

AMNESTY INTERNATIONAL PRESS RELEASE

AI Index: AMR 38/016/2003 (Public)
News Service No: 160
7 July 2003

Embargo Date: 7 July 2003 01:00 GMT

Jamaica: "Nobody's fault": Commission of Inquiry fails 27 killed in West Kingston

The Government of Jamaica should set up an independent judicial inquiry, with international support, to examine the circumstances surrounding the deaths of 27 people during an operation by security forces in West Kingston, Jamaica between 7-10 July 2001. Two members of the security forces were amongst those killed.

In a report released today on the anniversary of the incident, Amnesty International concludes that the Commission of Inquiry held into the incident was structurally biased in favour of the state.

The Commission of Inquiry exonerated the security forces and yet throughout the whole inquiry, only one voice predominated: that of the state.

"The Commission of Inquiry has missed a unique opportunity to provide justice and accountability for the victims and to help prevent such a major loss of life from reoccurring. Only another inquiry will be able to afford the in-depth scrutiny necessary to provide any chance of discovering how 27 people lost their lives in West Kingston" said Olivia Streater of Amnesty International's Caribbean and North America research team.

"The Commission of Inquiry was a travesty of the legal and evidential tests which a public inquiry into killings by state agents is required to perform under international law. Procedural and other flaws ensured that the Inquiry was bound to fail from the start and that the requirement to undertake a proper investigation was not properly addressed in either the Commission hearings or the subsequent report," said Rupert Skilbeck, British barrister and member of the Bar Human Rights Committee of England and Wales, who attended the Commission of Enquiry as an observer on behalf of Amnesty International.

Amnesty International's criticisms of the Commission of Inquiry include:
Membership of the Commission was extraordinarily unbalanced, with 8 lawyers representing the state and only 2 representing citizens;

No evidence was heard from any of the victims or their families and most witnesses called to give evidence were members of the security forces or otherwise employed by the government;

Victims were inadequately represented and independent witnesses were neither represented, nor

protected, nor compellable;

With no independent investigators, Commissioners were dependent on the police that were the very subject of the inquiry to unearth all the available evidence;

Procedure for cross-examination meant it was virtually impossible for evidence from security forces to be properly tested; preventing the independent fact-finding that should have characterised a rigorous investigation under international law;

No closing submissions were made on behalf of any victims of police killings;

No submissions were made on international law applicable in incidents of state killings.

Such fundamental flaws in the fact-finding process ensured that the inquiry was bound to fail. With legal advice suggesting that the security forces had the right to fire on unarmed women and children, the findings of the Commission were a foregone conclusion.

"On such important issues as the manner of death of civilians and the examination of the actions of the police and military, the lack of any opposing evidence should not have led to automatic acceptance of the evidence of the State," Olivia Streater said. "The West Kingston Commission of Inquiry has failed to fulfil its obligations under international law to fully investigate the deaths of at least 27 people, killed on a balance of probabilities by the agents of the state."

Amnesty International is committed to seeking adequate explanations and justice for the 27 people who lost their lives in the West Kingston violence. The financial costs of doing so pale in comparison to the suffering caused by such events and the worldwide damage done to Jamaica's reputation.

"Until there is a proper inquiry into what happened in West Kingston in July 2001, impunity for state killings will persist, with the conclusion that it is 'nobody's fault'. There can be no justice for the victims and their families until their voices are heard, their deaths adequately explained and those responsible held to account where the law has been violated," Amnesty International said.

Background

The Jamaican Constabulary Force (JCF) initially claimed to have gone into the area in order to seize illegal weapons after intelligence reports. However, they soon alleged coming under attack from armed men and used lethal force in order to respond, together with the Jamaican Defence Force (JDF).

The Commission started hearings in September 2001 and published its final report in June 2002. The area in which the incident took place, Tivoli Gardens, is often referred to as a "garrison community". It is in the constituency of Edward Seaga, MP, the leader of the opposition Jamaica Labour Party (JLP) and a previous Prime Minister of Jamaica.

Public Document

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

For latest human rights news view <http://news.amnesty.org>