

AI INDEX: AMR 38/09/97  
30 October 1997

Mr Carl Wint  
Political and Current Affairs Editor  
The Gleaner

Dear Mr Wint,

Your article of 29 October in relation to the Jamaican Government's decision to withdraw from the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) fails to recognize that this move -- which has caused consternation in the international community -- constitutes a very serious blow to the protection of the fundamental rights of all citizens of Jamaica, not only those sentenced to be executed.

The ICCPR guarantees a wide range of rights that the Jamaican Government has obliged itself to respect, including the right to be free from discrimination, the rights to freedom of assembly and free speech, the right to a fair trial (including the right to be promptly informed of the charges, the right to trial and appeal within a reasonable time, the right to effective assistance of a lawyer throughout the proceedings), an absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment and the right to life.

As long as Jamaica was a party to the Optional Protocol -- as are over 90 countries throughout the world -- every citizen who believed that the government had violated their rights has guaranteed by the ICCPR could, after exhausting avenues under national law, complain to the Human Rights Committee, a body of independent international legal experts charged with interpreting the provisions of the Covenant. If the Committee upheld the complaint, it would recommend remedies that could include compensation to people whose rights had been violated. It costs a citizen nothing to have a complaint examined by the Committee.

Although the ICCPR does not prohibit the death penalty, it obliges governments not to execute people whose death sentences have been imposed in cases where their fundamental rights have been violated; for instance, if the accused did not get a fair trial due to lack of effective legal representation or if they were subjected to ill-treatment while in custody. In examining complaints from people on death row in Jamaica, the Human Rights Committee has often found that the right to a fair trial was violated, and recommended that the sentence be commuted and/or that a person be compensated. It has therefore provided a vital opportunity for people facing the ultimate, irreversible sanction to have the merits of their case examined by expert, to ensure that they had redress for violations of their human rights.

This is the first time that any country has withdrawn from the Optional Protocol to the ICCPR. The decision has shaken the international community, which finds it paradoxical that Jamaica -- a country that has played such a vital role in the United Nations for 36 years and has taken measures to secure international respect for human rights -- has taken such a dangerous step backwards in terms of the promotion and protection of the fundamental rights of its own people.

The cost of this unilateral decision is unreasonably high, and will be hardest felt in Jamaica, where every aggrieved person -- not just those on death row -- has lost access to

independent international scrutiny of their claims that the state has violated their rights. Although it is true that Jamaicans may still seek recourse to the Inter-American Commission on Human Rights, it must be pointed out that this avenue is not a substitute for review by the Human Rights Committee, which has developed a body of interpretation offering in some cases greater protection of rights than yet recognized by the Inter-American Commission on Human Rights. These include, for instance, the expressed recognition that corporal punishment -- whether as a punishment for a crime or as a disciplinary measure in schools and hospitals -- is a violation of human rights.

In view of all the above, Amnesty International urges the Jamaican Government to reconsider its decision to withdraw from the Optional Protocol to the ICCPR, and to join with other Governments and the Human Rights Committee to explore other solutions.

Yours sincerely,

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Programme Director  
Americas Region