

# Jamaica

## ‘Let them kill each other’: Public security in Jamaica’s inner cities

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### LIST OF ABBREVIATIONS

Assistant Commissioner of Police (ACP)  
Bureau of Special Investigations (BSI)  
Director of Public Prosecutions (DPP)  
International Covenant on Economic, Social and Cultural Rights (ICESCR)  
Jamaica Constabulary Force (JCF)  
Jamaica Defence Force (JDF)  
Jamaica Labour Party (JLP)  
Peace Management Initiative (PMI)  
People’s National Party (PNP)  
Police Public Complaints Authority (PPCA)  
United Nations (UN)  
Violence Prevention Alliance (VPA)



# Jamaica

## 'Let them kill each other': Public security in Jamaica's inner cities

### SUMMARY

This report by Amnesty International on the public security crisis in Jamaica forms part of a body of work by national and international organizations working on the crisis and its human rights implications. The research for this report was conducted by visiting Jamaica and its inner-city communities of Kingston, St Andrew and St Catherine during 2007 and speaking to a wide range of people from civil society and people holding positions of public office. During that research Amnesty International found:

- ❖ There is a public security crisis in Jamaica and the state is failing to effectively provide human security to its population, especially to those most vulnerable to crime and violence, namely people living in poverty in inner-city communities.
- ❖ An unspoken tolerance of policing based on strong prejudice and stigmatization, excessive use of force, extrajudicial executions and corruption among certain members of the police force that reinforces a circle of violence for people living in poverty in socially excluded communities.
- ❖ A lack of scrutiny and accountability of the Jamaica Constabulary Force (JCF) against allegations of corruption and human rights violations. Entrenched impunity for those human rights violations leaving the victims with no access to justice and a lack of progress in overcoming this longstanding problem.
- ❖ Some members of the JCF resort to unlawful killings to restrain individuals they believe pose a threat to the community. In many instances officers also commit unlawful killings for no apparent reason, out of negligence or for reasons of political factions. There is little evidence to support the claim that many killings occur in so-called confrontations with gang members.
- ❖ The failure to provide representative, responsive and accountable human rights-based policing to people living in poverty in socially excluded communities has left a vacuum that is filled by gangs.
- ❖ Prejudiced attitudes amongst public officials towards people living in inner cities encouraging a stigmatization of these people as somehow worthless and deserving of their fate, and perpetuating their insecurity.

- ❖ Large disparities in respect and fulfilment of the economic, social and cultural rights of people in inner city communities and other Jamaicans that suggest neglect of these communities.
- ❖ Police officers trying to make improvements in respect for human rights and to support reform faced various obstacles, even threats to their life.
- ❖ Welcoming statements from the new government to harness efforts to overcome this longstanding crisis.

While national homicide rates have risen fairly consistently during the last decades in Jamaica, this report contends that increased levels of violence have been largely concentrated in areas of social exclusion underlining the state's failure of its due diligence obligation to protect these people from violence coming from criminal gangs or reluctance to ensure their effective human security.

This report also identifies the stigmatization and excessive use of force by, and corruption within, the police forces, which effectively exacerbate the violence these communities suffer and constitute a violation of the obligation to respect human rights.

The Jamaican leadership has recognized its own responsibility in this crisis, through the creation and perpetuation of a political system that relies on gang leaders to gain electoral support, corruption and tolerance of organized crime.

Finally, the report argues that Jamaica does not have a long term comprehensive and effective public security policy and this is permitting violence to increase and is putting everyone at risk, including the police. This negligence is not the result of lack of understanding of the problem or lack of feasible solutions, but lack of political will and leadership to overcome the situation.

In its recommendations Amnesty International calls on the Jamaican government to create a comprehensive public security plan for the protection of human rights; to immediately implement a programme for the reduction and prevention of homicides and police killings in inner-cities; and to immediately reduce excessive use of force by the JCF.

Amnesty International calls on other governments to support and promote the creation and implementation of the public security plan for the protection of human rights; assist the Jamaica Government in the immediate implementation of a programme to reduce and prevent homicides and police killings in inner-cities and the excessive use of force by the JCF; help ensure prioritization of reform of the JCF and the justice system; assist the Jamaica Government and other Caribbean governments to effectively address the public security crisis as a region and to cooperate in effectively sharing expertise and resources; and, to promote the principles of an Arms Trade Treaty to establish common standards on the import, export and transfer of conventional weapons.

## CHAPTER 1: INTRODUCTION

"The gun violence was not that bad anymore in my community. Then it just suddenly started back. I think because of the elections. But I think they use the election time as a weapon... The 'big guy', the crime organizer that is the biggest threat to the community because they send out the young ones to shoot. Anything they order you have to do it because you fear your life.

On 29 September 2007, around 1am I heard four gunshots that woke me up. So I got up. Some guys from the other side of the street fired shots at me and shout me "labourite<sup>1</sup>, we will kill you all". I was not hurt by the gunmen and they left. I told to my 19 year-old son André, who was with friends in a corner shop, to come back home because it was dangerous. Any time men fire shots, the same type of police show up. I don't know if they work with the gunmen, but the same corrupt police show up. André said he didn't do anything so he didn't have to get up. I walked away and heard my son screaming 'why are you beating me?' I ran in his direction and I heard a woman [say] 'Lord, look how the police killed the little boy'. André was lying in a pool of blood and four police were standing next to him. He was conscious. I carried him into the police jeep and told them to take him to the hospital. There was a gunshot in his leg and another in his hand. The police told me I couldn't come in the jeep with him because I had blood on me and there was no space. When I got to Public Hospital, André was dead. The doctor told me he had wounds all over his body: in his leg, on his belly, one in the centre of his stomach and one in his back. When I left him he only had two wounds. I know they murdered him. What really hurt me is that they took him and placed him in the jeep and pumped a hole right in his stomach."

Mr Philbert Thomas, Grants Pen, Kingston, October 2007

Jamaica has one of the highest rates of violent crime in the world. In 2005, 1,674 people were the victims of homicide – a record high in a country with 2.7 million inhabitants.<sup>2</sup> This is not a sudden crisis, but follows a steady increase in violent crime over recent years.<sup>3</sup> The use of guns to commit murder has also increased.<sup>4</sup>

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<sup>1</sup> Supporter of the Jamaica Labour Party

<sup>2</sup> This is the official figure recorded by the Jamaica Constabulary Force and is equivalent to 62 deaths per 100,000 people. In 2006 this rate dropped to 45 per 100,000. (JCF Department of Statistics, on file with Amnesty International)

<sup>3</sup> In 2000, the intentional homicide rate was 33 per 100,000 inhabitants. The only countries which recorded higher homicide rates were Colombia (63 per 100,000) and South Africa (52 per 100,000). Source: website of the UN Office on Drugs and Crime, Centre for International Crime Prevention, cited in UN Office on Drugs and Crime and the Latin America and the Caribbean Region of the World Bank, Report No. 37820, *Crime, Violence and Development: Trends, Costs and Policy Options in the Caribbean*, March 2007.

The main body responsible for policing in Jamaica is the Jamaica Constabulary Force (JCF). However, far from protecting people from violent crime the JCF is contributing to the escalation of violence. Jamaica has one of the highest rates of police killings in the Americas. In 2007 alone, 272 people were fatally shot by JCF officers.<sup>5</sup> There are no official figures available on the numbers of police officers killed in the line of duty in the same period.<sup>6</sup> In many cases the killings by JCF officers may have resulted from the legitimate use of force. However, in those cases where there was strong evidence that people were victims of extrajudicial executions,<sup>7</sup> flawed investigations, corruption and a failing justice system guaranteed impunity for the officers involved.

Many of those responsible for violent crime are not brought to justice because of failings in the justice system. The number of murders investigated and solved by the police is extremely low.<sup>8</sup> Prosecution and conviction rates are also extremely poor.<sup>9</sup>

Surveys have shown that most Jamaicans believe that crime and violence are the country's biggest problems.<sup>10</sup> However, they are problems that affect different parts of the population in very different ways. A recent United Nation's (UN) report found that the great majority of victims of violent crime live in disadvantaged inner-city areas.<sup>11</sup> Many people living in these communities experience disproportionately high levels of unemployment, insecurity of housing tenure, limited water supply and limited access to electricity.<sup>12</sup>

These communities have suffered years of state neglect. The vacuum left by the state has been occupied by gang leaders who control many aspects of life. Gang leaders (known as "dons") "collect taxes" from local businesses (through extortion); allocate jobs

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<sup>4</sup> In the 1990s 50% of homicides were committed with guns, in 2000 61% and in 2005 around 75% (Source Jamaica Constabulary Force, on file with Amnesty International).

<sup>5</sup> Source: Bureau of Special Investigations, Jamaica Constabulary Force (on file with Amnesty International)

<sup>6</sup> The Jamaica Gleaner reported that 20 police officers were part of the homicide rate during 2007, but it is not clear from that figure how many of those officers were killed in confrontations or were killed in other circumstances (Jamaica Gleaner, "Lewin takes charge", Monday, December 17, 2007)

<sup>7</sup> Extrajudicial executions are unlawful and deliberate killings, carried out by order of a government or with its complicity or acquiescence. An extrajudicial execution is, in effect, a murder committed or condoned by the state.

<sup>8</sup> According to official data from the Department of Statistics of the JCF, during 2005 the 36.5 per cent of recorded murders were investigated and resulted in a suspect being named and referred to the Director of Public Prosecutions. For drug-related murders this percentage fell to an astonishing 0 per cent and for gang-related murders the clear-up rate was 27.2 per cent (on file with Amnesty International).

<sup>9</sup> No official data was made available to Amnesty International although repeatedly requested.

<sup>10</sup> *Jamaica Gleaner*, "Crime Jamaica's worst problem", 4 December 2007.

<sup>11</sup> UN Office on Drugs and Crime and the Latin America and the Caribbean Region of the World Bank, Report No 37820, *Crime, Violence and Development: Trends, Costs and Policy Options in the Caribbean*, March 2007, pp.35-39.

<sup>12</sup> Henry-Lee Aldrie, *The Nature of Poverty in the garrison constituencies in Jamaica*, Environment and Urbanization Journal, 2005 17,83.

(both in the legal and illegal sectors); distribute food, school books and “scholarships”; and dispense punishment on those who transgress gang rules.

Consecutive governments and political leaders have helped create and maintain the environment in which gang violence has flourished. Gang control is at its most pervasive in “garrison” communities. These are communities entirely under the control of one or other of the political parties. Party control is sometimes enforced by heavily armed gangs who force people in the community to vote for the party in control.

Core gang members represent no more than 5 per cent of the population of these communities.<sup>13</sup> However, the stigma of criminality or potential criminality is not confined to this minority. Entire communities are the victims of generalized prejudice in society which is reflected in the way in which they are policed. There are persistent reports of discrimination and killings by the security forces. The failure to hold to account those responsible for such violations has eroded confidence among those living in poor inner-city communities that the institutions of the state will provide justice and protect their rights.

Caught between the criminal gangs who control their neighbourhoods and violent policing methods, people living in these communities are denied access to effective state protection and to the services which should provide for their basic economic and social rights and so enable them to enjoy a whole range of human rights.

This report describes how the Jamaican authorities are failing to protect people living in poverty in inner-city communities from a range of human rights violations; for many in these communities the state has failed to provide for even their most basic social and economic rights. It shows how the authorities are failing to hold to account those in the security forces who commit human rights violations. The report ends with a series of recommendations.

Many politicians and officials have acknowledged the scale and the source of the problems. Amnesty International calls on the Jamaican authorities to show the political will needed to reduce homicide rates in the inner-cities and address the root causes of the violence; to introduce human rights-based policing; to reduce killings by police; and to reform the justice system to improve access to justice, especially for the poorest sectors of Jamaican society.

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<sup>13</sup> This estimate percentage is based on consistent assessments by people in the communities and social workers and academics with strong links with those communities.

## Methodology

This report is based on research carried out mainly in 15 socially excluded<sup>14</sup> inner-city communities in Kingston, St Andrew and St Catherine in March and October 2007. Amnesty International delegates interviewed around 120 men and women from those communities, social workers and religious leaders working in these communities, academics, NGOs and artists. They also met government officials and ministers, including the Minister of Justice; members of the opposition People's National Party (PNP) and the head of the Police Public Complaints Authority. Amnesty International also interviewed senior officers at the JCF and the Bureau of Special Investigations, but was not able to speak with constables despite several requests.

Almost all the data and statistics used in the analysis of this report come from government sources.<sup>15</sup> An important part of analysis is based on official documents and reports commissioned by the Government or by the opposition.<sup>16</sup> Despite reports of police officers being killed during so-called "confrontations" with gangs in the communities, the authorities were unable to provide any data to support these allegations. Amnesty International also referred to secondary sources such as work of academics, UN and other international reports, media and local NGOs reports.

There are significant difficulties when researching violence in communities in Jamaica, especially because those who decide to speak may be at risk of reprisals. For security reasons, the identities of some individuals and communities have been withheld. Amnesty International would like to thank all those who helped contribute to this report and who gave their time and valuable information.

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<sup>14</sup> There are many definitions of social exclusion. Amnesty International refers to the way that these communities in Jamaica are living in poverty and kept out of the mainstream of society, in particular because the State does not respect and guarantee their right to actively participate in decisions that affect their lives and livelihoods. Many living in socially excluded communities are also deprived of even the minimum essential levels of the rights to an adequate standard of living, including adequate food and housing, the right to work, to education and to health. Some communities also face political violence, which makes it impossible for them to openly exercise their political rights.

