

JAMAICA

The Braeton Seven

A Justice System on Trial

Questions and Answers

What are the main findings of AI's report?

On 14 March 2001, seven young men and boys, aged between 15 and 20, were killed by police officers from the Crime Management Unit (CMU) in Braeton, Jamaica (commonly known as the 'Braeton Seven'). Local residents spoke of hearing the young men begging for their lives before being shot one at a time. Two years later, the investigation into this major loss of life at the hands of the Jamaican security forces has been manifestly inadequate.

The report examines the flaws in the investigation into the deaths of the Braeton Seven and concludes that there is strong prima facie evidence, including autopsy ballistics reports and witness statements, that their deaths amounted to extrajudicial executions.

The report has been compiled using international standards that relate to human rights protection and the investigation of alleged extrajudicial executions by police officers as its benchmark. It has utilised the expertise of experts in the fields of close quarter exchanges of gunfire, forensics, ballistics, crime investigation and pathology.

What does AI want the government to do?

Firstly, to initiate criminal proceedings against the police officers implicated in the unlawful killings of the Braeton Seven, as a **first step** towards ending the situation of impunity for police officers implicated in extrajudicial executions and other unlawful police killings;

Secondly, to ensure that **all** the relevant authorities implement AI's comprehensive recommendations (including the office of the Director of Public Prosecutions, the Ministry of Justice, the Ministry of National Security, the JCF, the JDF, the BSI and the PPCA). These cover all the inter-related areas where change is urgently required to bring about police accountability and end impunity in Jamaica: preparation and planning of police operations, use of lethal force; evidence gathering where there have been deaths, impartial investigations, including inquests and public inquiries, and criminal prosecutions;

Thirdly, for Jamaica's highest elected authorities to take the lead in overseeing the implementation of these changes. Amnesty International concurs with view of the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions that it is the responsibility of Jamaica's highest elected authorities to ensure police accountability in Jamaica.

Shouldn't AI be more supportive of the police?

AI recognises the vital role that policing plays in fulfilling the state's obligations to protect citizens from crime and to uphold the rule of law.

We have been critical of both individual officers who commit violations and of systems that facilitate these abuses, and have researched patterns of violations committed by police. This does not however negate our support for the majority of police officers who are dedicated to lawful, accountable policing.

AI believes that the police need adequate support, which should include ongoing training in all areas and provision of necessary equipment, facilities and protective gear, in order to develop the requisite skills and competencies to undertake lawful, accountable policing.

Finally, and most significantly, AI recognises the dangers of policing in Jamaica and elsewhere. This risk is inherent in many aspects of the job; in 2002 at least 16 police officers were killed in Jamaica. Other officers have been seriously injured. Amnesty International believes that those guilty of committing these violations should be brought to justice in accordance with due process and other fair trial rights, in accordance with international human rights standards.

Are most of the killings committed by police officers carried out in self-defence?

Amnesty International does not dispute the fact that some police killings are the outcome of the lawful employment of lethal force. In terms of international human rights law, which Jamaica is obliged to implement, that means the deployment of lethal force only when strictly unavoidable in order to protect life. This may include the use of firearms against persons in self-defence or defence of others against the imminent threat of death or serious injury.

Based on Amnesty International's work researching and documenting cases of police shootings, where police officers were involved, however, the organisation has concluded that many killings that have occurred in Jamaica were not carried out in self-defence. Forensics, ballistics and other evidence reveal a pattern of unlawful killings.

Jamaica has a really high murder rate: doesn't this mean police killings are more likely?

