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Jamaica: Police immunity for unlawful killings protected by the Supreme Court

Amnesty International is dismayed that the Jamaican Supreme Court has refused to order the Director of Public Prosecutions to account for his appalling decision not to prosecute the police officers responsible for killing of Patrick Genius.

Along with the Braeton Seven, the killing of Patrick Genius is one of the most compelling cases of possible unlawful killings by members of the Jamaican Constabulary Force known to Amnesty International.

"The evidence that the officers extrajudicially executed Genius is compelling, yet the Director of Public Prosecutions (DPP) has inexplicably refused to prosecute the officers involved. By not ordering the DPP to review or explain his decision, the Jamaican Supreme Court has allowed the authorities to continue their shameful failure to prosecute police officers implicated in unlawful killings. This is a heavy blow against police accountability," Amnesty International said.

On 2 May 2003, the Jamaican Supreme Court ruled that the Director of Public Prosecutions did not have to give reasons for his decision not to charge the officers responsible for the death of Patrick Genius; did not have to review his decision; and that the body of Patrick Genius did not need to be exhumed to allow for all the bullets to be removed and subjected to forensic tests. The mother of Patrick Genius, Leonie Marshall, had petitioned the Court for judicial review of the DPP's lack of action in the case of her son's death.

"Amnesty International is appalled that there will continue to be no justice for the relatives of Patrick Genius. This case represents a failure of the system. Many citizens continue to lose their lives at the hands of state agents in Jamaica but where do the loved-ones of those unlawfully killed by members of the Jamaican Constabulary Force go for justice when the system of investigation and accountability is so inadequate? They have asked the courts to intervene and support their rights. Tragically, the courts have preferred to support the status quo of inaction."

Once again, Jamaica appears to be in breach of its obligations under international laws and standards governing the investigation of potential extrajudicial executions by state agents.

Amnesty International seriously questions the assertion by the DPP that there is insufficient evidence to prosecute the officers involved in Genius' death. One jury, in the Coroner's Court, has already found that the police should be held criminally liable for the killing. There is no reason to believe that a second jury would not reach the same conclusion when presented with the facts in the case.

There are numerous reasons to challenge the police account of the killing of Patrick Genius that could be put before a jury. How did Genius manage to keep running when he had been shot in both legs?

How did he receive two gunshot wounds to the back of the head, when the first would have killed him and caused him to fall to the ground? Why did the bullets in Genius' head have a downward trajectory when the officers who shot him claim to have thrown themselves to the floor (thereby giving their fire an upward trajectory) to avoid his gunfire?

"Instead of presenting the information to a jury, the DPP appears to have acted as the defence and usurped the role of the jury in deciding that the officers could not be found guilty. This is clearly beyond his role and responsibilities; the Jamaican Supreme Court should have corrected this abuse of process," Amnesty International said.

The authorities appear to be extremely reluctant to prosecute officers on charges of unlawful killings however strong the evidence is. In the case of Patrick Genius, the Director of Public Prosecutions went so far as to give media interviews where he publicly stated he could not disprove the likely defence the officers would employ, a decision that would more appropriately be left to a jury.

"Once again the victims of suspected unlawful killings by members of the security forces have failed to find justice in Jamaica. This shameful state of affairs must be corrected by the authorities as soon as is practically possible," Amnesty International said.

Background

Jamaica suffers from an appalling high level of police killings. In 2002, the police killed 133 people in a population of only 2.6 million. While some of the killings are the legitimate use of lethal force, there is strong evidence that many amounted to extrajudicial executions.

However, the prosecution of police officers on charges relating to unlawful killings is almost unheard of. Despite numerous assurances from the Government and the Director of Public Prosecutions that there is no immunity for police officers implicated in unlawful killings, the authorities' have failed to provide any details of officers actually tried, let alone convicted. The last conviction of unlawful killing by a police officer known to Amnesty International was in 1999.

For further information on the situation in Jamaica and details of the killing of Patrick Genius please see *Jamaica: Killings and violence by police: How many more victims?* AMR 38/003/2001 and *Jamaica: The killing of the Braeton Seven - A justice system on trial*, AMR 38/005/2003.

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