<sup>15</sup> Data was provided by Amnesty International by the Jamaica Constabulary Force, in particular the Statistic Department and the Bureau of Special Investigations (on file with Amnesty International).

<sup>16</sup> For example *Jamaican Justice System Reform Task Force*, Final Report, June 2007 (Government of Jamaica); *National Security Policy for Jamaica: Towards a Secure and Prosperous Nation*, 2007 (Government of Jamaica); *A Better Way for a better Jamaica*, 2007 (Jamaica Labour Party Manifesto); *Shaping the future together on course to the quality society*, 2007 (People's National Party Manifesto); *Road Map to a Safe and Secure Jamaica*, May 2006 (Report of the Special Task Force on Crime Convened By the Leader of the Opposition Mr Bruce Golding, today Prime Minister); *National Security Strategy for Jamaica: Towards a secure and prosperous nation*; a green paper, revised May 2006, (Prepared by the National Security Strategy Development Working Group for the Ministry of National Security; Government of Jamaica); *Report of the National Committee on Crime and Violence*, 2002 (committee with leaders of the government and the opposition); *Report of the National Committee on Political Tribalism*, July 1997, (committee appointed by the Prime Minister, Rt. Hon. P. J. Patterson, PC., Q.C., with representatives of the three major political parties and representatives of other organizations from civil society and the private sector).



## CHAPTER 2: BACKGROUND

"Because the government is not socially intervening in these communities, leaders who deal with petty crime in their area also deal with school problems of all children, they provide for the little old lady to make sure she gets food, they distribute legal and illegal jobs, etc. They take the role of the state at a basic level"

Monsignor Richard Albert, St Catherine, Episcopal Vicar St Catherine, Jamaica and Chair of the Crime Prevention Committee in Spanish Town, October 2007.

The principal victims of violent crime in Jamaica are people living in extremely poor overcrowded inner-cities, so-called "ghettos".<sup>17</sup> Between 30% and 45% of the population of Kingston Metropolitan Region (KMR) live in these communities.<sup>18</sup> Among these communities, victims of crime are strongly concentrated in the so-called "garrison communities", where political violence merges with harsh living conditions.<sup>19</sup>

Although according to national statistics poverty levels have fallen significantly in Jamaica in the past decade,<sup>20</sup> many people living in inner-city communities do not appear to have benefited from the increased prosperity. A recent study based on official data, states for example, that many people in these communities are unemployed; have to contend with a grossly inadequate infrastructure including a lack of indoor taps/ pipes as a source of drinking water, sewage systems or proper toilet facilities.<sup>21</sup>

Those interviewed by Amnesty International said that the principal preoccupations in socially excluded inner-city communities were lack of jobs, lack of training and qualifications to get jobs, and lack of access to education. Access to health and adequate

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<sup>17</sup> "In Jamaica, poorer households are more at risk to be victims of all violent crime ... and suffer higher risk of murder and wounding". (United Nations Office on Drugs and Crime and the Latin America and the Caribbean Region of the World Bank, Report No 37820, March 2007, "*Crime, Violence and Development: Trends, Costs and Policy Options in the Caribbean*"; Pages 35-39).

<sup>18</sup> KMR includes the cities of Kingston, Portmore and Spanish Town. Amnesty International was unable to obtain recent official data about the number of people living in these communities. A study from 1991 concluded that of the 45% of the population of KMR was living in "ghettos" while 32% was living in extreme poverty and deprivation (Colin Clarke, *Decolonizing the Colonial City*, 2006, Oxford University Press).

<sup>19</sup> According to a report prepared by the Jamaica Labour Party (JLP), the political party at power at the present, when it was in the opposition; garrison constituencies amount to 20% of all political constituencies in Jamaica. Yet in 2005 these constituencies (along with the urban areas of St James) accounted for 79% of the murders in Jamaica. ("Road Map to a Safe and Secure Jamaica", May 2006, page 28.)

<sup>20</sup> According to the Planning Institute of Jamaica's survey of living conditions, poverty levels fell from 30.5 per cent of people living in poverty in 1989 to 16.8 per cent in 2001 (Henry-Lee Aldrie, "The Nature of Poverty in the garrison constituencies in Jamaica", *Environment and Urbanization Journal*, 2005 17,83).

<sup>21</sup> Henry-Lee Aldrie, "The Nature of Poverty in the garrison constituencies in Jamaica", *Environment and Urbanization Journal*, 2005 17,83.

housing were also concerns, especially for those living in houses built of zinc or where the roof had been destroyed by Hurricane Dean in August 2007.

Many people living in poverty in these communities link violence with deprivation, describing how frustration and the feeling of hopelessness fuel violence. Many also say that those communities that openly support the political party in power receive more social intervention than others; creating tensions and large disparities between adjacent communities.

The failure of the authorities to ensure the minimum essential levels of adequate food and housing or access to employment, education and health services, means people are forced to turn to gang leaders for everything from work, to money to pay for schooling to transport to a hospital or help with paying for medicines. Sometimes state social intervention can end up being controlled by gang leaders. In this situation people living in an excluded community are forced to show loyalty to gang leaders.

### *The political roots of violence*

Political violence has been a consistent feature of Jamaican party politics. Since the introduction of adult suffrage in 1944, two political parties have dominated the political landscape – the PNP and the Jamaica Labour Party (JLP). Historical accounts suggest that street violence with sticks and stones had been used by both political parties in the late colonial period to assure votes. However, after independence in 1962, and particularly during the 1970s, the involvement of organized armed gangs in the political process became entrenched and sticks and stones gave way to semi-automatic weapons.

According to political analysts, long-term political violence required the empowerment of strong (and violent) armed leaders who would enforce the political agenda in each community and help create garrison communities through violence and intimidation.

**“A garrison, as the name suggests, is a political stronghold, a veritable fortress completely controlled by a party. At one level a garrison community can be described as one in which anyone who seeks to oppose, raise opposition to or organize against the dominant party would definitely be in danger of suffering serious damage to their possessions or person thus making continued residence in the area extremely difficult if not impossible. Any significant social, political, economic or cultural development within the**

**garrison can only take place with the tacit approval of the leadership (whether local or national) of the dominant party.”<sup>22</sup>**

The garrison phenomenon, and the political culture that it represents, created high levels of violence in these communities. Adjacent communities also suffer because of confrontations between rival gangs from different garrisons vying for control.<sup>23</sup> Political violence reached a peak in the 1980 elections when around 800 people were killed in clashes between rival groups. Although the then Police Commissioner, among others, expressed concerns before the September 2007 national elections that there would be violent clashes, the violence did not reach the levels feared.

**“My home was shot up two nights after this election day. One man was shot seven times in the same yard, beside my house. They kicked my door open. My mother was in the room and they couldn't get her door open so they fired four shots through the window. My mother was in there with two of my kids. No one was hurt because they went on the ground. It was for political reasons. Their side lost in our community.”**

Woman living in a garrison community in Kingston referring to 2007 general elections, October 2007

**“I didn't feel safe during election time. The night when the election call I couldn't sleep. I cried all night, listening to the police firing the gunshots and the following morning the youths picked up 117 spent shells in a bucket. There was no peace those days.”**

Young woman from a garrison community in Kingston referring to 2007 general elections, October 2007

Criminologists argue that the growth of garrison communities has been one of the key factors in the development of crime and violence in Jamaica.<sup>24</sup> Some argue that crime and violence cannot be understood in Jamaica without reference to politics.<sup>25</sup> The problem is so widespread and its consequences so damaging that in 1997 a broad-based National Committee on Political Tribalism was appointed by then Prime Minister P.J. Patterson to consider practical steps to reduce political tensions and violence.

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<sup>22</sup> Mark Figueroa & Amanda Sives, “Garrison Politics and Criminality in Jamaica: Does the 1997 elections represent a turning point?”, in *Understanding Crime in Jamaica: New Challenges for Public Policy*, Anthony Harriot Ed., University of the West Indies, 2003.

<sup>23</sup> *Report of the National Committee on Political Tribalism*, July 1997, para.34.

<sup>24</sup> Mark Figueroa & Amanda Sives, “Garrison Politics and Criminality in Jamaica: Does the 1997 elections represent a turning point?”, in *Understanding Crime in Jamaica: New Challenges for Public Policy*, Anthony Harriot Ed., University of the West Indies, 2003.

<sup>25</sup> Anthony Harriot, “Editors Overview”, *Understanding Crime in Jamaica: New Challenges for public policy*, University of the West Indies, 2003.

**"[I]t is beyond debate that party politics was the cradle for factional conflicts, that the political clashes of the late 1960s, particularly in the election period of 1967, ushered in the era of firearm offences against the person and that party politics remain a major cause."**

Report of the National Committee on Political Tribalism, July 1997, para. 44

Between elections the gangs that run garrison communities are able to profit from their control of government contracts and extortion/protection rackets, among other, often illegal, activities. However, according to the National Committee on Political Tribalism "political protection insulates them from the reach of the security forces".<sup>26</sup> Thus, they are able to decide over the life and death of inner-city community inhabitants with impunity.

The Committee also noted that "many politicians have benefited from the unrest and displacement that are features of communities with high levels of unemployment, a proliferation of unskilled and virtually unemployable youth and pervasive poverty".<sup>27</sup>

Murder and violent crime are increasingly committed with guns. According to official data, in the 1990s 50 per cent of homicides were committed with guns. This rose to 61 per cent in 2000 and around 75 per cent in 2005.<sup>28</sup>

In 1974 Jamaica criminalized the ownership of guns without a licence. However, sanctions to prevent the illicit trade in arms remained weak and ineffective. In July 2005, parliament passed the Fire Arms Act which introduced harsher penalties for the misuse of guns, and an independent body for the issuing of firearms licenses.

Despite these important developments, the Jamaican government has not adequately addressed arms control. Only a minority of arms used to commit violence is believed to be registered. Most guns enter the country illegally from North, Central and South America, often as partial payment for drug shipments.<sup>29</sup> Once inside the country, guns are harder to retrieve. Although 683 weapons were seized in 2005, this figure is thought to represent merely the tip of the iceberg.<sup>30</sup>

Arms control, particularly in a country such as Jamaica which does not manufacture or produce its own guns, is not only the responsibility of individual states: it is a global

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<sup>26</sup> *Report of the National Committee on Political Tribalism*, July 1997, para.36, citing Dr Barry Chevannes.

<sup>27</sup> *Report of the National Committee on Political Tribalism*, July 1997, para. 66.

<sup>28</sup> Information provided by the Office of the Police Commissioner (on file with Amnesty International).

<sup>29</sup> Statement by Jamaica's representative to the First Biennial Meeting of States on the Implementation of the Program of Action of the 2001 United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects, New York, 7 July 2003.

<sup>30</sup> Janice Miller, Jamaica's representative to the UN Preparatory Committee for Review Conference on Illicit Small Arms Trade, New York, 11 January 2006.

problem. At the UN Small Arms conference in January 2006, the Jamaican representative made this point when she urged the international community to adopt a legally binding instrument on the marking and tracing of illicit small arms and weapons.<sup>31</sup> In December 2006, Jamaica was among 153 governments who agreed on the need for an international arms trade treaty to set common standards on the import, export and transfer of weapons and voted in favour of UN General Assembly Resolution 61/89, Towards an Arms Trade Treaty.

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<sup>31</sup> Statement of Janice Miller, Jamaica's representative to the UN Preparatory Committee for Review Conference on Illicit Small Arms Trade, New York, 11 January 2006.

## CHAPTER 3: LIVING WITH VIOLENCE IN THE INNER-CITY

The Jamaican state's failure to protect and respect human rights has had devastating consequences for socially excluded communities. Residents are trapped between high levels of violent crime by criminal gangs and repression and mistreatment by a police force which should be protecting them.

"The person that the gang wanted lived over to the side and they wanted him to take side with them and he denied because we wanted the community to be one. So because he didn't take side they burnt down his house, destroyed everything he had, he backed off and they came back and murdered his son and his mother."

Young men from an inner-city community in Kingston, October 2007

"If you have a gun you are not safe because bad men attack men who they know have a gun. If you don't have a gun you are still not safe, because anyone can come and kill you, including the police. And even if you didn't do anything you are not safe, because if someone close to you did something to the gangs and they can not find him they will come and find you: 'If you caan ketch quacko yuh ketch im shut' [for 'if you can't catch someone you catch the person closest to him]."

Woman from a garrison community, Kingston, October 2007

Violence in these communities is flourishing against a backdrop of disparities in access to economic and social rights, political violence and corruption. National homicide rates have risen fairly consistently since independence. However, increased levels of violence have been largely concentrated in areas of social exclusion underlining the state's failure to ensure the effective security of residents.

"Andrew was a footballer and the father of my baby. He went to his bed in the night and they shot him dead in the bed, him and another guy in the same house. He had nothing to do with the war or the gangs. But on the other side of the community shots were fired and a little feud kicked off. The same youths from that side left and came on our side seeking help and refuge and they got it. So around 35 to 40 armed men went by to our community to catch the guys hiding. They couldn't find them so they killed my baby's father to make a point. That started a war between up that side and down the other side, so that's where the feud is coming from."