Jamaica has one of the world's highest murder rates, as the statistics provided below illustrate.¹

¹ Source: Interpol, United Nations Office on Drugs and Crime, Centre for International Crime Prevention, Seventh United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, covering the period 1998-2000. Population source: World Bank, Amnesty International Annual Report 2003.

| | 2000 |
|---------------------------|---|
| | Number recorded / Rate per 100,000 inhabitants |
| Albania | 609 (18.32) |
| Brazil | 39,618 (22.98) |
| Canada | 1,308 (4.25) |
| Colombia | 26,539 (62.74) |
| El Salvador | 2,196 (34.33) |
| Jamaica | 887 (33.69) |
| Mexico | 13,829 (13.83) |
| Russian Federation | 31,829 (21.87) |
| South Africa | 21,995 (51.39) |
| United Kingdom | 766 (1.46) |
| United States | 15,586 (5.54) |
| Venezuela | 8,022 (33.20) |

Note: Statistics for Brazil and El Salvador are based on 2001 findings

Law enforcement officers policing societies with high recorded rates of violent crime may justifiably be expected to face a correspondingly greater number of confrontations with armed individuals, which may result in more police killings. Even allowing for the prevalence of violent crime in Jamaica however, the police continue to kill at a higher rate than in other comparative countries.

In Jamaica, with a population of 2.6 million, 151 people were killed by police in 1999, 140 in 2000, 148 in 2001 and 133 in 2002 (1.7/1.9/1.8/2.0 killings per 100,000 respectively). In Brazil, 525 deaths resulted from police deployment of lethal force in São Paulo in 1998 and 703 in 2001 (population 10.8 million, 2.1 and 1.5 per 100,000 respectively). In South Africa, there were 345 fatal shootings reported in 2001/2; 402 fatal shootings in 2000/1 and 405 fatal shootings in 1999/0 (population 43.2 million, 1 killing per 100,000). (At the time of writing, few comparative statistics were available which included 2002 data, but trends are not expected to vary significantly from recent years.)²

² Source: Amnesty International, *Direitos Humanos No Brasil 2002, Relatório Annual do Centro de Justiça Global* p 51, the Independent Complaints Directorate, South Africa.

Armed criminal don't respect the human rights of the police – why should the police respect their "rights"?

The police are entrusted with upholding the law. Jamaican laws do not permit the abuse of the human rights of any individual by an officer in any circumstances. An abuse of human rights by one individual cannot be used to excuse further human rights violations, even against the individual responsible for the initial violation. Jamaican police officers should follow the law and allow the courts to decide the guilt and appropriate punishment for anyone accused of a criminal act. Human rights belong to all of us and stand alone from our actions. They can not be “taken from” or “given to” individuals because of alleged illegal behaviour.

Is AI ignoring the challenges of policing in a society with high levels of armed criminality?

No. The international human rights standards guiding our work – such as the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officers – were designed with the practicalities of policing in mind, for use in all societies including those with high recorded levels of violent crime. It is in these real-life situations that the “principles” in these documents have to be applied – otherwise they are worthless. This has implications for all aspects of policing operations – including the training of police officers. Amnesty International believes that the perceived dichotomy between national security and human rights is a false one. Far from undermining the fight against crime, international human rights standards provide an effective tool for combating both its causes and the manifestations. It is precisely because of the pressures that endemic crime and violence place upon governments and citizens that human rights protection is more important than ever.

Do you expect the police to go out unarmed?

No. International human rights law recognises that force – including lethal force -- may sometimes be required in particular circumstances.

It is incumbent upon the Jamaican government and police leadership to ensure that all police officers are appropriately equipped to face the dangers of policing. Such equipment, while likely to include firearms, should also include defensive items that may lessen the need for officers to use lethal force when facing potential threats.

Firearms (or other potentially lethal weapons) should not be used against persons except when strictly unavoidable to protect life and only in the following circumstances: in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives.

Is AI defending criminality?

