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@Proposal for an inquiry into deaths and ill-treatment of prisoners in St Catherine's District Prison

On 31 October 1993, four prisoners on death row in St Catherine's District Prison were shot dead by warders after allegedly trying to take warders hostage. Although the killings are being investigated by the police, Amnesty International is concerned by reports that two of those killed had received death threats from warders, and by other circumstances suggesting that the shootings may have been summary executions.

Over the years, prisoners at St Catherine's District Prison have frequently alleged being ill-treated or threatened by guards or other members of the security forces, and at least four other inmates have died at the hands of warders since 1989. Although several warders have been charged with offences arising from ill-treatment or deaths of prisoners, investigations in such cases have been slow and little appears to have been done to address other serious complaints, despite a small number of warders being named repeatedly as perpetrators of abuses. Several death row prisoners have said they fear for their lives for having made statements against warders in a forthcoming court case.

The appalling conditions in the prison, which is acutely overcrowded with poorly remunerated and overstretched staff, appear to have exacerbated tensions on both sides.

On the basis of information from various sources, including a fact finding mission to Jamaica from 20 to 24 November 1993, Amnesty International believes that the situation in St Catherine's District Prison is so grave as to warrant an urgent independent inquiry. Amnesty International calls on the Government of Jamaica to appoint immediately an independent and impartial Commission of Inquiry to examine all the circumstances surrounding the deaths, threats and other alleged abuses of prisoners in St Catherine's District Prison in recent years. The findings and recommendations of the inquiry should be made public. Such an inquiry would in no sense undermine the police investigations or the possible prosecution of individuals against whom there is *prima facie* evidence of criminal behaviour.

Such an inquiry would be in keeping with Jamaica's obligations under international human rights treaties and standards which require that all allegations of arbitrary killings, or of torture or other cruel, inhuman or degrading treatment or punishment of prisoners be fully and impartially investigated.

Amnesty International's findings and recommendations are summarized in more detail below.

St Catherine's District Prison

The Amnesty International delegates who visited Jamaica in November 1993¹ were given a tour of St Catherine's District Prison, which is located some 15 miles from the capital, Kingston. It is one of the two largest prisons in Jamaica and the site of the prison has been used for penal purposes for over three hundred years. The cell blocks currently in use date from the nineteenth century, since when they have scarcely been modified.

There are separate accommodation blocks for adult sentenced prisoners, young sentenced prisoners (aged from 17 to 21 years), prisoners on remand, and prisoners under sentence of death. There is also a separate area housing a small number of juvenile offenders sentenced for serious crimes. The prison is acutely overcrowded. Although designed to house 650 inmates it held more than twice that number at the time of Amnesty International's visit. Apart from those on death row, and one block reserved for prisoners enjoying privileges, prisoners are crowded three to a cell designed over a century ago for one occupant. No beds or mattresses are provided and there is no furniture in the cells.² The landings between the cells are also used to house an overflow of prisoners.

None of the cells has integral sanitation or electric light or alarm bells. The only natural light in cells is admitted through small air vents. The prison is in a chronic state of general disrepair with broken plumbing, piles of refuse and open sewers.

There is virtually no employment provided for any inmate at the prison, or other activities or facilities. There are two small prison workshops - a tailor's shop and a carpentry shop - which can accommodate no more than 20 prisoners out of an inmate population of some 1,200. Even here most of the machinery was out of order at the time of Amnesty International's visit. Thus, for most of the day prisoners remain idle. There is no dining area and food is brought to each cell block. Amnesty International was told that prisoners are locked down in their cells from around 3.30 pm (when the last meal of the day is served) until 9-9.30 am the following morning. Because there is no electricity in the cells and the only lighting comes from the few dimly lit electric bulbs on the central corridors, long periods are spent in almost total darkness.

No doctor is attached to the prison, and Amnesty International was told that no doctor had even visited the prison for the last two years. Prisoners are treated for medical problems by warders who receive some training as medical orderlies. (Although the Spanish Town Hospital is nearby it can accommodate only the most serious, emergency cases.) There is also no dentist attached to or visiting the prison.

