

## ★ RECOMMENDATIONS

*Human Rights are a legitimate subject for international law and international scrutiny.*

*Law enforcement officers are obliged to know, and to apply, international standards for human rights.*

Amnesty International is calling for the formulation of a **National Plan of Action** on human rights in keeping with the commitment made by all of the world's states in June 1993 during the UN World Conference on Human Rights in Vienna.

Amnesty International calls on the government of Jamaica to work with civil society in developing such a plan, to articulate a national consensus on human rights built around the challenges of prevention and accountability.

Amnesty International calls upon the Jamaican authorities to implement the following Programme as a positive indication of their commitment to stop human rights abuses. It invites concerned individuals and organisations to join in promoting the program.

- Official condemnation
- Restraints on lethal force
- The right and duty to disobey
- Chain-of-command control
- Investigations, prosecution and discipline
- Protection against death threats
- Protection of human right defenders
- Safeguards during arrest, detention and interrogation
- No use of statements extracted under torture
- Non-discrimination in law enforcement
- Provide and enforce effective training
- Reparations
- Ratification of human rights treaties and implementation of international standards

## Official Condemnation

- Pending the formulation and implementation of a national plan of action, Jamaica's highest authorities should demonstrate their absolute opposition to extrajudicial executions, torture and ill-treatment. They should be condemned whenever they occur.
- The government should make clear to all law enforcement officials, including members of both the police and the military, that these will not be tolerated under any circumstances.
- Authorities at all levels of government should explicitly commit themselves to promoting respect for human rights.

## Restraints on legal force

- Law enforcement officials should not use lethal force except when strictly unavoidable in order to protect life and to the minimum extent under the circumstances.
- The Jamaica Constabulary Force and the Jamaica Defence Force should ensure that their policies on the use of force and firearms conform to international standards, including the UN *Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*, the UN *Basic Principles on the Use of Force and Firearms* and the UN *Declaration on the Protection of All Persons from Forced Disappearance*, and that these standards are strictly enforced.
- If firearms are used, law enforcement officials should identify themselves and give clear warnings of their intent to use firearms.
- Medical assistance and aid should be rendered at the earliest possible moment
- Relatives or friends of the affected person should be notified at the earliest possible moment.

## The right and duty to disobey

- Law enforcement officials should be instructed that they have the right and duty to refuse to obey any order to participate in an extrajudicial execution or act of torture.
- Law enforcement officials who have reason to believe that a violation has occurred or is about to occur shall report the matter to their superior authorities and, where necessary, to other appropriate authorities or organs vested with reviewing or remedial power.
- An order from a superior officer must never be invoked as a justification for taking part in an extrajudicial execution or act of torture.

## Chain-of-Command Control

- Those in charge of the security forces should maintain strict chain-of-command control to ensure that officers under their command do not commit extrajudicial executions or torture.
- The JCF and the JDF should issue clear guidelines requiring officers to report abuses. Superior officials with chain-of-command control should be held responsible for enforcing these

guidelines and for strictly enforcing penalties for failing to report, or covering up, abuses.

- ❑ Officers who order or tolerate extrajudicial executions, torture or other human rights abuses by those under their command should be held criminally responsible for these acts, including if the superior officer knew or should have known of abuses but failed to take concrete action.
- ❑ The JCF and the JDF should ensure that those officers who testify against their fellow officers in criminal or civil proceedings, or in disciplinary hearings, should be supported and protected from intimidation and threats. Law enforcement officials shall not suffer administrative or other penalties because they have reported violations have occurred or are about to occur.
- ❑ The JCF and the JDF should establish early warning systems to identify and deal with officers involved in human rights violations. They should establish clear reporting systems and keep detailed records of every officer's conduct. The records should be regularly audited in order to identify, and take remedial action in respect of, any patterns of abuses. The records should be open to inspection by independent oversight bodies.

## Investigations

### Investigations to be held in every case of alleged violations

- ❑ The Jamaican authorities should ensure that all allegations of human rights violations by members of the security forces -- including both the Jamaica Constabulary Force (JCF) and the Jamaica Defence Force (JDF) are investigated fully, promptly and impartially by a body which is independent of those allegedly responsible and which has the necessary powers and resources to carry out the investigation. Particular scrutiny should be given to the role and activities of the Crime Management Unit.
- ❑ The PPCA should prioritize investigations into police killings and torture. In particular, it should ensure that in all such cases it:
  - Compels officials allegedly involved in executions and torture to appear and testify and insists on cooperation from police departments and individual officers;
  - Demands the production of evidence;
  - Requires the JCF to provide information on action taken in individual cases, with reasons for inaction;
  - Provides regular, detailed public reports, at least annually, giving relevant data, including the type and outcome of complaints;
  - Publicizes the complaints procedure within the community to ensure that it is accessible to the public; information about complaints procedures should be prominently displayed in all police stations.
- ❑ The authorities should establish an independent and effective oversight body with the authority to investigate and review complaints of human rights violations by the public against members of the Jamaica Defence Force.
- ❑ Inquests should be held in the case of every death suspected to be at the hands of the security forces.

