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Jamaica: Justice denied

The recent overturning of a court ruling awarding compensation to a victim of police brutality in Jamaica may mean that no victim of torture, extra-judicial execution or other abuses by police or soldiers receives compensation from the state, Amnesty International said today.

On 9 November 2001, judges of the Court of Appeal overturned a previous ruling granting J\$2 million in damages to Clinton Bernard for assault, malicious prosecution and false imprisonment by police. The judges held that the actions of the police officer fell outside the scope of his lawful duties and that therefore the state could not be held liable. Mr. Bernard was shot in the head and arbitrarily detained by a police officer in 1990.

"This ruling violates Jamaica's obligations under international law to provide recourse against violations of fundamental rights," Amnesty International said. "This also demonstrates the urgent need for effective measures to address the issue of compensation where victims have been injured or killed as a result of human rights violations committed by state agents."

The ruling was criticised by the very judges from whom it emanated as the consequence of a law which "cries out for justice to be done". Recognizing the need for the law to be reformed, Judge Bingham stated that, "Such a cry can only be answered by the state instituting some measure of reform aimed at assisting the many innocent victims of the barbarous conduct of some agents of the state."

Background

Clinton Bernard has suffered epileptic seizures and been unable to work ever since he was shot by a police officer who had demanded use of a public payphone which Mr. Bernard was using. The police officer has never been brought to justice. He was fired on unrelated grounds and has since left Jamaica.

As a state party to the American Convention on Human Rights, which it ratified in 1978, Jamaica is obliged to develop appropriate judicial remedies for individuals so that they have recourse to protection against acts that violate their fundamental rights. Jamaica is also obliged to grant victims of unlawful arrest or detention an enforceable right to compensation, as set out in article 9 of the International Covenant on Civil and Political Rights, which Jamaica ratified in 1975.

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