¹Amnesty International's delegates were Rod Morgan, Professor of Criminal Justice and Dean of the Faculty of Law at Bristol University, England, and an expert adviser to the Council of Europe Committee for the Prevention of Torture, and a staff member of the International Secretariat.

² some inmates had foam mattresses supplied by relatives

More than 100 inmates are estimated to be mentally ill but the prison is without the services of a psychiatrist. A number of mentally ill inmates have been held on remand at the prison for years, having been certified unfit to stand trial but remaining "in limbo" without any psychiatric treatment or evaluation. Although mentally ill prisoners were formerly sent to the Bellevue mental hospital in Kingston, this practice was suspended some years ago.³

There are currently around 170 prisoners under sentence of death at St Catherine's District Prison. They occupy single cells similar to those in other parts of the prison, to which they are confined for far longer periods than other inmates. There have been no executions in Jamaica since 1988, due to a number of legal challenges to the death penalty, and before this there were other periods during which executions were suspended. Consequently some prisoners have been on death row for ten years or more. Many of the complaints of ill-treatment have come from death row prisoners, and tension between inmates and guards appears to have been mounting for a number of years. Much of this appears due to the very stressful conditions under which death row inmates in particular are confined, as well as to the very poor conditions under which the warders themselves are forced to work.

The appalling conditions in the prison have long been recognized and various commissions of inquiry have recommended improvements, without result. The last review of conditions was undertaken by a government appointed Task Force on the Correctional Services in 1988. In its report, it strongly condemned conditions in St Catherine's District Prison and in the General Penitentiary (the other large maximum security prison in Jamaica), stating that:

"No human being should be required to subsist in some of the conditions which were observed..."

The Task Force's recommendations included the implementation of rehabilitative work programs; the relocation of 1,500 prisoners from St Catherine's and the General Penitentiary to a new high security prison; permanent solutions to the sewage and other sanitary problems at both prisons; and steps to implement Section 26 (1) of the Corrections Act regarding the referral of mentally ill prisoners to a mental hospital. Few of its recommendations appear to have been acted on.

Ruling by the Judicial Committee of the Privy Council in death row cases

In November 1993, the Judicial Committee of the Privy Council in England ruled that prisoners who had been under sentence of death for more than five years in Jamaica should have their

³ According to a report in the Daily Gleaner on 1 June 1991, 200 of the 538 inmates on South Block in St Catherine's Prison had been classified as mentally ill: only five warders were attached to this block. Several mentally ill inmates have died in recent years, apparently due to neglect. Norman Johnson, a death row prisoner who had reportedly been acting strangely for some time, died in February 1992 after setting himself alight in his cell. In January 1993 mentally ill inmate Alexander Bryce reportedly died from multiple injuries sustained in his cell which he shared with four other mentally disturbed inmates.

death sentences commuted, on the ground that the prolonged period awaiting execution constituted cruel, inhuman or degrading treatment in violation of Jamaica's Constitution. More than 100 prisoners affected by the ruling are expected to be transferred from St Catherine's Prison to the General Penitentiary during the coming months. There have been some allegations that treatment of death row inmates has worsened following the Privy Council's decision, with some warders resenting the ruling. Amnesty International has not been able to confirm this allegation. However, there have been reports that prisoners transferred to the General Penitentiary following previous commutations have been singled out for abuse. Amnesty International believes that this is a matter on which the authorities should be extremely vigilant.

The Events of 31 October 1993

The prisoners shot dead on 31 October were Neville Neath, Rohan Josephs, Ricky Burrell and Arthur Morrison. They were killed on the first floor of Gibraltar Block - a two storey building housing death row inmates and divided into four sections, each with about 26 cells.

Although the circumstances of the incident remain unclear, initial reports from the prison alleged that two warders were taken hostage while they were serving prisoners with lunch at around 12.30pm. Prison officials told Amnesty International that three warders were injured during the incident, one with a cut on his throat where a knife was held to it, although none of the warders was detained in hospital and it appears that the injuries were slight. Apart from the alleged knife, it appears that none of the prisoners was armed.

Reports suggest that the alarm was quickly raised, back-up warders appeared and the prisoners were shot. At least three other inmates were wounded during the incident; one had head wounds as well as gunshot wounds and was still in hospital when Amnesty International's delegates were in Jamaica. Two other inmates were treated for injuries and returned to the prison. (One of the injured inmates, Howard Malcolm, was reportedly returned to prison despite having a broken hand which was not set until the week before Amnesty International's visit.)

