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## **Jamaica: Braeton inquest -- Justice must be done and seen to be done**

In light of recent reports regarding a number of statements by the Coroner at the Braeton Inquest, Amnesty International reiterates its concern that legal proceedings must be conducted with impartiality and fairness, in accordance with international standards.

Alleged comments by the Coroner to the effect that "Nothing is wrong with a propensity to shoot" and "police have a right to shoot" are extremely worrying as they may indicate partiality on the part of the magistrate -- the official responsible for the impartial administration of the court -- by suggesting the existence of lower standards on the use of lethal force than is actually the case.

"To say that the police may employ a 'shoot first and ask questions later' policy may infer to the jury that unlawful standards of policing are permitted," Amnesty International said. "International standards are clear: law enforcement officers may use lethal force only when strictly unavoidable to protect life, and only when less extreme means are insufficient. Protecting citizens' right to life is of paramount importance," the organization added.

These and other standards relating to the right to life constitute an accepted norm of customary international law, and have been applied in countless national jurisdictions. The right not to be arbitrarily deprived of life was also upheld in a recent ruling by the European Court of Human Rights on a case involving excessive use of lethal force by British elite forces against suspected members of an armed group in Gibraltar.

"If the Jamaican public are to believe that the actions of the Jamaica Constabulary Force at Braeton are being fully and independently investigated, it is imperative that the inquest ensures not only that justice is done, but that it is seen to be done," Amnesty International concluded.

### **Background**

On 8 April 2002, the Coroner is alleged to have stated that: "Nothing is wrong with a propensity to shoot. Law Lords said, 'Shoot first and ask questions after.' Police have a right to shoot. If a policeman shoots 20 men in questionable circumstances, nothing is wrong with that if he had reason to shoot. Police would have been right to shoot students at Jonathan Grant school when they threw stones at the police. There is a difference between police licensed to carry a firearm and persons with unlicensed firearms."

In *McCann v UK* -- a case concerning the operation by the SAS (Special Air Services - an elite unit within the UK armed forces) at Gibraltar which resulted in the deaths of four unarmed members of the IRA (Irish Republican Army - an armed opposition group) -- the European Court of Human Rights commented on the actions of the SAS soldiers: "Their reflex action in this vital respect lacks the degree of caution in the use of firearms to be expected from law enforcement personnel in a democratic society, even when dealing with dangerous terrorist suspects". Under the European Convention of Human Rights, this Court has also found that there must be a mechanism for reviewing the action of the state agents. "It is essential both for the relatives and for public

confidence in the administration of justice and in the state's adherence to the principles of the rule of law that a killing by the state is subject to some form of open and objective oversight", as, without such a procedure, the prohibition of arbitrary killings would be rendered ineffective.

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