Young woman from an inner-city community in Kingston, October 2007

People living in poverty in socially excluded inner-city communities are more likely to be the victims of violent crime. According to a recent UN report, poorer households are more at risk of all violent crime and are at greater risk of murder and wounding.<sup>32</sup> The report also found that those living in communities with lower levels of educational attainment were more likely to be victims of all crimes.<sup>33</sup>

Most of those who spoke to Amnesty International identified gang warfare and policing methods as the main sources of violence.<sup>34</sup> Gangs generate income from a variety of illicit activities<sup>35</sup> and gang members are invariably well armed, sometimes more so than the police. While many communities say that gang violence is usually targeted, Amnesty International also heard many accounts of widespread destruction of property, robbery, violence against women, children and the elderly, and constant intimidation in some communities.

"I live on an inner city in east Kingston and there was this guy, he spends his time studying his bible, read and thing like that. I was at home me and my kids, in the night I heard someone come and hit on my door, I asked who it was and no one answered. I heard them trying to hit off the door. They came in and held a gun on me and my baby and kept on saying that they were going to murder my baby and I told them that they can't do that because we have done nothing to them. They then went next door, to the "bible guy", they went to his house and broke into his house. He had to run, all cut up himself. He ran straight to the police station and that's how he saved himself. An elderly lady next door, they did the same thing to her, put her out with her grandchildren, they have nowhere to live. They had to move around. They just decided that we all had to move because they wanted the houses were we lived and it's not theirs. We have lived there for years. It's like them just 'badmind', they just start fighting against us."

Young woman living in an inner city in Kingston, October 2007.

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<sup>32</sup> UN Office on Drugs and Crime and the Latin America and the Caribbean Region of the World Bank, Report No. 37820, *Crime, Violence and Development: Trends, Costs and Policy Options in the Caribbean*, March 2007, p.35.

<sup>33</sup> UN Office on Drugs and Crime and the Latin America and the Caribbean Region of the World Bank, Report No. 37820, *Crime, Violence and Development: Trends, Costs and Policy Options in the Caribbean*, March 2007, p.38.

<sup>34</sup> A study conducted by the World Bank in 1995 stated that four out of the five communities studied perceived gang violence as the most serious type of violence. (Caroline Moser and Jeremy Holland, Jeremy, *Urban Poverty and Violence in Jamaica*, World Bank Latin America and Caribbean Studies, February 1997, p.15.)

<sup>35</sup> A Government study stated that the financial resources of gangs come primarily from extortion, drug smuggling and remittances from overseas-based members and supporters. (*National Security Policy for Jamaica: Towards a Secure and Prosperous Nation*, 2007, page 12; Government of Jamaica).

The worst violence is reported during times when rival gangs within a community or in adjacent neighbourhoods are competing over territorial control, which is referred to by communities as "the war". At such times of heightened confrontation, the entire population can be held hostage, shut down by barricades and unable to leave their homes after 5pm, the time when shooting starts.

Children cannot go out to play and are often prevented from attending school, either because the schools are closed or because it is too dangerous for either pupils or teachers to attend. Often children are so traumatized by the violence that even if schools are still functioning, they are sometimes just too frightened to leave home.

People working outside the community have problems getting to work as public and private transport has to be suspended because of the violence. Reaching a health clinic can also be difficult, particularly if the closest one is in the "enemy" community.

"When the 'war' was happening we couldn't drink clean water because we needed to go to the next community to pick up the clean water from the tanks, but we couldn't cross to that section because it was too dangerous, the gang there saw anyone coming from this community as a threat to them... At night we had to sleep on the floor, all of us, the children the Grandma, all of us; covered by the mattress because sometimes the shots can go through the house and kill us."

Woman from an inner-city community, Kingston, October 2007.

Young men and boys are, without doubt, at greatest risk of gun violence. Boys as young as 12 are targeted by gang members trying to recruit them. They are asked to carry out small tasks which they cannot refuse for fear of reprisals against themselves or their families.

One woman told Amnesty International that her neighbour's 12-year-old son was sent by a gang to another community, carrying a gun. The boy was robbed on his way there and he knew he was going to be killed if he came back without the gun and without the money, so he ran away. The mother was killed the following morning.

Women in these communities also experience high levels of violence.<sup>36</sup> Many women told Amnesty International that if a gang member wanted to have sex with a woman she had no choice as refusal could result in punishment for herself and her entire family. In many cases, young women are also used as messengers or to send goods from one gang to the other. Many women have to raise their children alone since the fathers are on the run or

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<sup>36</sup> See Amnesty International, *Sexual violence against women and girls in Jamaica: "Just a little sex"* (AMR 38/002/2006).



have been killed in gang violence. If gang members cannot find the person they are looking for, sometimes the closest relative is killed, to teach the rest of the community a lesson.

“Our community was just quiet, no gun shot or anything. But we woke up on Friday and heard five people died, we were all in shock. They [the gang] came over and murdered a four-month-old baby, an innocent lady and an innocent guy. We don't even know them, people who leave home to work and back. And they could have killed a lot more people at the time. Hours later, a 70 year old lady was bringing her little grandson to school. While she was waiting they placed her hand in execution style, shot her in the head and killed her. The little boy, when he saw what happened, he ran under the house bottom and they pulled him out, placed the gun in his head and killed him... Nobody really thought that the first family would have gotten in a feud; they just lived close to the wrong people. They were easier to catch. It's the case of not being able to catch someone so you shot a friend. The lady and her grandson it was reprisal, her son was one of the key masterminds behind the killing of the first family, so they went to take revenge.”

Young man from an inner-city community in Kingston, October 2007.

The intensity and nature of gang violence vary from community to community, depending, for example, on the size of the gangs, the number of gangs operating in the community and the relative strength of the main gang. However core gang members are usually a handful of young men, who control almost every aspect of the lives of the rest of the community. The methods of control are violence and intimidation, but also providing protection and welfare services in communities that have been largely abandoned by the state. The communities in which gang rule is most pervasive and entrenched are the garrison communities.

### *Garrison communities: 'a state within a state'*

“The hard core garrison communities exhibit an element of autonomy in that they are a state within a state. The Jamaican State has no authority or power, except in as far as its forces are able to invade in the form of police and military raids. In the core garrison disputes have been settled, matters tried, offenders sentenced and punished, all without reference to the institutions of the Jamaican State... entry and exit to and from garrisons communities are controlled by gang leaders who have close relationships with the constituency Member of Parliament, get preferential access to contracts and jobs and function as key elements of the local level political leadership in both parties in the inner city poor areas.”

Report of the National Committee on Political Tribalism, July 1997, para.33

To those living in garrison communities, it seems as if the state has effectively abandoned them, creating a vacuum which has been filled by the leaders of criminal gangs or "dons".<sup>37</sup>

"We don't know who make the rules, we just came and saw them. There are rules like, 'you can't fire at a man unless he fires at you first'. When someone breaks the rule, the 'big man' makes sure that person gets what he deserves. He finds you and tells you what you shouldn't be doing. It's just something everyone knows, so you know what will happen and what won't, you know exactly how to deal with it. If you do something very bad you will be eliminated."

Young man from an inner-city community in Kingston, October 2007.

One of the rules that is consistent across every community is "informer fi dead". If a gang member knows that someone went to the police and gave them some information about gang activities in the community, that person is considered an "informer" and will be killed. The "code of silence" in garrison communities is enforced by fear, but it is also sustained by a deep distrust of the police's integrity and a lack of confidence that the justice system will bring gang members to justice.

### *Fighting violence with violence*

"The JCF, being an export of the Royal Ulster Constabulary in the United Kingdom, which was designed to put up riots and insurrections, was like a paramilitary organization which fights violence with superior violence."

Commissioner of Police, Rear Admiral Hardley Lewin<sup>38</sup>

Police officers are empowered to use legitimate force and, given the violence of the contexts in which they often operate, this will sometimes involve the use of firearms. International standards set out when use of force by law enforcement officials is legitimate.

Effective policing is a key element in providing human security<sup>39</sup>. The JCF is the main body responsible for policing in Jamaica and is empowered to use legitimate use of force

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<sup>37</sup> The researchers for a government study viewed the emergence of "area leaders" as resulting from the failure of the community and politicians to provide basic necessities. (Government of Jamaica, *National Security Policy for Jamaica: Towards a Secure & Prosperous Nation*, May 2006, Chapter II, quoting *Gang Study: The Jamaican Crime Scene*, Ministry of National Security, 1998.) Many people interviewed by Amnesty International agreed with this analysis.

<sup>38</sup> *Jamaica Gleaner*, "Station shutdown – Police chief to reallocate resources, rein in corruption", 21 December 2007.

in carrying out its duties. International human rights law sets out standards on how police powers can be used legitimately. These recognize that police perform an important social function, sometimes in dangerous situations.

The UN Code of Conduct for Law Enforcement Officials (UN Code of Conduct) and the Basic Principles on the use of Force and Firearms by Law Enforcement Officials (Basic Principles) are the main standards covering the use of force and firearms by police, many of which have been integrated into the JCF's internal regulations.<sup>40</sup> International standards state that firearms are to be used only when less extreme measures are insufficient and only when strictly unavoidable in order to protect human life. Officers should be guided at all times by the principles of necessity and proportionality when using force. Every effort should be made to apprehend rather than kill and lethal force must never be used as an alternative to arrest.

However, in Jamaica the fact that criminal gangs are heavily armed is often used as an excuse for excessive use of force by some members of the JCF. (See Chapter 4.)

**"They killed my child. What did my child do to the system? My child did nothing to hurt anyone. Why did they kill my child? Who are they? Why are they going around deciding people's lives?"**

Angela Hutchinson, mother of Ravin Thompson, a victim of police violence, October 2007.

**"The youths hide from police, because they will say 'don't run from police if you have nothing to hide'; but when you do that, you will sit and die"**

Community peace-maker, inner-city West Kingston, October 2007.

Policing can be a high risk profession in Jamaica. Killings of police officers have reportedly increased in recent years.<sup>41</sup> According to media reports, in 2007 alone, 20

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<sup>39</sup> To respect, protect and fulfil the human rights to life, integrity, security and dignity of all the people living under its jurisdiction, the Jamaican State has the obligation to provide security to its population, but not any type of security, a security that is capable of protecting people's human rights. "Human security" encompasses a broader definition of security that places freedom from pervasive threats to human rights at the centre of the security analysis and the human person at the centre of the security debate. Due to the indivisibility of human rights, this means that effective security can only be guaranteed when people are safe from criminal and police violence, from hunger, disease and inadequate housing.

<sup>40</sup> The JCF's "Human Rights and Police Use of Force and Firearms Policy" incorporates principal international human rights standards into the use of force and firearms.

<sup>41</sup> Amnesty International could not get official numbers of police officers killed, their circumstances and the result of investigations into these murders. According to media reports, 20 police officers were killed in 2007, 10 in 2006 and 13 in 2005. However those figures do not reveal how many officers were killed in the line of duty or during so-called confrontations with gangs in communities.

officers were killed. For example, on 1 October 2007 gunmen shot dead 37-year-old Constable Richard King whilst on patrol in Orange Street in downtown Kingston.<sup>42</sup>

In December 2007 the JCF received information stating that a well-known gang in the St James parish had compiled a hit list of police officers who were to be targeted in reprisal for the death of a gang leader in June.<sup>43</sup> The threat was particularly worrying as similar reprisal killings had been carried out in the past. In May 2005 for example, two gang members led an assault against police officers which left three officers and a security guard dead and another officer shot and injured. The attack was allegedly carried out in reprisal for the killing of a former Tivoli Gardens gang leader by the security forces a month earlier.<sup>44</sup> On 15 January 2008, a police constable and a Jamaica Defence Force soldier were shot and injured during what the police described as a shoot-out with gunmen in Tivoli Gardens.<sup>45</sup> The fact that gangs are heavily armed is not controversial. However, this fact is too often used as an excuse for excessive use of force by some members of the JCF.

On the evening of Friday 27 July 2007, 18-year-old Ravin Thompson went to visit his aunt, Pinky, who lives in inner-city Kingston. The street was full of people. Around 9pm, he was standing by the gate of his aunt's yard, chatting with her and his pregnant cousin, when two jeeps with four soldiers and one police officer in each arrived. The officers tried to stop a young man who was walking on the street, but he started to run away. Officers opened fire. Since Pinky's gate was open, the young man decided to run into her gate. He escaped unharmed, but Ravin Thompson was shot in the shoulder and arm by the officers.

Pinky asked the officers to take him to the closest hospital. She insisted on going with him in the jeep to make sure he arrived at the hospital safely. She was holding him in her arms in the jeep; he was scared but conscious and was talking to her. She described how he told her, "don't worry aunty, I am going to be alright". Minutes later, still on the road, Pinky says a soldier pushed her out of the jeep. She went back to her neighborhood to get help. When she arrived at the public hospital, Ravin Thompson was dead. According to the autopsy, he had four gunshot wounds. One gunshot wound was in the left-hand side of his face, which according to the official autopsy fractured his neck. He had another gunshot wound in his chin which travelled through the brain.

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<sup>42</sup> *Jamaica Observer*, "Cop, soldier killed", 1 October 2007.

<sup>43</sup> *Jamaica Observer*. "Gang Has Police Hit List – Constabulary On High Alert In St James", 10 December 2007.