Amnesty International has no wish to prejudge the outcome of the police investigation into the incident. However, there are a number of concerns relevant not only to the police investigation but also to a wider inquiry.

Amnesty International has received several reports from prisoners, some of whom were alleged eye-witnesses to the shootings or the events which preceded them. While differing in some detail, the accounts are consistent in alleging that the incident started on the ground floor when an inmate "slopping out"⁴ was beaten by a warder during an argument and that the inmate and other prisoners ran upstairs. While what happened afterwards remains in dispute, the accounts are consistent in claiming that the prisoners were shot in their cells after no longer posing any threat to warders. Several sources have alleged that some prisoners were shot together in one small cell, and that Arthur Morrison was shot dead in an adjacent cell while pleading for his life. There are further allegations that warders shot at other inmates through the bars of their cells and that some were beaten.

Some of the allegations are consistent with other evidence, including evidence of injuries to the surviving inmates as well as an account given by a warder that he intervened to save one prisoner from being severely beaten. Amnesty International's delegates visited the cell block where the shootings had taken place. It is difficult to see how the inmates could have been shot dead in such a confined space without injuring warders, if they had still been held. The delegates also saw what appeared to be the mark of a bullet in the bars of one cell, which an inmate said a warder had fired at him but had narrowly missed him.

⁴ The short time allowed out of the cells for removing the waste bucket, collecting water etc.

At least three warders named by prisoners as being involved in the shootings have been named repeatedly in other allegations involving threats or ill-treatment of inmates at the prison.

Another serious concern is that two of the inmates shot dead on 31 October - Rohan Josephs and Neville Neath - had earlier reported receiving death threats from warders. Neville Neath was also one of four prisoners who had attended a meeting in the prison on 6 October 1993 at which they complained about a particular group of warders who they alleged were threatening and brutalizing inmates in Gibraltar Block. This meeting was attended by two clerics, two members of the Jamaica Council for Human Rights, and the prison Superintendent and other staff. Amnesty International was unable to discover what measures, if any, had been taken by the prison authorities following this meeting.

Access to firearms and training in the use of force

Amnesty International's delegates asked about access to firearms or other equipment during their visit to the prison. It appears that warders, although armed only with batons while performing their normal duties, have ready access to rifles from the prison armoury just inside the gate-lodge. It remained unclear who authorized the use of arms on 31 October, which was a Sunday when the Superintendent was not on the premises. Amnesty International was told that the senior officer in charge at the time of an incident would decide on the use of weapons.

Prison officers pointed out that, though trained in the use of firearms during their basic training, they receive no training in physical self-defence or control and restraint techniques or on the use of different levels of force. Nor do officers have access to protective clothing or riot control equipment. Thus, it appears that, when an incident occurs which raises staff anxiety about their safety they may move immediately to a very high, and possibly inappropriate, level of force. Whatever the findings regarding the particular events leading to the shootings on 31 October, this is a matter which an inquiry should consider very carefully.

The 1985 Corrections Act of Jamaica provides that "every correctional officer may use weapons against any inmate using violence to any person if such officer has reasonable grounds to believe that such person is in danger of life or limb, or that other grievous hurt is likely to be caused to him." (s.15(3)) and that "firearms shall be used, as far as possible, to disable and not to kill" (s.15(6)). The reports suggest that the shootings may have contravened these provisions as well as international standards, which are outlined below.

Inquiries carried out at the time of Amnesty International's visit

A police investigation into the killings was still being carried out at the time of Amnesty International's visit to Jamaica. The police had reportedly taken statements from inmates and staff and had conducted forensic examinations of the area where the shootings had taken place. There was also reported to be an internal prison investigation into the shootings. Amnesty International was told that an inquest would not necessarily be held if there was a criminal investigation; although if the cause of death remained unresolved, the Director of Public

Prosecution (DPP) could order an inquest after receiving medical and police reports. The Corrections Act 1985, however, provides that a Coroner's inquest must be held on the death of any inmate in a correctional institution.