No. Those who commit violent criminal acts should be brought to justice. International human rights law require states to hold them accountable for their actions. Amnesty International recognises that states have a duty under international human rights standards to protect citizens from crime and to provide justice and reparations for the victims of crime. This responsibility has been recognised by both the United Nations and the Inter-American Court of Human Rights.³

Violent criminal acts, such as those occurring in Jamaica, cause shock, outrage and grief and give rise to strong public demand for the punishment of the perpetrators and the prevention of further attacks. Amnesty International has reported on and condemned killing and other acts of violence against civilians by armed opposition groups in all circumstance.⁴ The organisation takes action against killings and other acts which constitute abuses of human rights as defined under international humanitarian law and general human rights instruments. Amnesty International does not seek to defend the actions of criminals or to detract from the suffering they cause. Every government has the right and the duty to take action against those who do harm to their fellow citizens. Those who are accused of breaking the law are also afforded rights that should be respected; including the presumption of innocence, the right to consult a solicitor, the right to be informed of the charges against them, the right not to be subjected to torture or to cruel, inhuman or degrading treatment and the right to a fair trial. The government should ensure that the Jamaican justice system is capable of promptly acquitting the innocent and convicting the guilty, and that those guilty of criminal acts are appropriately punished within the internationally agreed human rights standards.

Does AI approve of violence against the police?

No. Police officers have the same human rights as every other citizen. The human rights of every police officer in Jamaica must be respected and upheld. They must be free to perform their duty unhindered by the fear that their rights will be violated. In turn every officer of the force must respect the human rights of the country's citizens. Any violation of the rights of Jamaican citizens must be punished, whether committed by a private citizen or by an officer

³ The latter has stated explicitly that governments have a duty to respond in the same manner to all serious violations, whether the perpetrator is an official, a non-state actor or a person whose status is not known. See *Velasquez Rodriguez v Honduras*, judgment of 29 July 1988, Inter-American Court of Human Rights, *Seri C.*, No. 4, 1988, paragraph 174.

⁴ See for example, *Annual Report 2002*: Algeria – “Hundreds of civilians, including women and children, were killed in targeted and indiscriminate attacks by armed groups who define themselves as “Islamic groups.”; “India: Civilians are not legitimate targets”, ASA 20/013/2002, News Service No. 12, 15 July 2002. condemning killing of 27 civilians in an attack on a town by unknown people; “Spain – ETA’s new killing campaign must end”, EUR 41/12/2000, 5 October 2000; “Jamaica – Right of civilians to be protected from crime must prevail”, AMR 38/003/2002, 8 January 2002; “USA – Amnesty International appalled at devastating attacks against civilians”, AMR 51/134/2001, News Service No. 162, 21 September 2001.

of the law. Those who assault or murder a police officer should be held accountable before the law.

What about victims' human rights?

Victims' human rights are extremely important. The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power outlines comprehensive measures to be implemented by states and others for victims of crime and emphasises their entitlement to the mechanisms of justice and to prompt redress for the harm they have suffered; requiring states to strengthen judicial and administrative procedures so that this can happen. Amnesty International has called for these principles to be implemented in Jamaica.

The rights of the victim and the perpetrator are not in direct conflict. The victims of crime and their loved ones have the right to see those who have harmed them held to account via the judicial system. The victims of crime need to be supported by society as they seek to rebuild their lives after traumatic events.

Amnesty International works with, and on behalf of, the victims of human rights violations. The organisation seeks, through its human rights education work, to ensure respect for human rights at all levels.

Jamaica is a country which adheres to the rule of law. Is AI trying to usurp the role of the courts?

No. Amnesty International recognises and endorses the fundamental human rights principle that requires states to ensure the independence of the judiciary.

Soon after the Braeton killings, the then Minister of National Security requested that there be "no rush to judgement" and that the investigative system be allowed to complete its course. Two years later, the investigation process has been manifestly inadequate and the authorities have failed to press charges despite evidence of law-breaking.

The only body that can decide the lawful guilt of any officer involved in this incident is a jury. The only person who can decide punishment is a judge.

Amnesty International now believes that the authorities must place the evidence in the Braeton case before the courts to let the law run its course.

Why are you picking on Jamaica? What about the USA?

AI does not select countries to research on the basis of levels of industrial development or economic status. AI works in more than 140 countries and territories in every part of the world. From Afghanistan to Zimbabwe, our Annual Reports show that we cover countries in every region – Africa, the Americas, Asia and the Pacific, Europe, the Middle East and North Africa (see www.amnesty.org).