<sup>44</sup> *Jamaica Gleaner*, "Brazen attacks: Three cops, two guards slaughtered", 5 May 2005; and "Marked for death? - Another policeman killed by gunmen", 13 May 2005.

<sup>45</sup> *Jamaica Observer*, "Police on high alert for reprisals after deadly Tivoli raid", 15 January 2008.

Pinky and the rest of her family and friends present at the shooting have stated that they are certain he was only injured in the arm and shoulder when he left the house and that he was murdered in the jeep, before arriving at the hospital. The police recorded the incident as a shoot-out. The Police Public Complaints Authority (PPCA) and the Bureau of Special Investigations (BSI) initiated investigations. At the time of writing no officer had been charged in connection with Ravin Thompson's death.

Police abuses and lack of accountability have been documented by national and international NGOs for the last 30 years. During research conducted by Amnesty International in 2000 in inner-city communities, people described the police not as protectors from crime but as a force to be feared, almost akin to an occupying force.<sup>46</sup> Although changes have taken place since then, the pattern of excessive use of force and lack of accountability continues. The average number of victims of police killings per year has increased (see table 1). Between 2000 and 2007 1,422 people were killed by police and a further 1,115 injured.<sup>47</sup>

In many of these killings lethal force may have been used according to international standards. However, Amnesty International has access to extensive evidence of killings described as shoot-outs that did not occur in confrontations but in circumstances suggesting excessive use of force or extrajudicial execution by the police.<sup>48</sup> In the overwhelming majority of cases documented by Amnesty International and in those featured in the media, the victims are from socially excluded inner-city communities.<sup>49</sup>

19-year-old André Thomas was stopped in early September 2007 in the inner-city community of Grants Pen by four police officers. He was wearing a button (badge) carrying the picture of a friend who was killed by gang members. When the officers saw the button they reportedly said "you wearing your friend's button. Your friends will soon be wearing yours".

On 29 September 2007, at around 1am André Thomas was shot in the leg and hand by police officers. He was placed in the police car to be taken to

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<sup>46</sup> Amnesty International, *Jamaica Killings and Violence by Police; How many more victims?*, April 2001, [AMR 38/003/2001]

<sup>47</sup> Source: Bureau of Special Investigations -BSI- (on file with Amnesty International).

<sup>48</sup> Many cases have been documented by Jamaican NGOs, particularly Jamaicans for Justice, Families Against State Terrorism and the Independent Jamaican Council for Human Rights (see for example *"Killing Impunity: Fatal Police Shootings and Extrajudicial Executions in Jamaica: 2005-2007"*, prepared by Jamaicans for Justice and International Human Rights Clinic of The George Washington University School of Law for submission to the Inter-American Commission on Human Rights, February 2008). Amnesty International also interviewed victims' families and had access to files of many of the cases. Finally, the media usually document cases of people killed by the police.

<sup>49</sup> This conclusion is based on the cases documented by Amnesty International over the years, those documented by Jamaicans NGOs and media reports.

the hospital. He told his father that he didn't want to go alone because he was scared. His father said he was prevented from getting into the police car and when he arrived at the public hospital, he was told that his son had died. The doctor explained that he had wounds all over his body: in his leg, in his hand, in his abdomen, in his stomach and one in his back. André Thomas' father believes his son was murdered in the police car on the way to the hospital.

Residents of Grants Pen held demonstrations to protest about what they identified as an extrajudicial execution. Grants Pen has a pilot community policing project with a community policing centre inside the community. The four police officers involved were not from the centre but were often seen in the community. According to local human rights NGOs, several complaints of ill-treatment had been made in recent years against one of the officers allegedly involved, but no action had been taken.

The officers' account of the incident stated that they were on patrol in the Grants Pen community when they saw a group of men acting suspiciously. When they approached the young men, one of them pointed a firearm at them. They took evasive action and opened fire, hitting one of the young men. According to the officers, a Raven .25 automatic pistol with the serial number erased and a magazine containing five .25 cartridges was found in André Thomas' possession.

André Thomas' father said that a week after the shooting he too was threatened by four police officers: "you are going to die and when you dead you would know who kill you".

The officers involved in André Thomas' killing, did not report to their superiors until four days after the incident. The police jeep used in the operation was also missing for four days. There were allegations in the media that the police jeep was taken to a private garage to be repaired. When the officers finally reported to their superiors, they were charged with attempting to pervert the course of justice and released on bail on 8 October. In December 2007, four officers were charged with murder in the Half-Way Tree Criminal Court. The trial was pending at the time of writing.

André Thomas' case is unique only in the fact that it was rapidly investigated and the officers responsible were charged with murder. Of the 1,422 cases of people killed by the police between 2000 and 2007 only one police officer was so far found guilty of murder.<sup>50</sup>

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<sup>50</sup> See chapter 4: Impunity for police killings.

Many killings by police take place in disputed circumstances. The authorities acknowledge that law enforcement officials carry out the killings, but assert that they are justified. In almost every case where someone is killed by police, the official explanation follows a very similar pattern. Typically, this states that a police patrol came across men acting suspiciously who, when challenged, produced firearms and opened fire on the officers. Police then returned fire, killing one or more of the men, while others escaped.

The credibility of these accounts is undermined by their remarkable uniformity and the many cases in which they are disputed by eyewitness accounts which describe that victims were killed although they posed no risk to human life. In many cases, victims were killed in their beds, casting serious doubt on the extent to which they may have been posing a threat to officers or others.

The fact that almost every police shooting results in a fatality raises further doubts about the credibility of official explanations. In many cases forensic evidence also contradicts assertions that the person died in a shoot-out. For example, in some cases autopsies reveal that victims were shot in the head at short range (execution style) and that their hands bore no traces of gunpowder, indicating that they were unlikely to have fired a weapon. Sometimes victims were threatened by police officers before they were killed.

Amnesty International's research over the years has revealed numerous cases where the evidence overwhelmingly indicates that those killed were victims of extrajudicial executions. In many of these cases, there is a persistent pattern in the way in which deadly force is used, the attempts to cover up evidence, the "code of silence" among the security forces, and the absence of prompt, thorough and effective investigations.<sup>51</sup>

**Table 1**

Year	2000	2001	2002	2003	2004	2005	2006	2007	TOTAL
People killed by the police	149	157	154	128	131	202	229	272	1422
People injured by the police	131	122	158	138	139	130	144	153	1115

Source: Bureau of Special Investigations.

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<sup>51</sup> See for example Amnesty International, *Jamaica Killings and Violence by Police; How many more victims?*, April 2001, [AMR 38/003/2001] and Amnesty International, *Jamaica: the killing of the Braeton Seven – A justice system on trial*, March 2003, [AMR 38/005/2003].

### *The stigma of belonging to an inner-city community*

"If a policeman comes within my community he sees every person as a gunman, a thief, always doing something wrong. There is nowhere in Jamaica other than in the inner-city that a police come and kick your door, barge in your house, start to search and when you look, he will come up with a gun that you knew nothing about and he carry all, your grandfather, everyone to jail. I am not saying there is no crime and persons of a criminal intent within the community but you can't barge in like that trying to police. If you do, who is going to police the good law abiding citizens in the community?"

Woman from inner-city Kingston, October 2007.

Although gang members make up only a small proportion of the inhabitants of inner-city communities, the stigma that is attached to the community is not confined to those involved in gangs or crime. People living in poverty in socially excluded neighbourhoods report that their entire community encounters strong and entrenched prejudice from the security forces and society as a whole. For example, many people living in the inner-cities find it impossible to get a job outside their communities because as soon as they are asked their address in a job interview, they are told that they are not qualified for the position because they live in a "violent area".

Many people referred to the fact that there are "good cops and bad cops" and that some police officers were trying hard to do their job and protect people and were keen to work with them to combat crime.

However, many people also report that some police officers treat every person in the inner-city as a criminal. Almost everyone described to Amnesty International experiences of persistent police abuses and violence and general lack of respect for their communities. People described how police destroyed their stalls and the goods they were selling, their sole source of income. One woman told Amnesty International that once when she heard some shots she called the police. She was at home with her three children; they were all terrified. When the police arrived, they kicked in the door, forced their way in, threw everybody on the floor and searched the house before even talking to her. Neighbours reported similar experiences.

"Instead of them seeing your situation and encourage you to get help and go back to school they [the police] disrespect you... And if they can handle me that way, then I can handle any member of my community in the same way. They are not setting an example to serve."

Community peace worker from a garrison community, West Kingston, October 2007



One recent American documentary shows a group of police officers referred to people living in the inner-city as “volatile people that can become criminals in any moment”. One Superintendent of the JCF was quoted in a newspaper as saying: “No police, no army, no government can solve murder like this one because it is cronies killing cronies and we know that it is almost like dogs eating dogs.”<sup>52</sup> Many social workers in communities reported similar experiences. They are frequently subjected to questioning by police officers and even politicians and told that their work is useless and that they should “let them kill each other”.

**“The police are not community police anymore. When I was younger, any problems the first people you would run to is the police. Now, if you walking and you see a gunman or a police, you would be safer with the gunman.”**

Woman from an inner-city community, Kingston

The feeling of distrust and disrespect is so widespread that many people in the inner-cities fear the police, more than they fear criminal gangs which dominate their communities. The government has recognized that the: “illegal imposition of the State’s power and authority over its citizens, including the application of physical and moral abuse, constitutes a threat to good order and governance. This malaise can lead to serious alienation of, and disrespect for not only law enforcement agencies, but also the Government itself.”<sup>53</sup>

**“These intelligent criminals are evil, they are well learned persons, so they will manipulate the youths on the corner, they will touch on their softer side. If the police will treat us with respect and we feel we can trust them, collectively the community persons with the help of the police could get rid of them. Together we can make the gunmen afraid to come out instead of us being afraid of the gunmen and of the police.”**

Community peace worker from a garrison community in West Kingston, October 2007.

The widespread prejudice and violence which people in inner-city communities experience together with the pattern of police abuses and killings intensifies exclusion, violence and distrust in state institutions.<sup>54</sup> One community worker explained that in his experience police disrespect and brutality often pushes people into joining gangs because they feel they have a duty to organize protection for themselves and their

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<sup>52</sup> *Jamaica Gleaner*, “Brazen brutes! – Gunmen kill 47 in 7 days”, 5 December 2007.

<sup>53</sup> Government of Jamaica, *National Security Policy for Jamaica: Towards a Secure & Prosperous Nation*, May 2006, Chapter 2.2.

<sup>54</sup> In an official report, the Government of Jamaica recognized that “over the decades, the police-community relationship has broken down and an unhealthy mutual distrust prevails, with the frequent cry of ‘we want justice’ coming from citizens. The increased frequency of mob killings is indicative of the worrying lack of trust or confidence in our justice system and respect for the law.” Government of Jamaica, *National Security Policy for Jamaica: Towards a Secure & Prosperous Nation*. Executive Summary.

communities against police abuses. This was recently recognized by the Jamaican government.

“Abusive behavior and the use of excessive force by members of the police and the military... have contributed to a growing sense of alienation among some persons in the society who feel they are being denied justice. As a result, parallel systems of ‘justice’ have evolved with the assent of the “dons” and informal “area leaders”, as well as vigilante justice and arbitrary community enforcement.”

Government of Jamaica, National Security Policy for Jamaica: Towards a Secure & Prosperous Nation, May 2006, Chapter 2.2

The prejudice which underlies police hostility to inner-city communities appears to have been reinforced by official attitudes and statements. The government has blamed the high levels of violence concentrated in these communities to a “*culture of violence in the inner-city communities*”.<sup>55</sup> The view of people living in poverty as uneducated and violent and needing to be ruled by force or “civilized” for the good of the country was widespread among public servants and politicians interviewed by Amnesty International. It is true that a generation has grown up in these socially excluded inner-cities knowing only a world encircled by criminal and police violence. However, official statements and practices that reinforce and condone popular stereotypes and social exclusion as well as stigmatization of the poor are only making things worse.

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<sup>55</sup> See for example *National Security Policy for Jamaica: Towards a Secure and Prosperous Nation*, 2007 (Government of Jamaica); *A Better Way for a better Jamaica*, 2007 (Jamaica Labour Party Manifesto); *Shaping the future together on course to the quality society*, 2007 (People's National Party Manifesto); *Road Map to a Safe and Secure Jamaica*, May 2006 (Report of the Special Task Force on Crime Convened By the Leader of the Opposition Mr. Bruce Golding, today Prime Minister).

## CHAPTER 4: THE FAILURE TO PROVIDE SECURITY

The Jamaican state has an obligation to respect, protect and fulfil the human rights to life, integrity, security and dignity of all people living under its jurisdiction.<sup>56</sup> International human rights law requires that the authorities not abuse their powers and actively protect people's rights.

People living in socially excluded communities riven by violence and poverty have been denied security by the state. The Jamaican authorities have failed to exercise due diligence in dealing with violence by armed gangs on the one hand, and to hold to account law enforcement officials who commit human rights violations on the other. In addition, some officers participate in or tolerate illegal practices that encourage violence, such as corruption and organized crime. Some elected public officials rely on perpetrators of organized crime to gain electoral support. Widespread impunity for these abuses creates a situation which facilitates human rights violations. All of these factors have contributed to the present crisis in public security<sup>57</sup>, undermining trust in state institutions among socially excluded Jamaicans.