Autopsies on the prisoners' bodies had been carried out by the state pathologist during the week before Amnesty International's visit, but the autopsy reports had not yet been made available to the relatives.

Other deaths and ill-treatment at the prison: a longstanding cause for concern

Allegations of ill-treatment at St Catherine's Prison have been a longstanding concern. As long ago as 1975 the Barnett Commission of Inquiry reported that condemned men in the prison were regularly subjected to beatings, taunts and threats by warders.⁵ In 1983 the Parliamentary Ombudsman laid a special report before parliament in which he observed that the prison rules in Jamaica were "systematically broken on an ongoing basis" and that there were "merciless and unjustifiable beatings from callous prison staffers". This report raised particular concern about several incidents in St Catherine's District Prison.

Since 1989 at least four other inmates at the prison have been killed by warders.

The case of Phillip Leslie

On 9 September 1989 death row inmate Phillip Leslie died after being beaten with batons after warders allegedly tried to subdue him when he refused to return to his cell. An autopsy report found he had died from a fractured skull as a result of blows to the head. His leg was also allegedly broken during the incident.

According to reports from inmates, Phillip Leslie had been severely beaten five months before, in April 1989, allegedly for being too slow during "slopping out". After being hit by one warder, he was seen fleeing towards the overseer's office, pursued by warders who beat him unconscious in the presence of supervisory staff. He was subsequently admitted to the Spanish Town Public Hospital where a doctor was reported to have expressed public concern about the severity of his injuries. According to inmates Phillip Leslie was then moved for his own protection to another section of the prison adjacent to the overseer's office - but this did not protect him from being fatally beaten on 9 September.⁶

An inquest into Phillip Leslie's death did not take place until more than two years later, in 1992. Amnesty International was told during its November 1993 mission that the inquest jury had returned a verdict on 6 April 1992 that unnamed persons were responsible for Phillip Leslie's death and answerable to a charge of manslaughter. However, in December 1992 it was reported that four warders were charged with murder in connection with Phillip Leslie's death. The trial had not yet taken place at the time of writing.

The deaths of three inmates in May 1990

⁵ A government-appointed commission of inquiry, chaired by Dr Lloyd Barnett, to investigate the causes of disturbances in the high security wing of St Catherine's District Prison in December 1974

⁶ A lengthy account of both incidents by inmates was published in the Jamaican journal *The Weekend Enquirer*, 6-8 October 1989.

Three death row inmates, Calvin Green, Paul Gray and Denny Wilson, died as a result of injuries inflicted during a prison disturbance on 28 May 1990. The trouble started when prisoners broke out of their cells after being locked down without food or water during a work stoppage by prison staff. The police and army were brought in to help quell the ensuing riot. The autopsies found that the inmates had died as a result of multiple injuries to the head and other parts of the body. An inquest opened more than a year later in August 1991. Inmates testified that Calvin Green was dragged out of a cell by warders and that he and Denny Wilson were severely beaten with batons and springblades, with warders continuing to beat them while they were lying injured on the ground.

Several other inmates were reported to have been severely injured by warders during the quelling of the disturbances. One inmate, Anthony Bernard, had a broken jaw which was reportedly not set until several weeks later.

Amnesty International was told in November 1993 that charges were pending against several warders as a result of the May 1990 deaths. The organization has written to the DPP's office for confirmation of this and had not yet received a reply at the time of writing.

Amnesty International does not know if the warders concerned in either of the above cases remained in service and in contact with prisoners during the long delay between the prisoners' deaths and the bringing of criminal charges.

Deaths of prisoners in June 1991

Four prisoners were reported to have been killed by other inmates and a fifth later died of injuries received during disturbances in the prison on 30 June 1991. The incident did not involve death row prisoners. In August 1991 four inmates were charged with the deaths of the prisoners. Initial reports stated that the riot was caused by a longstanding dispute between rival gangs in the prison. However, an investigation by the *Daily Gleaner* revealed in September 1991 that the murdered inmates had recently been transferred to St Catherine's Prison from the Gun Court where they were witnesses in a case against Gun Court warders who were charged with having helped the escape of two notorious criminals. The *Gleaner* reported allegations from prison sources that warders at St Catherine's Prison had armed a group of prisoners and had paid them to kill the prisoners.

