



Public Statement

JAMAICA: STATE OF EMERGENCY 2010 – TEN THINGS THE GOVERNMENT MUST LEARN, AND TEN THINGS IT MUST DO.

On 15 June 2016 a Commission of Inquiry published its much anticipated report into the events that took place in Western Kingston, Jamaica, during the state of emergency declared on 23 May 2010 which left almost 70 civilians dead. The report centers on events which took place in the marginalized and densely populated community of Tivoli Gardens, once described as “the mother of all garrisons,” just over a mile away from the famous Bob Marley museum.

The state of emergency was declared when the Jamaican government sought to find and extradite drug-Don, Christopher ‘Dudus’ Coke, who was hiding in Tivoli, the community for which he was Don, and in which his father had led a gang in the 1980’s before his death in prison.

As described in vivid detail in the report, on the one side, hundreds of gunmen, recruited to defend Coke, gathered on rooftops and coordinated the erection of sandbags to barricade off the community. On the other side, 800 soldiers and 370 police gathered, and the military planned operations which unbelievably involved launching weapons of war into Tivoli. Citizens were told to get off the streets because, as yelled by one officer: “all hell is going to break loose.”¹ What followed was the large-scale loss of life and some of the most grave human rights violations seen in the English-speaking Caribbean in recent history. The economic cost to Jamaica was estimated at over US\$ 250 million.²

For years afterwards, Amnesty International, Jamaicans for Justice, the Public Defender, and other human rights organizations called for a Commission of Inquiry. In 2011 Amnesty International published a report, [“Jamaica: A Long Road to Justice? Human Rights Violations under the State of Emergency.”](#)

The long-overdue Commission hearings began in December 2014, and were held over nine sessions spaced over a little more than a year, during which time 94 persons gave evidence. The Commissioner’s report, including annexes, is some 900 pages. It provides numerous lessons for the government of Jamaica and makes many important recommendations.

Here are 10 things that **Amnesty International and Jamaicans for Justice** - based on the Commissioner's report - recommend the government do to ensure such a tragedy never

¹ Report of the Commission of Enquiry Appointed to Enquire into Events which occurred in Western Kingston and Related areas in May 2010, June 2016, Page 65 (4.19)

² Page 15 (2.4)

happens again:

- 1. Insist on a radical new culture in the operations of the security forces.** Amnesty International and Jamaicans for Justice agree with the Commissioners that: “The most significant and worrying feature of our Enquiry was the fact that the JCF did not acknowledge responsibility for any civilian deaths whatsoever.... The time has surely come to usher in a radical new culture in the operations of the security forces: a culture that provides for greater transparency and accountability.”³ The failure of the JCF to document instances of human rights violations during the State of Emergency and to acknowledge any responsibility for civilian deaths, when overwhelming evidence shows otherwise, points to an ongoing denial of the need for profound human rights-based reforms in Jamaican policing. The high number of killings by security officials urgently calls for a fundamental revision of the overall approach in relation to the use of force and firearms in line with international human rights law and standard, in particular the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In that regard, we call on the JCF to fully implement the UN Basic Principles and to consider the Amnesty International Guidelines for Implementation of the Basic Principles.⁴
- 2. Fully reform the police.** The events in Tivoli in 2010 must be put in context. Nearly 70 civilians were killed in the space of several days during the state of emergency but, on average in 2015 and 2016, two people a week are killed at the hands of security officials in Jamaica. The Commissioners found that during the operation in 2010 the chain of command, particularly within the JCF, was weak and facilitated or ignored abuse towards community residents. The Commissioners include critical recommendations to support reform of the police, which we fully support. They call on the JCF to conduct administrative reviews of named officers, including those that have been promoted since 2010, and to ensure that “serving police officers against whom adverse findings have been made be relieved of operation commands that they may hold and that they be prohibited from serving in any special operational units” as a measure to ensure non-repetition of abuses of power. The Commissioners also recommend strengthened oversight of the JCF and greater adherence to its regulations, better record keeping, the use of body cameras, and limiting the use of masks and concealment gear to special cases, among other important recommendations.
- 3. Provide support and adequate resources to the Independent Commission of Investigations (INDECOM), currently investigating alleged extra-judicial killings, and ensure prosecutions proceed swiftly through the courts.** The Commissioners found that 69 civilians died as a result of the operation. While in many cases crucial evidence was lost due to late and poor processing of the crime scenes, and Commissioners were unable to obtain evidence concerning every alleged killing by security forces, they identified at least 15 cases of possible extra-judicial

³ Page 487 (15:30)

⁴ Amnesty International, Use of Force, Guidelines for Implementation of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, August 2015, https://www.amnesty.nl/sites/default/files/public/ainl_guidelines_use_of_force_0.pdf

killings; and named 7 persons who were probable victims of extra-judicial killings.⁵ INDECOM should receive full-cooperation from other state agencies involved in the investigations, including the Jamaica Constabulary Force (JCF) and the Jamaica Defense Force (JDF) and the Office of the Director of Public Prosecutions.