The lack of public confidence in Jamaica's law enforcement force is acknowledged by some senior members of the force as well as government ministers. Yet, insufficient progress has been made on implementing reforms, improving transparency and purging the force of corruption and those who abuse power and commit human rights violations. The reasons for this are partly revealed in the following account given by a police officer.

"I enlisted in the Jamaica Constabulary Force in the 1980s, and from as early as training school, we were taught to adhere to the *esprit de corps* code, where no matter what a member of our training squad did we were not expected to pass information on to our superiors. We were actually told that they did not like persons that gave them information on others... Any member of a squad that decided to stand up for discipline and refused to support the breaking of the rules would be isolated... We were told that the things we are taught in training would not always correspond with the occurrences in the real world. Therefore, the simulation exercises became irrelevant and were just done to enhance our chances of getting better pass

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<sup>56</sup>Jamaica is party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the American Convention of Human Rights, among other human rights treaties. All these instruments create international obligations for the Jamaican state to respect, protect and fulfil the right to life, integrity, security and dignity of the person.

<sup>57</sup> Public security refers to state policies and practices to provide human security to its population. This is done mainly through law enforcement agencies like the police, but also through state agencies responsible for housing, education, welfare and so on.

marks in our exams...I have been a part of a number of these 'shoot-outs', and have had to corroborate the lies, knowing innocent lives were taken. On other occasions, firearms are found, not handed over, but instead kept as 'sweetie' - guns given to unarmed victims in police shootings. After one of these fatal shootings, a disagreement with my superior officer saw me being placed back in uniform. Shortly after, I was temporarily assigned to the traffic department."

Police Officer, *Jamaica Sunday Gleaner*, "Police officer comes clean", 24 December 2006

### ***Excessive use of force and impunity***

The authorities have an obligation under international law to respect and protect the right to life. The JCF and the JDF when policing, must comply with international standards (see Chapter 6). However, in their deployment of lethal force, some police officers in Jamaica regularly flout these standards, as well as national regulations.

As some of the cases in this report show, evidence suggests a pattern of excessive use of force by the JCF. More than 10 per cent of people killed in Jamaica during 2005 were killed by the police.<sup>58</sup> In 2006, even though the murder rate decreased (from 69 to 58 per 100,000 residents) the rate of fatal shootings by the police increased, representing more than 14 per cent of the total.<sup>59</sup> In 2007, police killings represented more than 15 per cent of the total.<sup>60</sup> Given that the police are required to minimize damage and injury and above all respect and preserve human life, it is usually expected that more people would be injured than killed during policing operations. In Jamaica, however, in seven years (2000-2007) the JCF killed 1,422 people and injured 1,115.

Evidence strongly suggests that in some of those cases the unlawful use of force by some members of the security forces resulted in extrajudicial executions. Following her visit to Jamaica in February 2003, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions stated that:

**"it was the Special Rapporteur's distinct impression that extrajudicial executions by the police, and possibly in a very few cases also Jamaican**

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<sup>58</sup> According to data provided by the JCF, 1,674 people were murdered during 2005. In the same year, the JCF killed 202 people (on file with Amnesty International).

<sup>59</sup> According to data provided by the Office of the Commissioner of Police, 1,355 people were victims of criminal murder during 2006. According to the BSI, 229 people were killed by the police in the same year (on file with Amnesty International).

<sup>60</sup> According to media reports, in 2007 around 1,500 people were victims of criminal murder. According to data provided by the BSI, 272 people were killed by the police in the same period (on file with Amnesty International).

Defence Forces, had in fact taken place... In some incidents the security forces appeared to have used direct, deliberate and excessive use of force without any provocation, resulting in the death of individuals".<sup>61</sup>

The Jamaican authorities have an obligation to take reasonable steps to prevent unlawful killings by law enforcement officials and to investigate such violations when they occur. If the authorities fail to conduct an impartial and effective investigation, this failure adds to the presumption that a killing was committed with government acquiescence, amounting to an extrajudicial execution.

### **Inadequate investigations**

Investigations into cases of fatal shootings in disputed circumstances by members of the police are wholly inadequate. They are compromised by a number of flaws and obstacles, including destruction or damage to evidence at the scene of the crime, a lack of resources (especially forensic and ballistic expertise), a lack of transparency, inadequate powers to investigate and to implement recommendations, and serious delays and inefficiencies. These obstacles are compounded by a lack of appropriate forensic and ballistic capacity to carry out transparent and independent investigations into alleged cases of extrajudicial execution.

The two institutions in charge of investigating police shootings in Jamaica are the BSI and the Police Public Complaints Authority (PPCA). The BSI is responsible for investigating all police shooting incidents and reports to the Commissioner of Police. The PPCA in contrast is an external, independent, civilian body that investigates complaints against the police. It can also initiate its own investigations. Both the BSI and PPCA draw up reports to submit to the Commissioner of Police and to the Director of Public Prosecutions (DPP) in cases where the investigation suggests that criminal procedures could be followed. The DPP then decides whether to pursue criminal proceedings, or to send the matter to the Coroner's Court for further inquiries.

The BSI investigates all police shootings and by 2007 was receiving approximately 47 reports per month on average. At the time of writing, investigations had only been completed in 59 per cent of 3,225 cases received between January 1999 and September 2007. In that time 191 police officers had been charged; 111 have been acquitted while warrants for 19 others were outstanding. Only one police officer was convicted in that period.

The BSI has rules and procedures for investigations that appear to comply with international standards. However, the practice falls short of these standards. The BSI

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<sup>61</sup> E/CN.4/2005/7/Add.2, page 2.

does not have independent forensic or ballistic experts and has to rely on JCF facilities, which are located inside a JCF building, seriously compromising the independence of forensic and ballistic evidence.

The PPCA is an independent body established in 1992 to monitor and supervise investigations by the police into killings by police and other complaints against the police. It reports annually to the Minister of Justice. The PPCA can also investigate cases of its own accord and submit cases for prosecution to the DPP.<sup>62</sup>

Public confidence in the PPCA is low. Between April 2005 and March 2006 the PPCA received 339 new complaints, 19 of which involved fatal shootings. This represents only 10 per cent of cases of fatal shooting recorded by the JCF in that period. Of the 19 cases of fatal shootings, only three were referred to the DPP; all were still pending at the time of writing.

PPCA investigators collect ballistic, forensic and post-mortem evidence from JCF institutions. The PPCA also lacks the authority to make final determinations on criminal charges or disciplinary actions and to obtain statements from suspect police officers if they are not willing to cooperate. It can only make recommendations to the DPP.

Human rights organizations in Jamaica have documented many irregularities in the investigations by the BSI and the PPCA. These include investigators delaying visits to the crime scene, sometimes for several days, resulting in the loss of vital evidence; failure to preserve the crime scene by prematurely moving the bodies; failure to collect evidence, including sample swabs, clothing or statements; and failure to conduct adequate and complete autopsies.<sup>63</sup>

It is clear that the current system of investigations into alleged extrajudicial executions by members of the security forces is completely inadequate to guarantee justice for the victims.

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<sup>62</sup> The DPP makes a decision on whether (1) the case is strong enough for prosecution, in which case the file is sent to a Court for criminal trial; (2) evidence is not strong enough so a preliminary hearing is necessary, in which case it goes to the Coroner's Court which will decide if the death was a result of due process of duty or not. The verdict of the inquiry, along with the case-file is referred back to the DPP, who must once again decide whether to continue with a prosecution or close the case; or (3) there is no case to prosecute. Victims can appeal his decision in a Court of Appeal.

<sup>63</sup> See for example Jamaicans for Justice and the International Human Rights Clinics of the George Washington University Law School, "*Killing Impunity*", February 2008.

### Other factors contributing to impunity

Amnesty International has identified several other factors that contribute to impunity for law enforcement officials who use excessive force. These reinforce the findings of national and international experts.<sup>64</sup>

The JCF, originally set up to deal with riots and insurrections, has remained substantially unchanged since its creation.<sup>65</sup> Its policing style is informed by this rationale, characterized by a high degree of aggressiveness or "hard policing" rather than the need to protect and serve all people in their jurisdiction.

Many officers lack sufficient and effective training in the use of non-lethal force. Several senior police officials confirmed that it is common practice among JCF officers to use arms as a first rather than a last resort, particularly in inner-city communities. Sometimes police officers fire their guns out of fear, since they lack tactical training in the use of non-lethal force and as a result end up using disproportionately high levels of force.

JCF officers are frequently not issued with appropriate weaponry for policing. Although every police officer has a firearm, most do not have handcuffs, straight batons or CS sprays.<sup>66</sup>

There are also weakness in the chain-of-command and hierarchical structure of the JCF. Amnesty International has received reports of many cases where officers of lower rank failed to report to their superiors after using excessive force, covered up abuses, tampered with evidence and failed to collaborate with investigations. Superior officers with chain-of-command control are not held responsible for these failures.

There is a tendency to cover up suspected cases of unlawful killing by failing to preserve evidence, disturbing evidence at the crime scene<sup>67</sup> and enforcing a "code of silence" among officials.<sup>68</sup>

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<sup>64</sup> See for example Reports of the UN Special Rapporteur on Extrajudicial Executions E/CN.4/2004/7/Add.2 and E/CN.4/2005/7/Add.2 ; Jamaicans For Justice and the International Human Rights Clinics of the George Washington University Law School, "*Killing Impunity*", February 2008.

<sup>65</sup> The last in-depth review of the role, functions, organization and administration of the JCF that had a significant impact on policing was undertaken in 1953/4. The Constabulary Force Act of 1867 – although subject to amendments over the years – is still the Act in force today (Report of the Special Task Force on Crime Convened by the Leader of the Opposition Mr. Bruce Golding, *Road Map to a Safe and Secure Jamaica*, May 2006, pp.23 and 24).

<sup>66</sup> The JCF have revolvers, pistols, rifles and M16 rifles, but officers are only trained to use revolvers. Some of the firearms that they have now are not appropriate for policing. Commissioner of Police Rear Admiral Hardley Lewin recently announced a decision to replace the M16 with the less powerful MP5 rifle during regular duties (Jamaica Gleaner, "*Brains over guns*" - Lewin urges cops to outsmart criminals", Wednesday, March 12, 2008).

Corruption in the police and in the justice system prevent cases of alleged excessive use of force from being adequately investigated, hamper the collection of evidence and obstruct cases from being brought to trial in proceedings that meet international standards of fairness.

Successful prosecutions of police officers involved in human rights violations are rare, despite the fact that every year hundreds of successful civil actions result in compensation being paid to families. The DPP has absolute discretion to decide whether or not to prosecute a case and has shown reluctance to prosecute police officers. Amnesty International repeatedly requested statistical information from the DPP's office, but did not receive a response. The UN Special Rapporteur has expressed serious concerns with the DPP's performance, stating that according to the statistics made available to her by the BSI and the government, there appeared to be serious delays in the processing of cases submitted to the DPP.<sup>69</sup>

There is widespread acceptance in Jamaica that the justice system in general is failing.<sup>70</sup> This is particularly so for the victims of police abuses, the overwhelming majority of whom are from socially excluded communities. Experts in Jamaica have also suggested that judges frequently lack impartiality and independence when confronted with police killing cases.

The government set up the Jamaican Justice System Reform Project to undertake a comprehensive review of the state of the justice system and to develop strategies and mechanisms for its modernization. According to the Project's preliminary findings, the Jamaican justice system is too unequal, too expensive, too slow and too complicated. The task force made a series of detailed recommendations which, if fully implemented, could significantly improve access to justice for victims of criminal and police violence. The new

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<sup>67</sup> A senior officer told Amnesty International that there is no protection of the crime scene after a shooting incident; investigations are therefore compromised from the outset. (interview with Amnesty International, October 2007, on file with Amnesty International).

<sup>68</sup> For example, on 15 January 2008, Detective Constable Lyn-Shue, attached to the Area One Accident Reconstruction and Investigative Unit, confessed in the Montego Bay Resident Magistrate's Court that he had fabricated evidence in a murder case. According to media reports, since then Detective Constable Lyn-Shue has faced intense criticism from his colleagues and become a virtual pariah within the force (*Jamaica Gleaner*, "Cops label confessor a traitor – Policemen fire salvos at Lyn-Shue - Could destroy colleagues' careers", 21 January 2008).

<sup>69</sup> E/CN.4/2005/7/Add.2, para.73.

<sup>70</sup> The government has stated that "the slow working of the justice system leads to a lack of confidence in it, and the perception that some persons are above the law, which further weakens the respect for law. The increased frequency of mob killings is an indication of a growing lack of trust and respect for the law, and lack of confidence in the justice system." (Government of Jamaica, *National Security Policy for Jamaica: Towards a Secure & Prosperous Nation*, May 2006, Chapter 2.2.)



government has expressed its commitment to implement these recommendations and is seeking international cooperation to fund it.

Some measures to improve the situation have been adopted by the authorities. These have included dismantling the highly controversial Crime Management Unit which was suspected of involvement in many incidents of excessive use of force.<sup>71</sup> According to official data, the previous government provided significant new equipment to the security forces, acquired new technologies for the police, and upgraded the Forensic Laboratory. In addition, the JCF hired four international senior police officers with extensive expertise in crime and organized crime management; firearms; community safety; coastal security; and anti-corruption measures.