The Inspectorate Unit of the prison services was reported to have conducted an inquiry into the incident. Amnesty International was unable to discover the results of this investigation during its visit to Jamaica in November 1993, or whether the inmates charged with the prisoners' deaths had been brought to trial.

Ill-treatment during cell searches

There have been frequent reports of prisoners being ill-treated or having their legitimate property destroyed during cell searches. The police and army have sometimes been brought into the

prison to assist in such searches. Prison officials told Amnesty International that this was done as prison staff did not have the necessary equipment or protective clothing to deal with the threat from inmates of concealed weapons.

The last major incident was in early May 1993. On 4 May, soldiers were brought in to assist in cell searches of death row inmates after reports that inmates had weapons, including guns. Numerous inmates subsequently alleged that soldiers had beaten them in the groin with metal detectors, and that warders had pointed out particular prisoners who were then beaten. It was also alleged that warders had thrown water over prisoners' documents and destroyed other personal property during searches on 3 May. (Although some home-made weapons were reportedly discovered during the searches, no guns were found.)

After the incident, death row prisoners went on hunger strike and refused to leave their cells until they could meet with senior prison officials. Amnesty International understands that a meeting subsequently took place between inmates and the Commissioner of Prisons, and that statements about their treatment were also taken by representatives of the Jamaica Council for Human Rights. A representative of the Ombudsman's office also visited inmates.

Several inmates injured during the searches were denied prompt medical attention. They included one prisoner who was reportedly urinating blood after being beaten in the testicles and another who was injured in the eye. Neither were provided with medical attention until a doctor was sent in by the Jamaica Council for Human Rights.

Alleged threats to inmates reporting ill-treatment

Article 7(2) of Jamaica's Prison Rules states:

"The Superintendent shall ensure that every prisoner having a complaint to make or a request to prefer shall have ample facilities for so doing and the Superintendent shall redress any grievance or take such steps as may be necessary in each case."

However, not only have serious complaints apparently not been acted upon, but prisoners are alleged to have suffered reprisals from warders after complaining about ill-treatment.

They include Anthony Robinson, who allegedly had two fingers broken by a warder in January 1993 after he had reported the warder to an overseer about another incident; the same warder has reportedly continued to threaten him since then.

Three inmates - Victor Francis and two brothers, Garfield and Andrew Peart - are alleged to have received death threats and to have suffered ill-treatment as a result of testifying against warders in a court case (the Phillip Leslie case, cited above). Victor Francis wrote to his solicitors to complain that four warders who had persistently threatened him destroyed his radio, glasses and other property in his cell on 24 September 1993. He also stated that he had made several complaints about his treatment to the Superintendent but that no action had been taken.

Andrew Peart had also reported receiving death threats from warders in 1991 after an earlier complaint about his treatment made by his mother was published in the Jamaican press.

In early October 1993 Amnesty International received a letter from the Jamaica Council of Human Rights giving the names of 26 prisoners whose lives were alleged to be in danger after

making statements about ill-treatment in the prison. Two of the prisoners listed (Neville Neath and Rohan Josephs) were among those shot dead on 31 October 1993.

Allegations of abuses by a group of "rogue" warders

One of the most disturbing allegations is that a particular group of some seven to twelve warders is responsible for persistent abuses against prisoners in St Catherine's District Prison. It is alleged that these warders patrol the prison outside their normal working hours and frequently beat, harass or threaten inmates, especially those on death row. The warders have sometimes been referred to by prisoners in their letters as "the Viper Squad" - a reference to a group of warders who were alleged to have engaged in similar abuses in the early 1980s (and to which reference was made in the Ombudsman's 1983 report on prisons).

The prison authorities refused to comment on the existence of such a group when this was raised by Amnesty International during its visit in November 1993. However, it appears that prisoners expressed concern about a particular set of warders during the meeting at the prison on 6 October 1993 (see above). According to some sources, an undertaking was given to disperse the warders among different patrols but this did not happen. Amnesty International also notes that some warders have been named repeatedly in allegations of ill-treatment made by prisoners over several years. However, nothing appears to have been done to address this problem.

