

ACCOUNTABILITY FOR GROSS VIOLATIONS OF HUMAN RIGHTS IN JAMAICA: THE 2010 MASSACRE IN WEST KINGSTON

The Remaining Pieces of the Accountability Puzzle



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INTRODUCTION

Background

In May 2010, scores of people died in a joint operation between the Jamaica Constabulary Force (the police) and the Jamaica Defence Force (the military) to capture and extradite the most well known drug lord in Jamaica, Christopher “Dudus” Coke. This paper considers the circumstances that lead to the deaths of these individuals in a group of communities referred to as “West Kingston”, and the steps that remain for Jamaica achieve full accountability for the deaths of its citizens.

The 2010 joint police/military operation in the communities that comprise West Kingston is the second major deadly operation with multiple casualties in that area in approximately 10 years. The first operation into these communities took place in 2001 and its lessons do not appear to have been incorporated, arguably leading to the newest

recurrence. The 2001 operation was investigated and the *2002 West Kingston Commission of Enquiry* (“*West Kingston Commission I*”) Report was issued.

Capturing and extraditing Mr. Coke was a long, complicated, and drawn out affair which led to, not one, but two investigative commissions. The first, the *2011 Manatt-Dudus Commission of Enquiry* investigated whether the government of Jamaica retained a private law firm in the United States to prevent the extradition of Mr. Coke and the second, the *2016 West Kingston Commission of Enquiry* (“*West Kingston Commission II*”), investigated the “joint” police/military operation conducted in 2010 to capture Mr. Coke in order for him to be extradited.

Despite the high cost of each the Commissions and their specific findings, the first two barely considered in the *West Kingston Commission II Report* which purportedly had the aim of determining accountability. The *2002 West Kingston*, the *2011 Manatt-Dudus Commission of Enquiry*, and the *2016 West Kingston Commission Report* also did not appear to have any mechanism which would lead to prosecutions, leaving the perpetrators in impunity, few changes to the conduct of the police and military in domestic operations, and arguably contributing to the repetition under similar circumstances.

The aim of this paper is to assess the requirements for accountability of gross human rights violations for the 2010 killings of civilians by State forces in West Kingston, to determine if the Jamaica has complied with its obligations and, where it has not, to indicate what more must be done to meet those obligations.

Approach and Structure

This paper takes an “international human rights-centered” approach to the steps the government must take now that the *2016 Commission of Enquiry Report* has been released. This was done because there does not appear to be a domestic legal procedure in Jamaica that allows for the findings of Commissions of Enquiry to be easily transformed into prosecutions of individuals and groups. This is however despite Jamaica’s international obligations to do so.

This dissertation is divided into four (4) chapters. Each of the chapters have been arranged to tell the story of the process and challenges of gaining accountability for the death of over 70 civilians in May 2010 in West Kingston Jamaica. The chapters have been ordered so as to tell the story of who the affected people and areas were; how the government of Jamaica dealt with the circumstances surrounding the extradition of Mr. Coke; what Jamaica’s legal obligations are with respect to accountability for the deaths of scores of people by the State; and where Jamaica is to go from here now that the *2011 Manatt-Dudus Commission of Enquiry* and the *2016 West Kingston Commission Report* do not, in and of themselves, fully meet Jamaica’s obligation to provide accountability.

Chapter 1, discusses who the victims were and the social and legal context in which the deaths of over 60 civilians took place in Jamaican in May 2010. This thesis first considers the request for the extradition of powerful drug lord, “Dudus” Coke, the leader of a group of communities referred to as West Kingston. It will then recount what happened leading up to the May 2010 operation for his capture and extradition, and a brief history of

violent clashes these communities have had with the State, captured in the *2002 Commission of Enquiry Report*.

Chapter 2 explores the response of the Government of Jamaica after the May 2010 incursion into West Kingston. The mechanism that is most used for gross human rights violations in Jamaica is a Commission of Enquiry but the statute governing these Commissions is over 130 years old and is arguably ill-suited to deal with mass violations of human rights.

Two Commissions of Enquiry were created as a result of the extradition request of Mr. Coke. The first Commission only investigated whether the government of Jamaica retained a private law firm in the United States to prevent the extradition of Mr. Coke and led to the *2011 Manatt-Dudus Commission of Enquiry Report*. Only after a lengthy report by the Public Defender which called for full accountability for the deaths was a second Commission was established in 2013. The second Commission investigated the police/military operation conducted to capture and extradite Mr. Coke and the deaths of over 60 civilians, and led to the *2016 West Kingston Commission II Report*.

While there has been much focus and writing on Truth Commissions or enquiries/inquiries with an international component, this dissertation argues that the standards for Commissions of Enquiry in Jamaica should be subject to the same guidelines as Truth Commissions, especially when they are used to discover the “truth” of actions of the State that have led to violations of rights of citizens, especially the right to life.

Chapter 3 considers Jamaica's domestic and international obligations regarding accountability for the deaths of scores of persons by the State and for the investigation of gross violations of human rights in Jamaica. This dissertation argues that, in line with the Constitution of Jamaica, its regional obligations as part of the Inter-American Human Rights System, and its international treaty and charter based responsibilities as well as United Nations declarations, Jamaica has the obligation to ensure truth, justice, reparation, and non-repetition of the 2010 events.

The dissertation first considers the constitutional and other legal obligations in Jamaica to carry out investigations or prosecutions as a result of the deaths of large numbers of civilians by the Jamaican State and a Commission of Enquiry. It then assesses Jamaica's regional and international obligations to provide for truth, justice, reparations, and non-repetition.

Finally, **Chapter 4** makes recommendations on what more can be done to improve the search for truth, justice, reparations, and non-repetition and concludes that, on their own, both Commissions do not meet the State's obligations but they are good first steps on the road to full accountability.