4. Ensure special external oversight of the Mobile Reserve and review its internal accountability.

Most of the police alleged to be involved in extra-judicial killings during the state of emergency belonged to the Mobile Reserve. According to INDECOM data, for the fifteen month period between January 2015 and March 2016, the Mobile Reserve were involved in 44% of police killings arising from planned operations. It is clear this unit requires special reform and oversight.

5. Apologize to the residents of Tivoli, including the thousands of young men arbitrarily detained.

The Commissioners are unequivocal – the mass arbitrary detentions of over 4,000 young men was unlawful. According to the Commissioners “men were unceremoniously gathered up, confined to caged areas, and then sent off to detention.” The government must apologize to the residents of West Kingston and Jamaica for the excessive use of force by security forces and arbitrary detentions.

6. Never allow mortars to be used again in Jamaica. The use of mortars in an urban community is clearly disproportionate to the target and, therefore, contrary to human rights law. May 24, 2010 was the first time that mortars were used by security forces in any operation in Jamaica. Thirty-seven rounds of mortars were used in total. After initially denying their use, the JDF argued they were used in open fields to “disorientate” gunmen and keep women and children inside. An independent expert appropriately described the use of mortars in a populated urban environment as “irresponsible and reckless.” The Commissioner’s identified two likely victims of mortars – their deaths must be criminally investigated. As advised by the Commissioners, Jamaica must also address the policy gap in relation to its selection of weapons systems that can be used in security operations, ensuring the policy is consistent with human rights law.

7. Provide counselling for traumatized witnesses and residents

The Commission’s detailed assessments of what transpired in Western Kingston in May 2010, peppered with grueling testimonies reads, at times, like the script for a war film. It also carefully and objectively details the violence inflicted on both security officers and residents.

“I saw about 14 or 15 police officers at the junction of Calabar Avenue and Slipe Pen Road lying on the ground to protect themselves. Warheads were hitting tree branches. A female police officer wet herself and passed out.” (A police sergeant’s testimony during the Inquiry)

“I hear Fernando cry out and I heard gunshots. Fernando shout, “Mummy, Mummy, they kill Pooksie” (Fabian). Shortly after, I heard Fernando shout, “Mummy, Mummy, they gwine kill me”. I heard shots ... There was a big white truck. I saw police drag my son’s body and put him on the truck. I did not see when they killed Fernando.” (A mother’s testimony during the Inquiry)

The Commissioners rightly recommend a program of continuing counselling for residents affected by the events of May 2010. Amnesty International and Jamaicans for Justice recognize that 26 soldiers were injured, and the difficult circumstances in which the security officials had to operate.

8. **Ensure all victims receive full reparation.** Not only did the Commissioners conclude that soldiers and police used disproportionate force in carrying out house searches, but they ransacked residences and unnecessarily damaged households. Reparation to victims should therefore include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. As recommended by the Commissioners, the statute of limitations may not apply to civil tort claims based on the events in Tivoli Gardens.

9. **Dismantle garrison communities by ensuring they benefit from services and protection provided by the state.**

Built around political patronage, garrison communities are run by criminal gangs who have assumed many functions that should be fulfilled by the state. The Commissioner’s report provides careful analysis of the roots of garrison communities that have been described as a “state within a state.” The report also describes how residents in garrison communities fear gunmen and the state equally. During what Tivoli residents still describe as “an incursion” they were traumatized equally by fear of reprisals from criminal gangs should they break a “code of silence” and by masked security officials who used excessive force, rained mortars on their community, and left dead bodies on their streets. Garrison communities are the result of discriminatory state practices, and disparities in access to economic, social and cultural rights. The Commissioners recommend a series of steps towards the integration of garrison communities which the government must immediately begin to implement.

10. **Publicly reply to the report and indicate the steps it intends to take to implement its recommendations.** The Jamaican government has yet to officially respond to the report. Amnesty International and Jamaicans for Justice call on the government of Jamaica to detail a plan of action to initiate the reforms and recommendations proposed by the Commission of Inquiry.

Finally, Jamaica should also promptly adhere - without making any reservation - to the fundamental human rights treaties, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Second Optional Protocol to the International Covenant on Civil and Political Rights, the Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity, the International Convention for the Protection of All Persons from Enforced Disappearance and the Rome Statute of the International Criminal Court, among others.