### Purpose of investigations

- ❑ Investigations should serve to identify victims; recover evidence; discover witnesses; discover cause, manner, location and time of crime and identify and apprehend perpetrators.

Investigations shall also include the determination of any pattern and practice which brought about death.

#### **Manner of investigations**

- Complainants, witnesses, lawyers, judges and others involved in the investigation should be protected from intimidation and reprisals. No pressure, whether physical or mental, shall be exerted on witnesses, victims or suspects in attempting to obtain information.
- Officials suspected of responsibility for extrajudicial executions, torture and other violations should be suspended from active duty during the investigation.
- The investigation must include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. Crime scenes should be carefully processed and evidence carefully collected and preserved, including forensics and ballistics evidence. Incident scenes should be secured until the arrival of forensic experts. The body of the alleged victim should not be disposed of until an adequate autopsy has been conducted by a suitably qualified doctor who is able to function impartially. Those undertaking autopsies should be experts in forensic pathology. Doctors appointed by relatives to be present at an autopsy on their behalf should be granted full access to observe the autopsy without obstruction. Relatives should also have access to view the body of the deceased.
- Autopsy reports should conform to international standards and be full, detailed, clear, comprehensible and objective. They should:
  - attempt to establish the identity of the deceased and the cause and manner of death.
  - determine to the extent possible the time and place of death
  - include detailed colour photographs of the deceased
  - describe any and all injuries to the deceased including any evidence of torture
  - include examination of clothing
 Autopsy reports into shooting fatalities should include:
  - extensive account of the scene of the incident, weapons involved, types of bullets, cartridge cases, relative positions of persons involved;
  - investigation and documentation of blood splashes on body surfaces;
  - precise description of bullet entry and exit wounds relative to anatomical landmarks and distances from soles of feet and bullet tracks within the body;
  - excision of uncleaned skin specimens surrounding entry and exit wounds;
  - X-ray before and during autopsy
  - determination of bullet tracks and their directions
  - final determination of direction(s) of fire, of the succession of shots, of intra vital occurrence, of the victim's position.
- Information on civil lawsuits alleging police or army misconduct should be forwarded to the DPP and the PPCA. Information on the number of lawsuits filed, judgements and settlements should regularly be made public.

#### **Public confidence and transparency**

- There should be greater transparency in the investigation of complaints of human rights violations.
- The methods and outcome of all criminal, disciplinary and administrative investigations into alleged violations, including all disputed shootings and deaths in police custody, should be made public promptly after the completion of the investigation. Detailed national data on police and

army use of force should also be compiled and regularly published with analysis of patterns of concern and recommendations.

- Complainants should be kept informed of the progress of investigations.

## Prosecutions and discipline

- The Jamaican government should ensure that those responsible for extrajudicial executions, torture and other human rights abuses - including failure to report misconduct - are brought to justice.
- This principle should apply no matter how much time has elapsed since the commission of the crime, and wherever such people may be.
- Trials must be fair and take place in civilian courts.
- The perpetrators should not be allowed to benefit from any legal measures exempting them from criminal prosecution or conviction.
- The Jamaica Constabulary Force, the Jamaica Defence Force and the Police Public Complaints Authority should publish regular statistical data on the on the internal disciplinary process and the outcome of disciplinary action.

## Role of prosecutors

- Prosecutors should give due attention to the prosecution of crimes committed by public officials, particularly abuse of power, grave violations of human rights, and, the investigation of such offences, including supervision over legality of these investigations, supervision of the execution of court decisions.
- Statements and other evidence obtained through torture should not be invoked in any proceedings, except against a person accused of torture.

## Protection against death threats

- The Jamaican government should ensure the full implementation of a comprehensive witness protection programme for the effective protection from death threats and other forms of intimidation of all those involved in investigations or other proceedings against those alleged to have committed human rights violations, including victims, their relatives, witnesses, police officers or soldiers, lawyers and human rights defenders.

## Human Rights Defenders

- Authorities at all levels of government should explicitly commit themselves to the protection of human rights defenders.
- State officials at all levels should fully collaborate with and facilitate the work of members of

- non-governmental organisations.
- Effective action should be taken to ensure that all state agents, including law enforcement officers and the security forces, recognise the legitimacy of the work of human rights defenders and abstain from making unsubstantiated allegations about human rights defenders. Statements of this nature must be rectified publicly and promptly and those responsible should face disciplinary action.
- Integrated programmes for the protection of human rights defenders should be adopted that include preventative measures such as thorough criminal investigations into attacks and threats against human rights defenders, education for security force agents on the rights of human rights defenders to carry out legitimate activities as well as security measures to assist human rights defenders and their families with immediate safety issues.

## Provision of safeguards during arrest, detention and interrogation

### Arrest

- No-one should be subject to arbitrary arrest and detention.
- Anyone who is arrested should be informed at the time of the arrest for the reasons of the arrest and of any charges against him. Officers carrying out the arrest should identify themselves to the person arrested and, on demand, to others witnessing the event. Police officers and other officials who make arrests should wear name tags or numbers so that they can be clearly identified. Police and military vehicles should be clearly identified as such.
- A record of each arrest must be taken and include: time of arrest; reasons for arrest; identity of officers involved.
- All detainees should be brought before a judicial authority without delay after being taken into custody.
- All those arrested should have access to a lawyer and adequate opportunity to communicate with him or her in private.