While officials would not discuss ill-treatment allegations in detail, they did point out that many inmates engaged in violent and threatening behaviour toward prison personnel and that force was sometimes necessary. This may be true, and Amnesty International does not dispute that force may be necessary in certain situations. However, this does not dispel concern about the persistent allegations of excessive force, threats and actual injuries and deaths of prisoners that have been reported in recent years. Amnesty International notes also that the prisoners seem to have made every effort to have their allegations addressed through the appropriate channels (including seeking meetings with senior officials as happened after the May 1993 incident and on 6 October). However, no action appears to have been taken to allay the fears expressed.

The warders who escorted Amnesty International's delegates round the prison on 24 November 1993 were courteous and respectful toward the prisoners, as were the other staff whom the delegates observed. Amnesty International was also struck by the extremely difficult conditions under which staff at the prison were required to work. However, the allegation that a minority of warders engage in persistent abuses, and are able to operate unchecked outside their normal duties, should be investigated as a matter of urgency.

Adequacy of the Complaints Process

As noted above, several warders from St Catherine's District Prison have been charged with serious offences arising from the deaths of inmates. However, the investigation of such cases has been marked by long delays, and has not prevented further alleged abuses. It is also reported that seven warders at the prison were sentenced and fined for assaults against inmates in 1981. Amnesty International knows of no other instances in which warders from the prison have been charged with offences, despite repeated allegations since then.

Apart from criminal investigations, there is an internal complaints procedure within the prison system. Prison officials told Amnesty International that prisoners may complain about ill-treatment or other grievances to any member of staff who should notify the Superintendent and record the complaint in a complaint book. Serious complaints may be taken as far as the Commissioner of Prisons or the Inspectorate (see below). However, Amnesty International was told that in practice most complaints are dealt with internally within the prison.

Although officials told Amnesty International that prison warders had been disciplined for offences against inmates, no examples were given. The cases described above suggest that many complaints have not been adequately investigated or remedied by the prison authorities. The Ombudsman has also repeatedly criticised the lack of response by the prison authorities to allegations of ill-treatment and breaches of the prison rules (see below).

The Minister of Justice informed Amnesty International in 1989 that a special Inspectorate Unit had been established within the Department of Correctional Services to investigate allegations of ill-treatment of inmates. The unit is headed by the Chief Inspector of Prisons who reports directly to the Minister of National Security. The Inspectorate is reported to have investigated a number of serious incidents at St Catherine's Prison in recent years. However, it appears that its reports have not been made public. The Superintendent of St Catherine's Prison said that he did not receive copies of the Inspector's reports, which went only to the Minister. No one to whom Amnesty International spoke could provide a copy of any report or recommendation made by the Inspectorate in recent years, or even confirm in which cases investigations had been held. This suggests a disturbing lack of public scrutiny or accountability in the investigation of complaints within the Correctional Services.

During its visit to Jamaica in November 1993, Amnesty International met Mr K.D. Knight, the Minister of National Security, and Mr C. Blake, the Chief Inspector of Prisons. Neither could provide information during the meeting on whether the Inspectorate had investigated the incidents in 1989, 1990 or 1991 in which inmates had died, or on whether an investigation was being carried out into the alleged brutality during the cell searches on 3 and 4 May 1993. Amnesty International has since written for further information on these points.

The Minister of National Security was not prepared to comment on any matters relating to the shootings on 31 October 1993.

Boards of Visitors

Although the prison rules provide for Visiting Committees (otherwise known as Boards of Visitors) to be appointed for each prison in Jamaica, these were allowed to lapse for more than ten years and were only reinstated in 1991.⁷ Amnesty International was told that, although it is within their power to do so, The Board of Visitors for St Catherine's District Prison has not formally investigated inmate complaints, although members regularly visit the prison.

The Office of the Parliamentary Ombudsman

The office of the Parliamentary Ombudsman in Jamaica was created by statute in 1978 and came into effect in 1979. The Ombudsman receives many complaints from prisoners (as well as complaints against other public authorities or officials). Investigation by the Ombudsman probably constitutes the main independent procedure for investigating complaints from inmates in institutions.