AI has published numerous reports outlining our concerns and recommendations in the USA. Recent reports have covered the death penalty, use of force by police, ill-treatment and torture in prison, the treatment of women and children in the criminal justice system and the systematic failure of the USA to uphold its commitments under international human rights law. In 1998 and 1999 AI carried out its first major campaign for human rights protection in USA, entitled “*Rights For All.*” AI regularly communicates with the authorities in the USA to present and discuss its concerns and recommendations.

What right does AI have to come to Jamaica? AI members do not live in Jamaica – they have no real understanding of what it is like to live somewhere so violent.

AI has more than 1,000,000 members around the world, including in Jamaica, comprising people from many different backgrounds, with widely different political and religious beliefs, united by a determination to work for a world where everyone enjoys human rights.

AI members, unfortunately, are as likely to become victims of crime as anyone else. The members of Amnesty International Jamaica live and work in the same country as the rest of Jamaica and understand well the climate that exists there. AI is constantly looking for new ways to involve victims of human rights violations – including acts committed by non-state actors – in its work.

Does AI support the government or the opposition?

Neither. AI does NOT support or oppose any government or political activity or system. Amnesty International is independent of any government, political ideology, economic interest or religion. It is concerned solely with the impartial protection of human rights.

Much of AI’s work targets governments. As the highest elected officials, it is they who have the ultimate responsibility to ensure the fulfilment of a state’s international human rights obligations.

However AI seeks to work with all those who have an influence on the human rights situation in Jamaica. We urge all relevant parties to use their considerable influence to bring about constructive change.

AI also supports the right of people to peacefully express their opinions and beliefs.

Is AI seeking to harm Jamaica's tourist trade? Does AI advocate economic boycotts?

Amnesty International does NOT advocate economic boycotts or trade embargos. It takes no position on the legitimacy of economic sanctions against governments or armed groups anywhere in the world and recognises that such sanctions can have adverse implications for all human rights: economic, social, cultural, civil and political.

AI believes that human rights protection is enhanced by economic growth and stability. Therefore, the organisation wishes to see Jamaican society enjoy economic growth as a step to ensuring the protection of every individual's human, social, economic and cultural rights.

What is Amnesty International?

Amnesty International (AI) is a worldwide movement of people campaigning for internationally recognized human rights. Amnesty International seeks the implementation of the Universal Declaration of Human Rights (UDHR) and other international human rights instruments.⁵ The UDHR proclaims in clear and simple terms the rights which belong equally to every person on this earth.⁶ Amnesty International seeks to make these rights relevant in all of our lives by holding governments to account for the way they treat us.

To do this Amnesty International

- Campaigns for perpetrators of human rights abuses to be brought to justice;
- Opposes without reservation the death penalty, torture and other cruel, inhuman or degrading treatment or punishment;
- Calls on governments to refrain from unlawful killings in armed conflict;
- Calls on armed political groups to end abuses such as the detention of prisoners of conscience, hostage-taking, torture and unlawful killings;
- Opposes abuses by non-state actors where the state has failed to fulfil its obligations to provide effective protection;
- Seeks to assist asylum-seekers who are at risk of being returned to a country where they might suffer serious abuses of their human rights;
- Opposes grave abuses of economic, social and cultural right
- Seeks the release of all prisoners of conscience. (These are people detained for their political, religious or other conscientiously held beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status — who have not used or advocated violence);
- Works for fair and prompt trials for all political prisoners;
- Campaigns for an end to political killings and "disappearances".

How can I join Amnesty International?

Contact the section or structure in your country. For a full list see www.amnesty.org

⁵ The Universal Declaration of Human Rights was written, adopted and proclaimed by the United Nations (UN) on 10 December 1948 as a response to the atrocities of the Second World War. Member states pledged “to achieve the promotion of universal respect for and observance of human rights and fundamental freedoms.”

⁶ See www.unhcr.ch/udhr/