However, these measures have not prevented an increase in the unlawful use of force by the security forces. The new government promised to implement several measures that could have an impact on the high levels of police killings and impunity. Most significantly, it promised to create an independent investigative body and a special prosecutor for abuses by police. The new Minister of Justice and Attorney General told Amnesty International that implementing plans for the new investigative body was a priority. Amnesty International welcomes these initiatives and hopes they will be implemented without delay.

### ***Lack of comprehensive security policy***

Jamaica faces a public security crisis in its inner-city areas. This is not only a challenge for policy making and for the credibility of the government; it is a human rights violation. The UN Committee on Economic Social and Cultural Rights, which monitors states' compliance with the International Convention on Economic, Social and Cultural Rights, stated in 2001 that it is "profoundly concerned about the violence that has apparently become widespread... The fact that these acts are committed with impunity constitutes a serious violation by the State party of its Covenant obligations."<sup>72</sup> The Committee also called on the Jamaican authorities "to exercise the full authority of the law and all means at its command to eradicate the scourge of violence".<sup>73</sup>

Overall, Jamaica lacks a long-term comprehensive and effective public security policy that can address the complex problems it confronts. Several initiatives, strategies and crime plans have been announced in the media, often in response to public indignation

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<sup>71</sup>Amnesty International, *The killing of the Braeton Seven: A Justice System in Trial*, (AMR 38/005/2003).

<sup>72</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights, Jamaica. E/C.12/1/Add.75 6 December 2001, para.14.

<sup>73</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights, Jamaica, E/C.12/1/Add.75 6 December 2001, para.27.

at high crime rates. However, these were soon forgotten or not properly implemented, sustained and managed. The latest of these efforts was a National Security Policy which was announced in 2007 but, to Amnesty International's knowledge, never implemented. In this Policy, the government recognized that "the rule of law is at risk of collapsing" and noted that there was a "lack of structured and coordinated intelligence by the various law enforcement arms of the State that leaves an unacceptable gap in the defense of law and order".<sup>74</sup>

"The government and civil society have a lot of wonderful initiatives like Dispute Resolution Foundation, Peace Management Initiative and the Security and Justice Program who help a lot of communities. But they come here when there is a war and then when things get slightly better, they go to another community; and what are we left with? When you are dealing with hard core criminals and people who have made up their minds from 14 years old, then you need to have interventions demarcated specifically for them, you need a long term process. The sustainability of the programs are not materializing in Jamaica."

Community peace-maker from West Kingston, October 2007.

Some important measures have been introduced to improve public security. These include the Community Security Initiative and the Citizens Security and Justice Programmes, the Peace Management Initiative and Violence Prevention Alliance (see Chapter 5) and a pilot project of community policing in Grants Pen community, Kingston. However, these initiatives suffer from a lack of integration, prioritization, resources and coordination. Many people told Amnesty International that the success of the initiatives was more related to the good will and commitment of volunteers and staff working there than to a coordinated public security effort.

The failure of past public security strategies to tackle the problem of crime, particularly in inner-city communities, has been the subject of extensive study in Jamaica. There are several reports produced by bi-partisan commissions, NGOs, international agencies and local and international academics that have given a comprehensive picture of the complexity of the crime and violence problem and pointed towards some solutions.

One of these reports by representatives of the government, the opposition and private sector, gave a straightforward explanation for the failure of past public security policies: "there is a tendency to go for popular or politically expedient policies and programmes in preference to tough choices equal to the seriousness of the problems (lack of political will)".<sup>75</sup>

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<sup>74</sup> Government of Jamaica, *National Security Policy for Jamaica: Towards a Secure & Prosperous Nation*, 2007, Chapter 2.2.

<sup>75</sup> *Report of the National Committee on Crime and Violence*, 11 June 2002.

A report produced by the JLP when it was in opposition reached similar conclusions: "while recognizing that there are institutional challenges in how Government works – e.g. budgetary limitations and cultural challenges – if the members of this Task Force had to identify a single cause for inaction it would be lack of political will and leadership."<sup>76</sup>

## ***Corruption***

**"Corruption in Jamaica is much too easy, too risk-free"**

Prime Minister Bruce Golding, Inaugural Speech, *Jamaica Gleaner*, 16 September 2007

**"When one mentions the word 'police', I am sure that one of the first things that comes to mind is the word 'corruption'."**

Commissioner of Police, Rear Admiral Hardley Lewin, *Jamaica Gleaner*, "Station shutdown – Police chief to reallocate resources, rein in corruption", 21 December 2007

Widespread corruption in the JCF and in other institutions is undermining the capacity of the state to protect human rights and provide human security to socially excluded Jamaicans. The May 2006, *Road Map to a Safe and Secure Jamaica*, written by the JLP when it was in opposition noted that:

**"the response capability of the State has been weakened or hollowed out by corruption. There is a general consensus that Jamaica suffers from endemic corruption and that this has been spreading throughout the system – and has become institutionalized in the Police Force, in the Department of Corrections and even in the judiciary... Any effort at improving the effectiveness of the institutions of crime control will therefore sooner or later collide with institutionalized corruption."**

Road Map to a Safe and Secure Jamaica, p.1.

A report prepared by the PNP when it was in office recognized the seriousness of the problem and how it affects the ability of the state to protect its citizens.<sup>77</sup>

There is widespread consensus that Jamaica suffers from endemic corruption and that this situation is clearly undermining the capacity of the state to provide security to every citizen. Corruption was also cited as one possible explanation for the failure of the state to

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<sup>76</sup> Report of the Special Task Force on Crime Convened by the Leader of the Opposition Mr. Bruce Golding, *Road Map to a Safe and Secure Jamaica*, May 2006, 1.5.6.

<sup>77</sup> Government of Jamaica, *National Security Policy for Jamaica: Towards a Secure & Prosperous Nation*, May 2006, Chapter 2.

exercise due diligence in protecting people living in inner-city communities from criminal and police violence.

The *Road Map to a Safe and Secure Jamaica* noted that "the public security crisis is facilitated by high levels of corruption"<sup>78</sup>. According to academics, this is because many public officials directly participate in or are paid to close their eyes to organized crime. This is linked to their reliance on criminal networks to gain office, through intimidation and, in the past, also through electoral fraud.<sup>79</sup> The report agreed with that analysis, stating that "corruption in the Government, political parties and private sector facilitates the empowerment of organized crime and freedom of criminal action more generally. Government contracts are among the most commonly used means for the corrupt, mutually beneficial transfer of resources to organized crime and corrupt officials".<sup>80</sup>

People in the inner-cities interviewed by Amnesty International described frequent episodes that directly linked the criminal gangs operating in the communities with some police officers. Almost every community had stories of people who went to the police to give information about a gunman and were killed before the police even reached the community. People in the community believe that corrupt police officers told the gang leaders who the informers were. This practice is believed to be widespread and part of the "business" some police officers have with gangs.

Although corruption seems to be present at various levels of government and the private sector, the public perception is that corruption is institutionalized in the police force. Almost every person interviewed by Amnesty International in the inner-cities stated that there are some corrupt police officers who are known to collaborate with criminals. This view is shared by Jamaican society as a whole. A poll published by the *Jamaica Gleaner* in January 2007 found that Jamaicans believed every other police officer was corrupt.<sup>81</sup>

The 2006 *Road Map to a Safe and Secure Jamaica* stated that JCF personnel of different ranks had expressed the view that the majority of their senior officers were corrupt or

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<sup>78</sup> Report of the Special Task Force on Crime Convened by the Leader of the Opposition Mr. Bruce Golding, *Road Map to a Safe and Secure Jamaica*, May 2006, 1.5.6.

<sup>79</sup> Mark Figueroa & Amanda Sives, "Garrison Politics and Criminality in Jamaica: Does the 1997 elections represent a turning point?", *Understanding Crime in Jamaica: New Challenges for Public Policy*, Anthony Harriot Ed., University of the West Indies, 2003. Strong measures were taken to combat electoral fraud and subsequent elections were declared by national and international observers to be fair and transparent.

<sup>80</sup> Report of the Special Task Force on Crime Convened by the Leader of the Opposition Mr. Bruce Golding, *Road Map to a Safe and Secure Jamaica*, May 2006.

<sup>81</sup> *Jamaica Gleaner*, "Damaged Force: Poll says half the JCF is corrupt", 14 January 2007. This perception was probably aggravated by the publication in the same newspaper of a confession of a police officer who described how he and another police officer were involved with the drug trade, bribed motorists and killed innocent civilians.

were tolerant of corruption within the force. It listed a number of corrupt practices that have become endemic including:

- payoffs for road traffic offences
- selling gun licences and ammunition
- dropping charges including for serious offences
- warning criminal gangs of planned police actions
- failing to turn up in court to give evidence
- failing to record reported crimes
- planting evidence on suspects
- stealing goods seized during raids (for example, narcotics, money and weapons)
- providing security services for gang leaders or illegal drugs shipments
- removing or tampering with evidence
- setting up road traffic checks to extort
- taking payment to provide favourable inspection reports for clubs and bars
- perjury to either secure or set aside convictions
- contract killing or 'murder for hire'.<sup>82</sup>

A serious obstacle to overcoming corruption is the "code of silence" within the JCF. This is compounded by the fact that there is no legislation to protect officers who are willing to give testimonies. It also appears that the Commissioner of Police has limited powers to discipline and dismiss officers where evidence proves they have been involved in corrupt practices.

Some measures have been taken to combat corruption. In 2005, the government established the Internal Affairs/Anti-Corruption Division of the Professional Standard Branch of the JCF. However, there was little confidence in Jamaica that this internal branch of the JCF would have the independence to fight endemic institutionalized corruption effectively.

An important measure taken by the government was the recruitment of an overseas expert as Assistant Commissioner of Police (ACP) in charge of anti-corruption. The new ACP has the power to arrest police officers and other public officials implicated in corruption. Amnesty International welcomes this important step towards ending corruption in Jamaica and hopes the new government and the international community will support the efforts of the ACP to investigate and prosecute corruption.

In his Inaugural Speech delivered in September 2007, Prime Minister Bruce Golding pledged to "make corruption more difficult, more hazardous with stiff penalties for violations." The government promised to impose criminal sanctions for breaches of the rules governing the award of government contracts; establish a Special Prosecutor to

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<sup>82</sup> *Road Map to a Safe and Secure Jamaica*, 1.5.6.

investigate and prosecute people involved in corruption; enact legislation for the impeachment and removal from office of public officials found guilty of misconduct, corruption, abuse of authority or betrayal of public trust; introduce whistleblower legislation; and review the libel and slander law to ensure that it cannot be used to protect wrongdoers.<sup>83</sup>

### *Living with fear and want*

“Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant.”

UN Committee on Economic Social and Cultural Rights, General Comment 3, para.10

The human rights violations experienced by people living in inner-city communities are driven by and are reinforcing poverty and social exclusion. The disparities between wealthy and socially excluded communities are very marked and have helped create the conditions in which extreme levels of violence can flourish. The failure of the authorities to protect the human rights of those living in these communities has also encouraged dependency on gang leaders. Policing methods characterized by entrenched prejudice and excessive use of force have also helped perpetuate high levels of inner-city violence and marginalization.

Jamaica ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1976. This commits the government to take steps to progressively achieve the full realization of the rights set out in the ICESCR to the maximum of its available resources (Article 2). The Committee on Economic, Social and Cultural Rights – the body charged with monitoring states’ implementation of the ICESCR – has stated that deliberate, concrete and targeted steps towards this goal must be taken by state parties within a reasonable time of the ICESCR’s entry into force (General Comment 3).

Today, more than 30 years later, the manifest disparities that existed when Jamaica ratified the ICESCR have increased in inner-city communities. One study has shown that the slum areas of the 1960s remain, but have doubled in size. Levels of deprivation in these areas – particularly poor housing, lack of clean drinking water and sanitation, and unemployment – have increased.<sup>84</sup>

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<sup>83</sup> *Jamaica Gleaner*, “Prime Minister Golding’s inaugural speech”, 16 September 2007.

<sup>84</sup> Colin Clarke, *Decolonizing the Colonial City*, Oxford University Press, 2006.

According to a study of Kingston, since independence in 1962, the state has provided the more affluent sectors of society with piped water, sewerage, electricity and gas.<sup>85</sup> In contrast, in 2001, more than 60 per cent of those living in inner-city excluded communities did not have an indoor tap providing safe drinking water.<sup>86</sup> A fifth of residents of Western Kingston ghettos still had to use pit latrines and 23.7 per cent had to share toilet facilities with other families.<sup>87</sup> Data from 1991 shows a strong link between low educational attainment, employment status and poor access to public supplies of drinking water and toilet facilities<sup>88</sup> – two essential features of the rights to water and sanitation, which are components of the right to an adequate standard of living guaranteed in the ICESR.<sup>89</sup>

Many of those living in excluded communities work in the informal sector in jobs with low pay and status. According to official figures, in Jamaica as a whole unemployment was running at 35 per cent in 2007.<sup>90</sup> In some inner-city areas, however, unemployment was as high as 57 per cent.<sup>91</sup> Among Caribbean countries, Jamaica ranks second from the bottom in terms of the UN Human Development Index.<sup>92</sup>

The July 1997 *Report of the National Committee on Political Tribalism*, accepted that "after decades of independence the deplorable conditions in the inner cities continue – notwithstanding the manifest improvement of living standards in some parts of the Corporate Area (of Kingston)" (para.66).