The Ombudsman seems to have made a genuine effort to address the problems in the prisons in Jamaica. In 1983 the former Ombudsman, E. George Green, laid a special report before Parliament in which he strongly condemned the deplorable conditions in prisons and police lockups throughout Jamaica. Although some measures had been taken, the report concluded that: "...no genuine effort has been made by the immediate Ministry or associated ministries to alleviate the grave problems listed.." It is relevant to note that the Ombudsman has no powers of enforcement and his recommendations are non-binding.

Investigations by the Ombudsman have led to some criminal prosecutions of prison officials, including the prosecution of the warders at St Catherine's District Prison for offences in 1981. The Ombudsman's office was also reportedly instrumental in collecting evidence which was submitted to the DPP and led to the 1992 inquest into the death of Phillip Leslie.

The annual reports of the Ombudsman up to 1987 (the latest which the office was able to provide to Amnesty International) indicate that the Ombudsman has had some success in gaining redress in some other cases also - for example cases of people held in unlawful detention or prisoners who have been denied medical treatment. However, the Ombudsman appears to have been less successful in gaining redress for other types of ill-treatment and more general brutality, either in individual cases or as regards long-standing patterns of ill-treatment in particular institutions.

The reports refer repeatedly to the lack of action by the prison authorities in response to ill-treatment allegations. In December 1988 the Ombudsman submitted another special report to parliament, citing cases of ill-treatment of prisoners from 1985 which he had asked the Commissioner to investigate without receiving a response. The report included a number of

⁷ Boards of Visitors are intended to provide some form of independent oversight of the running of prisons and under the present regulations in Jamaica are composed of members of the community appointed by the Minister responsible for prisons.

cases from St Catherine's District Prison, including a case in June 1986 in which warders were alleged to have assaulted 33 inmates, causing skull fractures and other injuries.

The reports suggest that the Ombudsman's office is unable to conduct its own full investigation into every case that comes before it, and that it relies on co-operation from the prison department. Indeed, the office itself may lack sufficient staff to investigate all cases thoroughly. The number of staff has remained broadly the same since the office was created, although complaints from inmates in institutions have increased, from 54 in 1980 to 120 in 1992. Although the Ombudsman may raise complaints with the prison authorities and ask for their response, there may be little more he can do if the authorities do not respond or do not then carry out their own investigation, particularly if there is no independent evidence. Several prisoners have said, also, that they have not been informed of the progress or outcome of investigations into their complaints to the Ombudsman.

Although the Ombudsman is supposed to report annually to Parliament, the last published report was in 1988. Amnesty International was told during its visit to Jamaica that the report for 1989 was due to be published shortly, in limited edition due to a lack of funds. Amnesty International is concerned by the failure of the government to make adequate resources available for the publication of up-to-date reports - the lack of which must undermine the effectiveness of the Ombudsman's office as a public body involved in the protection of human rights.

International Standards

Standards on the use of force and fire-arms and on the right to life: -

The United Nations (UN) *Code of Conduct for Law Enforcement Officials*, adopted by the UN General Assembly in 1979, emphasizes the exceptional nature of the use of force, stating that force may be used "only when strictly necessary and to the extent required for the performance of their duty" (Article 3).

More detailed guidelines are set out in the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, adopted by the Eighth UN Crime Congress in 1990. These provide that law enforcement officials "shall, as far as possible, apply non-violent means before resorting to the use of force and firearms" (Article 4), and that firearms may be used only against the "imminent threat of death or serious injury" and "only when less extreme measures are insufficient to achieve these objectives" (Article 9). The Basic Principles also provide that a clear warning should be given and that firearms should be used "only in appropriate circumstances and in a manner likely to decrease the risk of unnecessary harm."

Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), ratified by Jamaica, states: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."

It is hard to square the circumstances of the 31 October shootings with these principles.

Standards prohibiting torture and ill-treatment: -

The prohibition against torture and other cruel, inhuman or degrading treatment or punishment is a fundamental norm of international law. It is enshrined in Article 5 of the United Nations (UN) Universal Declaration of Human Rights as well as Article 7 of the ICCPR. Such treatment is also prohibited under Article 17(1) of the Jamaica Constitution.

