of any eventual decision in their favour.

7. That the cases referred to in the Commission's request refer to acts that were allegedly taken by the State prior to 26 May 1999, the effective date of the State's denunciation of the Convention, and have not been submitted to the Court, and, therefore, the adoption of urgent measures does not imply a decision on the merits of the existing controversies between the petitioners and the State. By adopting urgent measures, this Presidency is ensuring that the Court may carry out effectively its conventional mandate.

8. That, given the aforementioned reasons, it is pertinent to call upon Trinidad and Tobago to adopt such urgent measures as may be necessary to preserve the lives of Mervyn Parris and Francis Mansingh, so that the Court may consider the request of the Commission during its XLV Regular Session.

9. That it is appropriate to require the State to inform the Court on the urgent measures it has taken in compliance with this Order, as well as its observations on the Commission's requests and to submit such information for the consideration of the Court during its XLV Regular Session.

NOW THEREFORE:

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

pursuant to Article 63(2) of the American Convention on Human Rights and Article 25(4) of the Rules of Procedure,

DECIDES:

1. To require the Republic of Trinidad and Tobago to take all measures necessary to preserve the lives of Mervyn Parris and Francis Mansingh, so that the Court may examine the pertinence of the request of the Inter-American Commission on Human Rights to amplify the provisional measures adopted in the James et al. Cases.
2. To require the Republic of Trinidad and Tobago to submit an urgent communication to the Inter-American Court of Human Rights by 1 July 1999, on the measures taken in compliance with this Order, as well as its observations on the measures requested by the Inter-American Commission on Human Rights, so that this information can be studied by the Court.
3. To submit the request of the Inter-American Commission on Human Rights, this Order, and the urgent communication that will be presented by the Republic of Trinidad and Tobago for the consideration of the Inter-American Court of Human Rights during its XLV Regular Session.

Hernán Salgado-Pesantes
President

Manuel E. Ventura-Robles
Secretary

So ordered,

Hernán Salgado-Pesantes
President

Manuel E. Ventura-Robles
Secretary