There is a direct link between disparity in the realization of economic, social and cultural rights and vulnerability to gang violence. The state's failure to ensure an adequate standard of living – including adequate food and housing and the right to work, education and health – has left a vacuum that has been occupied by gang leaders.

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<sup>85</sup> Colin Clarke, *Decolonizing the Colonial City*, Oxford University Press, 2006.

<sup>86</sup> Information about communities in Kingston Western, St Andrew South West and St Andrew South (Henry-Lee Aldrie, "The Nature of Poverty in the garrison constituencies in Jamaica", *Environment and Urbanization Journal*, 2005 17,83.)

<sup>87</sup> Henry-Lee Aldrie, "The Nature of Poverty in the garrison constituencies in Jamaica", *Environment and Urbanization Journal*, 2005 17,83.

<sup>88</sup> Colin Clarke, *Decolonizing the Colonial City*, Oxford University Press, 2006.

<sup>89</sup> Article 11 (1). See also Committee on Economic, Social and Cultural Rights, General Comment 15.

<sup>90</sup>The percentage of the Population of 14+ Outside Labour Force was around 34.9% in October 2007. Source: Statistical Institute of Jamaica, Minister of Finance and Planning, <http://www.statinja.com/stats.html> last consulted on March 18, 2008.

<sup>91</sup> Henry-Lee Aldrie, "The Nature of Poverty in the garrison constituencies in Jamaica", *Environment and Urbanization Journal*, 2005 17,83.

<sup>92</sup> Only Haiti has a lower score; UN Development Programme, HDI 2007/8 Available at <[http://hdr.undp.org/en/media/hdr\\_20072008\\_tables.pdf](http://hdr.undp.org/en/media/hdr_20072008_tables.pdf)>. The human development index is a summary composite index that measures a country's average achievements in three basic aspects of human development: health, knowledge and a decent standard of living.

### ***Discrimination and political violence***

Where the authorities have provided services, they have frequently done so in a discriminatory way. Both administrations have deliberately favoured their political supporters in return for their loyalty. This has contributed to the creation and persistence of garrison communities, reinforcing social exclusion. According to the *Report of the National Committee on Political Tribalism* "what began as mild clientelism in the decades of the 50's, developed into blatant display of favouritism, including nepotisms for the supporters and discrimination against others. It is now a case of 'to the victors the spoils' and a contributory cause to gun violence as a form of political rivalry" (para.47).

"The discriminatory allocation of what has been euphemistically called 'scarce benefits' has been urged as the fundamental cause of political tribalism" (para.47).

"The practice of the party in power allocating houses to supporters in order to establish a homogenous voting community resulted in recent proliferation of garrisons communities ... Jobs are also regularly allocated tied to political affiliation" (para.75).

*Report of the National Committee on Political Tribalism*

Evidence strongly suggests that far from taking deliberate, concrete and targeted steps towards meeting the obligations set out in the ICESCR, consecutive governments have taken steps which have resulted in entrenched discrimination, social exclusion and violence.

According to the report of the National Committee on Political Tribalism, one of the ways in which garrison communities are created is "the development of large-scale housing schemes by the State and the location of the houses therein to supporters of the party in power". According to Prime Minister Bruce Golding: "the creation of political garrisons were not a natural outgrowth of a political process, but rather they were nurtured and nourished as strategic initiatives to secure or retain political power" (para.26). The National Committee on Political Tribalism report acknowledged that "many politicians have benefited from the unrest and displacement that are features of communities with high levels of unemployment, a proliferation of unskilled and virtually unemployable youth and pervasive poverty" (para.66).



## CHAPTER 5: STORIES OF HOPE

Amnesty International has expressed concern for the lack of integration, prioritization, resources and coordination of several public security initiatives; and the fact that they do not seem to be a priority for the Government. However, there are many projects in Jamaica that are providing practical solutions to problems caused by social exclusion and a lack of public security. A number have established a level of cooperation and coordination with state institutions, including the police. Strengthening such interventions, while respecting their independence, can have a dramatic impact on levels of violence in inner-city communities and improving respect for human rights. Although the projects vary in nature and scope, one element consistently emerges as key to the success of any given initiative – community ownership and participation.

Among the initiatives that Amnesty International was able to witness directly was the Peace Management Initiative (PMI). The PMI, which was created in 2002, is a group of 12 individuals from civil society and the two main political parties. Its mandate is to head off or defuse explosions of violence in the Kingston Metropolitan Area and nearby parts of the adjoining parish of St Catherine.<sup>93</sup> The PMI is completely independent from the government, although it receives a small amount of funding from the Ministry of National Security. Almost every community visited by Amnesty International recognized the fundamental role played by the PMI in avoiding conflict and keeping the peace. With only four staff members and committed group of volunteers, the PMI has reached almost every inner-city community and has worked with them to stop violence and negotiate peace agreements. People not only stress the role of the PMI in saving lives, they also highlighted the prominent role the PMI has in actively contributing to building and maintaining peace and respect for human rights.

The Jamaica Chapter of Violence Prevention Alliance (VPA), launched in 2004 in response to the Global Campaign on Violence Prevention initiated by the World Health Organization, is another initiative. Born under the umbrella of the Ministry of Health, the VPA approaches the problem from the perspective of public health, targeting the root causes of violence. It is a network of government, non-governmental and community-based organizations and private, international and inter-governmental agencies working together to prevent violence. The VPA has created a sophisticated indicator system that gives each of the communities associated to the VPA a mark in terms of peace and other positive indicators. Those communities that do better in preventing violence receive funding for community improvement projects.

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<sup>93</sup> A similar and separate PMI was established in 2004 in Montego Bay at the other end of the island. During 2004 and 2005 some Crime Prevention Committees were also created in different parishes with a similar mandate, although with no budget.

The Fletchers Land Management Benevolent Society is an umbrella organization which brings together all the community based groups in the inner-city community of Fletchers Land. One of the Society's many activities is to provide liaison between the community and the police. The police station is in front of the community centre and the leaders of the Society described the relationship with the police as very positive. Fletchers Land received many awards for maintaining the peace in the community. This community is seen as an example of how community involvement and police collaboration can effectively reduce violence and human rights violations.

## CHAPTER 6: POLICING FOR THE PROTECTION OF HUMAN RIGHTS

**"We can not emphasize too strongly that human rights are not an impediment to effective policing but, on the contrary, vital to its achievement"**

Independent Commission on Policing for Northern Ireland, 1999, "A new beginning: policing in Northern Ireland".

The Jamaican State has the obligation to respect, protect and fulfil the human rights to life, integrity, security and dignity of all the people living under its jurisdiction.<sup>94</sup> For doing so, the Jamaican State has the obligation to provide security to its population, not any type of security, but a security that is capable of protecting people's human rights. Human security encompasses a broader definition of security that places freedom from pervasive threats to human rights at the centre of the security analysis and the human person at the centre of the security debate.<sup>95</sup> Due to the indivisibility of human rights, this means that effective security can only be guaranteed when people are safe from criminal and police violence, from hunger and disease and inadequate housing. The provision of human security is about the provision and protection of all rights and about the prevention of violations to those rights, so that people can live without fear and without need.

**In providing security, the Jamaican State has the human rights obligation to protect its population from violence by non-state actors.** When doing so, the State should provide special measures to protect people most vulnerable to violent crime, namely socially excluded communities. This obligation is based in the duty to protect the human rights to life, integrity and dignity of its citizens. These rights are protected in the International Covenant on Civil and Political Rights, the International Covenant of Economic and Social Rights and the American Convention of Human Rights, of which Jamaica is a State Party

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<sup>94</sup>Jamaica is party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant of Economic and Social Rights (ICESCR) and the American Convention of Human Rights (ACHR) among others human rights treaties. All these instruments create international obligations for the Jamaican State to respect, protect and fulfil the right to life, integrity, security and dignity of the person. The ICESCR also provides obligations towards the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing (Article 11), the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Article 12) and the right of everyone to education (article 13). The rights to life, liberty, security of the person and the protection of the law are also protected in the Jamaica (Constitution) Order in Council 1962, Chapter III, Fundamental Rights and Freedoms).

<sup>95</sup> UN Commissioner of Human Rights, 2002, E/CN.4/2002/18, para. 26-28.

as well as in the Jamaican Constitution<sup>96</sup>. The Universal Declaration of Human Rights (UDHR) also guarantees the right to security of person in its Article 3.

If private actors (i.e. any non-state actors) threaten to abuse those rights, certainly the right to life, the Jamaican State is, under international law, obliged to prevent that from happening. If the abuse has taken place the Jamaican State is, under international law, obliged to investigate and prosecute in accordance with international human rights standards. This principle is the basis of the legal concept of due diligence. In the concluding observations to Jamaica's report to the UN Committee on Economic Social and Cultural Rights, the state responsibility for violence originated by private actors was stated. The Committee stated that it was "*profoundly concerned about the violence that has apparently become widespread in the State party... The fact that these acts are committed with impunity constitutes a serious violation by the State party of its Covenant obligations.*"<sup>97</sup> The Committee also called "*upon the State party to exercise the full authority of the law and all means at its command to eradicate the scourge of violence. The Committee reminds the State party that in undertaking measures to combat violence, respect for human dignity and protection of human rights must be ensured at all times.*"<sup>98</sup>

The Inter-American System for the Protection of Human Rights (IAS)<sup>99</sup> has developed the due diligence concept on this respect clearly. For example the Court pointed out that a state was responsible for not adopting the necessary measures for adequately prohibiting, preventing and punishing criminal activities that resulted in the murder of 19 merchants, although the State was not the direct perpetrator of the homicides.<sup>100</sup> On another occasion, the Commission also condemned a state for the activities of illegal groups that primarily are involved in organized crime, corruption and drug trafficking, and warned that these illicit activities, the commission of which is aided by impunity and tolerance, seriously

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<sup>96</sup> The Jamaica (Constitution) Order in Council 1962, Chapter III, Fundamental Rights and Freedoms, recognizes "Whereas every person in Jamaica is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely- life, liberty, security of the person, the enjoyment of property and the protection of the law".

<sup>97</sup> Committee on Economic, Social and Cultural Rights, concluding observations Jamaica, twenty-seventh session 12-30 November 2001 consideration of reports submitted by states parties under articles 16 and 17 of the covenant of the committee on economic, social and cultural rights. e/c.12/1/add.75 6 December 2001 original: English, paragraph 14.

<sup>98</sup> Committee on Economic, Social and Cultural Rights, concluding observations Jamaica, twenty-seventh session 12-30 November 2001 consideration of reports submitted by states parties under articles 16 and 17 of the covenant of the committee on economic, social and cultural rights. e/c.12/1/add.75 6 December 2001 original: English, paragraph 27.

<sup>99</sup> The Inter-American System for the Protection of Human Rights (IAS) is composed of the Inter-American Commission and Court of Human Rights and is the interpreter of the content of the rights and obligations of the American Convention of Human Rights, to which Jamaica is a State Party.

<sup>100</sup> Inter-American Court of Human Rights, Case of 19 Merchants, paragraph 124.

compromise institutions, democracy and the rule of law.<sup>101</sup> The IAS bodies have especially extended state responsibility for murders committed by private citizens when those are product of state tolerance for repeated and predictable acts of violence or even in the case of failure of public institutions to act in response to social tolerance of rights violations.<sup>102</sup>

**Effective policing is a key element in providing human security, although not the only one,** since other State agencies have also responsibility for the compliance of the State's human rights obligations related to human security. In Jamaica, policing is the sole responsibility of the Jamaican Constabulary Force (JCF). The Jamaican Defence Force (JDF) has no mandate to police unless so ordered by the prime minister.<sup>103</sup> This means that the JCF has the monopoly of the legitimate use of force for law enforcement in the country, including for prevention and detection of crime, the maintenance of public order and the provision of assistance to the public. These are important and essential functions of the State, especially in the context of high levels of violent crime that Jamaica faces.

**In that context the JCF, principal law enforcement agency of Jamaica, has a key role to play in the protection of human rights** and in the overall maintenance of stability, supporting the creation of a situation in which people can enjoy all rights (civil, political, economical, social and cultural rights). According to international human rights standards<sup>104</sup>, law enforcement officials shall at all times fulfil the duty imposed on them by law, by serving the community and protecting all persons against illegal acts. For doing so, they should respect and protect human dignity and maintain and uphold the human rights of all persons; since all persons are equal before the law and are entitled, without discrimination, to equal protection of the law. In complying with this fundamental

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<sup>101</sup> Inter-American Commission of Human Rights, "Informe Justicia e Inclusion Social: los desafios de la democracia en Guatemala", Chapter II, paragraph 142.

<sup>102</sup> For example the tolerance by the State of a systematic practice of violence towards street children in Guatemala or towards women in Ciudad Juarez, Mexico (Inter-American Court of Human Rights, Villagran Morales et al vs. Guatemala, 19 November 1999, paragraph 191 and Inter-American Commission of Human Rights, The Situation of the Rights of Women in Ciudad Juarez, Mexico: The Rights to be Free From Violence and Discrimination, paragraph 123.) Emphasis added. See also Inter-American Court of Human Rights, Case of Caballero Delgado and Santana v Colombia, judgement of 8 December 1995, paragraph 56; Case of Godinez Cruz, paragraph 182 and Velazquez Rodriguez case, paragraph 172 (on lack of due diligence to prevent); and Inter-American Court of Human Rights, Case Cantos v Argentina, judgement of 28 November 2002, paragraph 28; Case of Hilaire, Constantine and Benjamin and others v Trinidad and Tobago, judgement of June 21, 2002, paragraph 66; Case Constitutional Court v. Peru, judgement of 31 January 2001, paragraph 47 (for responsibility of State authorities or tolerance of the infringement of those rights).