The Human Rights Committee in its General Comments on Article 7 of the ICCPR has noted that:

"...it is not sufficient for the implementation of this Article to prohibit such treatment or punishment or to make it a crime ... States must ensure an effective protection through machinery of control. Complaints about ill-treatment must be investigated effectively by competent authorities.."⁸

International standards on the investigation of summary executions or disputed killings:-

In 1988 the United Nations Special Rapporteur on summary or arbitrary executions laid out standards for proper investigations of disputed killings. These include: promptness, impartiality, thoroughness and publication of the findings of the investigation. He also stated that the family of the victims and lawyers should be able to participate in the investigatory proceedings and have access to substantive information at various stages of the investigation. These and other standards were incorporated into the United Nations *Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*, endorsed by the General Assembly in 1989. Preventative measures under the *Principles* include:

"... a clear chain of command over all officials ... authorized by law to use force and firearms." (Article 2) and;

"Effective protection through judicial and other means ... to individuals and groups who are in danger or extra-legal, arbitrary or summary executions, including those who receive death threats." (Article 4)

The *Principles* further state that:

"Complainants, witnesses, those conducting the investigation and their families shall be protected from violence; threats of violence or any other form of intimidation. Those

⁸ General Comments of 27 July 1982 by the Human Rights Committee (the UN body which monitors compliance with the provisions of the ICCPR)

potentially implicated in extra-legal, arbitrary or summary executions shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations." (Article 15)

Conclusions and Recommendations

Although the full facts are not yet known, there is at least a *prima facie* case for suggesting that the shootings in St Catherine's District Prison on 31 October 1993 violated international standards, and that they may have been summary executions.

The evidence further suggests that prisoners in Jamaica and, in particular, in St Catherine's District Prison, have been subjected to torture or cruel inhuman or degrading treatment in violation of international standards and Jamaican law. While there exists in Jamaica machinery for the investigation of complaints by prisoners, both internally and by independent bodies, these have not served adequately to address allegations of abuses persisting over many years.

Amnesty International recommends: -

- that an independent Commission of Inquiry be appointed without delay to examine all the circumstances leading to the shootings on 31 October 1993, including any prior threats to those killed or injured. The inquiry should also examine whether present guidelines and training in the use of force and firearms, as well as the chain of command for authorizing their use, conform to international standards;
- that the inquiry also examine other allegations of abuses of inmates at St Catherine's District Prison, including use of excessive force during cell searches; unwarranted destruction of prisoners' property; threats made to inmates; and allegations that persistent abuses are being perpetrated by a particular group of warders. The inquiry should also examine the adequacy of the complaints procedures;
- the inquiry should look at all relevant sources of information, including the prison complaints book and complaints registered with the Ombudsman, and take steps to identify warders named repeatedly in complaints; it should take testimony from inmates and warders and other relevant witnesses;
- the findings and recommendations of the inquiry should be made public within a reasonable period of time.

A Commission of Inquiry with the above terms of reference would not prejudice, but would be complementary to, the separate criminal investigation into whether there is sufficient evidence to prosecute individuals with offences arising from the events of 31 October.

Amnesty International further recommends that:

- the autopsy reports should be made immediately available to relatives if this has not already been done;
- warders alleged to have been involved in the shootings should be transferred from the area of the prison where the shootings took place while the case is being investigated.
- immediate steps should be taken to ensure that inmates making complaints are protected from reprisals by prison staff
- effective measures be taken to ensure the physical safety of prisoners who are witnesses in court proceedings against warders or former prison staff.

Recommendations regarding St Catherine's District Prison

While not the main focus of this report, Amnesty International considers that the general conditions prevailing in St Catherine's District Prison constitute "cruel, inhuman or degrading treatment". The conditions and facilities in the prison fall far short of the standards set out in the United Nations (UN) *Standard Minimum Rules for the Treatment of Prisoners*, particularly those sections relating to the provision of adequate cell space, bedding, lighting, sanitary installations, medical services, and work and rehabilitation programs for sentenced prisoners.

Amnesty International recognizes that there are serious problems of resources in Jamaica. However, this does not absolve the government from ensuring minimum standards of humane treatment for those in state custody. Several officially appointed inquiries have recommended urgent minimum improvements to conditions in St Catherine's District Prison as well as the General Penitentiary but there is little evidence that these have been implemented. Amnesty International urges the government to take immediate steps to implement the recommendations of previous inquiries.