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Jamaica: Three years on, state of emergency still an open wound

The Jamaican authorities must swiftly appoint a commission of inquiry with an adequate mandate, resources and powers to carry out a thorough investigation into the security forces' conduct during the 2010 state of emergency, Amnesty International said today during a visit to Jamaica.

Three years after the state of emergency resulted in serious alleged human rights abuses – including unlawful killings, enforced disappearances and arbitrary arrests – the Jamaican government has finally acknowledged the need for a commission of inquiry. This followed the Office of the Public Defender's call for a commission as part of an interim report it presented to Parliament on 29 April.

The Public Defender's report found that at least 76 people and one soldier were killed in the first days of the state of emergency, representing "the greatest loss of life in a single State Security Forces operation in independent Jamaica". However, the "interim" report does not state final conclusions on the events; it only recommends that the events be subject to further investigation, by a commission of inquiry and relevant criminal justice authorities.

"After three years, Jamaica still has not met its obligation to complete a prompt, independent, impartial and effective investigation into the dozens of allegations of unlawful killings by security forces and other serious human rights abuses during the state of emergency," said Chiara Liguori, Amnesty International's Researcher on Jamaica.

"The previous and the current governments should take responsibility for this failure and must immediately do everything necessary to ensure that the rights of victims to truth, justice and reparations are fulfilled without further delay."

According to the Public Defender's report, inaction by officials in the initial days after the events of 2010, such as the failure to protect crime scenes, unnecessarily impeded investigations. The Jamaica Defence Force was also initially reluctant to cooperate fully with the Public Defender's investigations. The report shows how a lack of resources prevented crucial forensic tests, such as ballistic exams, from being concluded, despite international expertise being provided.

Despite several calls from the Public Defender, Jamaican civil society and Amnesty International since shortly after the incidents, the ruling government at the time of the events, as well as the current one that took power in January 2012, refused to appoint a commission of inquiry until the Public Defender's report had been released.

"The appointment of this commission of inquiry is long overdue – at the very least the government should have previously provided the Office of the Public Defender with the necessary resources to complete its report in a more timely manner. The victims of human rights violations cannot wait any longer for answers and justice," said Liguori.

As Amnesty International already recommended in its May 2011 report *A long road to justice? Human rights violations under the state of emergency*, the government should consult with civil society in drawing up the commission's terms of reference. These should be framed in a way that will require the commission to assess the operations carried out by the security forces against international human rights laws and should include an obligation on the commission to formulate recommendations on how the security forces should operate in the future.

Members of the commission of inquiry should be selected based on recognised impartiality, competence and independence, and civil society should be consulted about the appointments. The commission must also have adequate powers and authority to guarantee access to all relevant evidence, should ensure the involvement of victims and other parties and should be open to public scrutiny, Amnesty International said.

Background

On 23 May 2010, the Governor-General of Jamaica declared a month-long State of Public Emergency in the parishes of Kingston and St Andrew. The situation arose from resistance by armed supporters of Christopher "Dudus" Coke to government efforts to take him into

custody. The US authorities were seeking Coke's extradition to the USA where he faced drug-trafficking and firearms charges.

The declaration of the state of emergency gave the security forces broad new powers to restrict freedom of movement, search premises and detain persons suspected of involvement in unlawful activities without a warrant.

The Office of the Public Defender's interim report found that at least 44 of the deaths during the state of emergency could represent unlawful killings. It also pointed to four possible victims of enforced disappearance and allegations of hundreds of arbitrary detentions – finding that some 1,000 people were detained towards the beginning of the state of emergency.

The report also covers investigations into the killing of businessman Keith Clarke in his house by security forces on 27 May 2010, for which three officers of the Jamaica Defence Force were charged for murder in July 2012.

Its key recommendations are to appoint a Commission of inquiry “to conduct a judicial enquiry into the activities of the State Security Forces and illegal gunmen during the State of Emergency, 2010” and to adequately equip and staff the Forensic Science Laboratory in order to “facilitate completion of outstanding ballistic work in accordance with the agreed Protocol”.