<sup>103</sup> However, according to people interviewed, the JDF has increasingly being part of regular policing activities in violent prone communities.

<sup>104</sup> See UDHR article 7; ICCPR article 26; International Convention on the Elimination of All Forms of Racial Discrimination (CERD) articles 2 and 5; United Nations Code of Conduct for Law Enforcement Officials article 1, article 2, and preambular paragraph 8(a).

duty, the JCF should be representative of and responsive and accountable to the community as a whole.

**Due to the indivisibility of human rights, human security also means protection of economic, social and cultural rights,** such as the right to work, to education and to an adequate standard of living, including adequate housing. Jamaica has also ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1976. According to Article 2 of the ICESCR, the Jamaican State has to take steps *"to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant"*<sup>105</sup> The Committee on Economic, Social and Cultural Rights in its General Comment number 3<sup>106</sup> stated that *"while the full realization of the relevant rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenant's entry into force for the States concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant."*<sup>107</sup> *"Similarly, the Committee underlines the fact that even in times of severe resources constraints ... the vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes."*<sup>108</sup>

Another obligation under the ICESCR is to "guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."<sup>109</sup>

### ***A human rights-based police force***

The UN, in a continuing effort to assist member states in the development of national police practice consistent with the human rights framework, has developed a series of principles, codes and guidelines on policing. The resolution that adopted the UN Code of Conduct for Law Enforcement Officials states that "every law enforcement agency should

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<sup>105</sup> International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. *Entry into force* 3 January 1976. Arts 2.1 and 2.2.

<sup>106</sup> The Committee on Economic, Social and Cultural Rights (CESCR) is the United Nation's body in charge of monitoring the implementation of the International Covenant on Economic and Social Rights (ICESCR)

<sup>107</sup> CESCR General comment 3. The nature of States parties obligations (Art. 2, par.1). 14/12/90. Contained in document E/1991/23. Paragraph 2

<sup>108</sup> CESCR General comment 3. The nature of States parties obligations (Art. 2, par.1). 14/12/90. Contained in document E/1991/23. Paragraph 12

<sup>109</sup> International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966. *Entry into force* 3 January 1976. Arts 2.1 and 2.2.

be representative of and responsive and accountable to the community as a whole".<sup>110</sup>

**a) Representative**

For a police agency to be representative of a community as a whole, its membership should be representative of the community according to key criteria, including race or ethnic group, gender, language and religion. Minority communities must be adequately represented, and individuals from these groups must be able to pursue their careers fairly and without discrimination. At a minimum, an internal police culture should be established that is sensitive to the needs and concerns of minority communities.

**b) Responsive**

A police service striving to be genuinely responsive to the community as a whole requires a leadership and internal culture that is committed to strengthening the consent and cooperation of the community they serve. There must be an awareness of and a willingness to respond to community concerns and expectations of police methods and performance, especially in relation to new dimensions of crime and criminality. For example, they should consider establishing local consultative committees with members of local communities in order to provide a forum where community concerns can be brought to the attention of the police.

**c) Accountable**

The principle of public accountability encompasses both legal and democratic accountability.

**Legal accountability** requires a transparent legal framework for policing, consistent with international human rights standards, which makes clear what actions (or omissions) by the police are considered abuses, and which holds individual officers accountable for them. Ensuring effective legal accountability requires a framework of independent, yet interlocking oversight mechanisms. They include:

- An independent prosecution service that actively pursues cases involving abuses by police;
- An independent and proactive judiciary that takes action against police abuses;
- An internal police accountability mechanism that fairly and impartially addresses breaches of police procedures, imposes disciplinary measures or refers cases for prosecution when appropriate;
- An external police oversight mechanism that is empowered to effectively and independently investigate complaints of abuses lodged against police officers and, if necessary, recommend prosecution and remedial action.

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<sup>110</sup> See resolution 34/169 Code of Conduct for Law Enforcement Officials, adopted by UN General Assembly on 17 December 1979.

**Democratic accountability** requires the police, like any public service, to be accountable to a democratic authority. However, a broad understanding of the concept of democratic accountability also covers aspects of "responsiveness" intrinsic to community policing, and the need, in some cases, for direct civil society participation on Police Commissions (a Police Board or Police Authority). Police Commissions oversee, for example, the setting of key strategic objectives for the service, the appointment of senior leadership in the police and the monitoring of overall police performance and of public responses to it.

### *Human rights standards in the use of force and firearms*

International human rights law sets standards as to how extensive police powers are to be used legitimately. These standards do not limit effective policing or contradict policing principles, on the contrary, human rights standards recognize that police perform a "*social service of great importance*" and that this is sometimes dangerous and requires the use of force. These standards also emphasize the duty of care in ensuring officers' welfare.<sup>111</sup>

However, since the use of force against its own people is one of the most extreme measures a State can take, there are many standards aimed at limiting that use of force, so it used in a legitimate way.

The UN Code of Conduct for Law Enforcement Officials (UN Code of Conduct) and the Basic Principles on the use of Force and Firearms by Law Enforcement Officials (Basic Principles) are the main standards covering the use of force and firearms for police. These standards also apply to the JDF when exercising policing powers. These international human rights standards, many of which have been adopted by JCF internal regulations, state the police functions in which the use of some sort of force, or the threat to use force, may be necessary and legitimate to attain a lawful policing objective. When the use of force is needed for lawful law enforcement purposes, a range of means for differentiated use of force should be made available. Firearms should be used only in extreme circumstances, when less extreme measures are insufficient and only when strictly unavoidable in order to protect human life.<sup>112</sup> Non-violent means are to be attempted first and force is to be used only when strictly necessary.

The key principles regarding the use of force and firearms are:

- ❖ proportionality (must be proportionate to the lawful objective to be achieved);

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<sup>111</sup> Basic Principles, Preamble and Principle 21.

<sup>112</sup> Firearms are to be used only in self-defence or defence of others against the imminent threat of death or serious injury; to prevent the perpetuation of a particularly serious crime involving grave threat to life; to arrest a person presenting such a danger and resisting their authority and to prevent their escape. Basic Principles, Principle 9 of which builds on the Commentary to Article 3 of the UN Code of Conduct.



- ❖ lawfulness (must conform to national laws and police regulations which in turn must conform to international human rights standards);
- ❖ necessity (force should be an exceptional measure and non-violent means must be tried first), and ;
- ❖ accountability (there must be adequate reporting and review procedures to ensure lawfulness, necessity and proportionality in the use of force and firearms and to criminally prosecute officers that have violated those rules).

In some cases, unlawful use of force amounts to an *extrajudicial execution*. Extrajudicial executions are unlawful and deliberate killings, carried out by order of a government or with its complicity or acquiescence. An extrajudicial execution is, in effect, a murder committed or condoned by the state.

Extrajudicial executions are serious human rights violations, because they suppose the arbitrary deprivation of the right to life by the State. The Jamaican State has a legal duty to take reasonable steps to prevent those human rights violations. The State is also obligated to investigate every situation involving a violation of human rights. Thus, in every case when a person is killed by the security forces an official investigation, as required under the standards laid down in international instruments adopted at the UN and other intergovernmental fora, is required.<sup>113</sup>

Such an investigation can yield valuable information of the lawful or unlawful use of force, leading to the prosecution and conviction of those responsible for an unlawful killing. If the State apparatus acts in such a way that the violation goes unpunished and the victim's full enjoyment of such rights is not restored as soon as possible, the State has failed to comply with its duty to ensure the free and full exercise of those rights to the persons within its jurisdiction. The duty to investigate, like the duty to prevent, is not breached merely because the investigation does not produce a satisfactory result. Nevertheless, it must be undertaken in a serious manner and not as a mere formality preordained to be ineffective.

By failing to conduct impartial and effective investigations which will hold those responsible to account, the State does not only violate the victim's human rights, but adds to the presumption that a killing was committed with governmental acquiescence, amounting to an extrajudicial execution.

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<sup>113</sup> The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state that persons affected by the use of force and firearms, their legal representatives and dependents shall have access to an independent process including a judicial one (Principle 23). Principle 22 calls for an "effective review process" and states that independent administrative or prosecutorial authorities should be able to exercise jurisdiction in appropriate circumstances. Cases of death and serious injury must be reported promptly to the "competent authorities responsible for administrative review and judicial control".

## CHAPTER 7: CONCLUSIONS AND RECOMMENDATIONS

The cases and data in this report show how Jamaica is now in the midst of a full public security crisis in its inner cities with an average of three homicides a day and three police killings every four days in a population of less than one million people.

There can be no doubt that the challenges such a crisis presents for policing and for the safety of police officers are extraordinary. However, the nature of this crisis can never be used as an excuse to compromise on the best quality policing, and much less to commit serious systematic human rights violations.

There are many good serving police officers in Jamaica who risk their lives every day to help improve security for Jamaican citizens. However, for as long as the political determination to purge the security forces of human rights abusers and corruption is lacking, those officers with good intentions will only be able to impact on the lives of those with whom they work daily.

Beneath the various public debates analyzing the extent of the public security crisis in Jamaica, and frequently offering justifications for why it is necessary to compromise integrity and the best moral and human rights standards, lie two determining factors. First, the lack of scrutiny and accountability of the Jamaican Constabulary Force and second, the fact that apart from a handful of community workers, there have been few in government who care enough about the human rights of inner city people to make improving their lack of security and wellbeing a political priority and a political reality. This is not only a tragedy for the victims of police killings and gang killings, but it is a tragedy for Jamaican society.

The situation of poverty, exclusion and violence in which inner city communities live is not a natural outcome. In the words of the Prime Minister "they were nurtured and nourished as strategic initiatives to secure or retain political power".<sup>114</sup> The task ahead is very challenging. However, the situation has reached crisis proportion and needs to be dealt with without delay. As it was stated by the Prime Minister's task force on crime, in the past a major cause for inaction regarding the public security crisis was "the lack of political will and leadership."<sup>115</sup> The leadership of Jamaica has a golden opportunity to show the needed political will to overcome the situation and some encouraging signals have been made by the new government. Jamaicans need to hold their leaders to account. Victims experiencing everyday human rights violations in their inner-cities can not wait any longer.

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<sup>114</sup> Bruce Golding, quoted in the Report of The National Committee on Political Tribalism, para.26.

<sup>115</sup> Report of the Special Task Force on Crime Convened by the Leader of the Opposition Mr. Bruce Golding, *Road Map to a Safe and Secure Jamaica*, May 2006, 1.5.6.

**Amnesty International calls on the Jamaican government to create a comprehensive public security plan for the protection of human rights, which prioritizes:**

- The immediate implementation of a programme to reduce and prevent homicides and police killings in inner-cities;
- The immediate reduction of excessive use of force by the JCF;
- Reforms to the JCF to create a police force that is representative, responsive and accountable to all the community and respect and protect human rights;
- Combating corruption;
- Implementation without further delay of the recommendations of the Task Force on The Reform of the Justice System;
- The creation of an independent prosecutor for cases of police killing;
- Introduction of a fully independent oversight body to monitor police misconduct and reports of human rights violations. The body investigators should be trained according to international standards including preservation of crime scenes and evidence, collection of evidence and should have access to independent ballistics and forensic expertise;
- Effective retraining of the police in the legitimate use of force and alternatives to the use of firearms according to international and national standards;
- Establishing effective controls over the sale and transfer of arms both within the country and internationally, including by removing and destroying illegal and surplus arms;
- A plan to combat root causes of violence, in particular disparities and discrimination in the access to economic, social and cultural rights;
- Strategies to combat stigmatization and discrimination against inner-city communities, especially in public security policies, state institutions and policing;
- Identifying, assessing and promoting good practice community security projects, which combine human rights-based policing with input from other state agencies and active participation of the affected community;
- Reinforcing initiatives such as the Peace Management Initiative and the Crime Prevention Committees, with appropriate budget and powers, without compromising their independence;
- To report publicly and on a yearly basis on progress in implementing the plan.

**Amnesty International calls on other governments to:**

1. Support and promote the creation and implementation of a comprehensive public security plan for the protection of human rights;
2. Assist the Jamaica Government in the immediate implementation of a concerted programme to reduce and prevent homicides and police killings in inner-cities; and in the immediate reduction of excessive use of force by the JCF;
3. Ensure reform of the JCF and the Justice system are prioritized in agreements and diplomatic relations;
4. Assist Jamaica and other Caribbean countries to effectively address the public security crisis as a region and to cooperate in effectively sharing expertise and resources (e.g. witness protection mechanisms and forensic expertise) regionally;
5. Promote the principles of an Arms Trade Treaty to establish common standards on the import, export and transfer of conventional weapons.<sup>116</sup>

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<sup>116</sup> Compilation of Global Principles for Arms Transfers, Revised and Update, Arms Trade Treaty Steering Committee, 2007.