### Detention

- No person under any form of detention should be subjected to torture, or to cruel, inhuman or degrading treatment or punishment. The term "cruel, inhuman or degrading treatment or punishment" should be interpreted so as to extend the widest possible protection against abuses, including all forms of sexual abuse. Law enforcement officials should be instructed that rape in custody constitutes an act of torture that will not be tolerated.
- Torture often takes place while detainees are held incommunicado - unable to contact people outside who could help them or find out what is happening to them. The practice of incommunicado detention should be ended. Accurate information on the arrest and detention of any detainee must be made immediately available to families, lawyers and the courts. Families and others should have prompt and regular access to them thereafter to verify the detainee's continued well-being. If detainees do not have the financial or technical means to send word to their relatives, officers must be prepared to do it for them. Officers must ensure that relatives are not obstructed from obtaining this information.

- All detainees should be immediately informed of their rights. These include the right to lodge complaints about their treatment and to have a judge rule without delay on the lawfulness of their detention.
- Governments should ensure that all prisoners are brought before an independent judicial authority without delay after being taken into custody. Judges should investigate any evidence of torture and order release if the detention is unlawful.
- Every detainee must be informed promptly after arrest of his or her right to a legal counsel and be helped by the authorities to exercise this right. A lawyer should be present during interrogations. While being interrogated, no detainee may be subjected to violent methods or threats which impair his or her capacity of decision or judgement. Detainees must be able to communicate regularly and confidentially with their lawyer, including having meetings with their lawyer within sight but not hearing of a police officer, in order to help prepare the detainee's defence and exercise his rights.
- An independent doctor should promptly conduct a medical examination of the detainee after he or she is taken into custody in order to ascertain that the detainee is healthy and is not suffering from torture or ill-treatment. Thereafter medical care and treatment shall be provided whenever necessary.
- Registers of detainees should be kept. Information to be entered into them should include:
  - The name and identity of each person detained
  - Reasons for his or her arrest or detention
  - Names and identities of officials who arrested the detainee and transported him
  - Date and time of arrest and of transportation to a place of detention
  - Time, place and duration of each interrogation and name of interrogators
  - Time of detainee's first appearance before a judicial authority
  - Precise information on place of custody
  - Date, time and circumstances of release or transfer to another place of detention.
- The authorities responsible for detention should be separate from those in charge of interrogation.
- The Jamaican government should ensure that conditions of detention conform to international standards for the treatment of prisoners and take into account the needs of members of particularly vulnerable groups. Lock-ups facilities should be humane, designed to preserve health. Detainees should be provided with adequate water, food, shelter, clothing, medical services, exercise, and items of personal hygiene. This is a fundamental and universally applicable rule to be applied without distinction and should not be dependent on material resources.
- The rights and special status of children and women are to be protected. Children in police custody should be provided with adequate safeguards in accordance with international standards. Juveniles are to be separated from adults and alternatives to custodial care should be provided. Women detainees should be supervised and searched only by male members of staff.
- There should be regular, independent, unannounced and unrestricted visits of inspection to all places of detention.

- The JCF and the JDF should not unlawfully discriminate in protecting the community on the basis of any status, including race, gender, religion, language, colour, political opinion, sexual orientation, birth or property.

## **Provide effective training**

- It should be made clear during the training of all officials that deliberate and unlawful killings and torture are criminal acts. Officials should be instructed that they have the right and duty to refuse to obey any such order.
- Training for law enforcement officials should include: international standards on human rights, incorporating the UN *Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* and the UN *Basic Principles on the Use of Force and Firearms*; how to deal with situations which have often led to excessive force, including arrests, pursuits and coping with disturbed individuals; gender issues and sensitivity to other vulnerable groups. Such training should be strictly enforced.
- Proper screening procedures must exist to select law enforcement officials.

## **Reparations**

- All victims of crime, abuse of power and human rights violations should be treated with compassion and respect.
- Victims of extrajudicial executions, torture and ill-treatment and their dependants should be entitled to obtain prompt reparation from the state including restitution, fair and adequate financial compensation and appropriate medical care and rehabilitation. Redress procedures should be expeditious, fair, inexpensive and accessible. Unnecessary delay in the handling of victims' cases should be avoided.

## **Ratification of human rights treaties and implementation of international standards**

- The government should ensure full implementation of the UN *Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* and the UN *Basic Principles on the Use of Force by Law Enforcement Officials*.
- The government should ratify without reservations international treaties containing safeguards against torture, including the UN *Convention against Torture* with declarations providing for individual and inter-state complaints.
- Governments should ensure full implementation of international instruments, and comply with the recommendations of intergovernmental organisations and resolutions concerning these abuses. The government should ensure full support for human rights protection mechanisms and initiatives within the UN and Inter-American human rights systems, including special rapporteurs.