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Jamaica: Tivoli anniversary must be last one without justice for victims and their families

On the eve of the fourth anniversary of the security force operation in Western Kingston which resulted in the deaths of 77 people, Amnesty International calls on the Jamaican authorities to ensure that another year does not pass without tangible progress in establishing the truth behind the fatal events and to ensure that victims and their families can finally start to obtain justice and reparation.

A State of Public Emergency was declared in the parishes of Kingston and St Andrew on 23 May 2010 following resistance by armed supporters of Christopher “Dudus” Coke to government efforts to take him into custody. The US authorities were seeking Coke’s extradition to the USA where he faced drug-trafficking and firearms charges. Within two days, at least 77 people, including one member of the security forces, were killed in Tivoli Gardens in Western Kingston, scene of much of the violence. Forty-four are alleged to have been the victims of extrajudicial execution by the security forces, with four possible victims of enforced disappearance and allegations of hundreds of arbitrary detentions.

Although a Commission of Enquiry into the events surrounding the state of emergency was announced three months ago on 24 February, it has yet to commence as one of its three-person panel is still to be nominated. While Amnesty International welcomes the establishment of the Commission, the organization remains seriously concerned, however, that the lack of specificity in its mandate could prejudice the effectiveness of the enquiry and as such impede access to truth, justice and reparation for the victims.

Amnesty International has a number of concerns about the Commission’s terms of reference. These include the lack of specific reference to inquiring into the concrete and specific allegations of serious human rights violations carried out by the security forces; there is no mention of the need for the Commission to refer matters to the relevant prosecutorial bodies should it obtain information indicating that identified individuals may have been responsible for committing, ordering, encouraging or permitting human rights abuses; that there is no requirement for the Commission to assess the operations carried out by security forces against international human rights law, including specific international standards on the use of force and firearms; that the enquiry should examine the underlying reasons and contributory factors to the events which are the subject of the enquiry; and the lack of specificity regarding the nature of the recommendations that the Commission should produce.

On 4 April this year the Office of the Public Defender handed over all the files pertaining to its investigations into the state of emergency to the Independent Commission of Investigations (INDECOM). The files include the cases of the 44 people alleged to have been unlawfully killed by the security forces. In parallel with the work of the Commission of Enquiry, INDECOM must be given all the necessary resources for it to be able to thoroughly investigate these cases of alleged extrajudicial killings, including conducting further ballistic analysis where necessary.

One of these 44 cases is that of Sheldon Davis, who was killed by the Jamaican security forces on 30 May 2010 in Denham Town, West Kingston. He was arrested at home by 30 law enforcement officers and taken into custody in a blood bank building where he was shot dead by law enforcement officers. The security forces reported that he was killed after attempting to grab a soldier’s gun. His case is one of the very few which is currently before the courts, but there have been continuous delays. The Director of Public Prosecutions referred the case to the Coroner’s Court where it was scheduled to be

heard on 22 July 2013, but the hearing did not go ahead as it was reportedly not on the Court's schedule. A rescheduled date for 16 December 2013 and then 19 May 2014 were similarly postponed due to a lack of jurors. A new date for the Coroner's Court has been scheduled for the end of July. The delays to Sheldon Davis' case are emblematic of the wider chronic problems which beset Jamaica's justice system, particularly the continual failure to obtain sufficient number of jurors for court cases.

Background information

A Commission of Enquiry was appointed on 24 February by the Jamaican government, consisting of a three person panel formed of jurists from Jamaica, Barbados and Saint Kitts and Nevis. However, the Jamaican jurist, Velma Hylton stepped down from the panel reportedly following protests at comments she had made whilst serving on another commission of enquiry in 2002.

Investigations into the 2010 State of Emergency have been beset by constant delays. The Office of Public Defender - a commission of the Jamaican Parliament which is mandated to protect and enforce the rights of citizens - was tasked with producing a report on the events just after they occurred. However, an interim report was only made public on 29 April 2013. Amnesty International believes that the Jamaican government should have provided the Office of the Public Defender with the necessary resources in order for it to complete its report in a more timely manner.

The Jamaican government published draft Terms of Reference for the Commission of Enquiry in June 2013 and invited comments from civil society and general public. Amnesty International wrote to the government with its comments.

The interim report of the Office of the Public Defender recorded 76 civilian deaths, of which 44 are alleged to be instances of extra-judicial executions. One soldier was also killed. It also pointed to four possible victims of enforced disappearance and allegations of hundreds of arbitrary detentions – among the approximately 1,000 people detained towards the beginning of the state of emergency.