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## Declining support for the rule of law

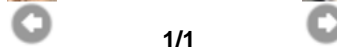
Claude Robinson  
Sunday, April 10, 2011

THE 'explosion' in the usually quiet hillside community of Grants Mountain in St Ann last week is a cautionary tale.

At the time of writing (Thursday) the police were still investigating, so we don't know the circumstances surrounding the fatal shooting of 42-year-old Alton Thomson, a farmer of Essen Castle near Alexandria.



The charred remains of a building owned by a licensed firearm holder accused of shooting a resident of Grants Mountain in St Ann. The building was burnt by residents angered by the shooting.



As reported by the Daily Observer last Wednesday, Thompson was shot Monday morning after he allegedly attacked an unnamed licensed firearm holder on his property.

The police apprehended the firearm holder and were continuing their investigation in the fatal shooting when some community residents, who had a different view of what happened, demanded that the police hand over the alleged shooter so they could administer their brand of 'justice'. The police refused, and came under attack.

Nine hours and much reinforcements later, the police were able to extricate themselves from what had become an angry mob. But this was only after four members of the constabulary were wounded; one community member was shot in the leg, reportedly by the police; three police vehicles were extensively damaged; 11 residents were detained; and three buildings owned by the man in custody and his family were razed to the ground.

The specifics of this event may be new, but the basic outlines of the story are familiar enough. Stories of residents inflicting 'vigilante justice' on persons they claim committed crimes that generate unusual levels of anger are fairly common. Often, the police become the targets of the anger if, as they must, they try to prevent the execution of this form of 'justice'.

While the Grants Mountain investigation runs its normal course, frequent incidents of 'vigilante justice' have important implications for respect for the rule of law, the justice system and more broadly, for democratic governance.

The issue is addressed in a recent study, "The political culture of democracy in Jamaica, 2010", undertaken by the Centre for Leadership and Governance (CLG) at UWI, Mona Campus and Vanderbilt University in the United States, which shows that a majority of Jamaicans believe in the rule of law as a general principle.

It was the third study as part of a wider analysis of democracy in Latin America and the Caribbean in the context of economic hard times. Both institutions, with funding by the United States Agency for International Development, have been doing the biennial surveys since 2006.

In the context of Jamaica's high murder rate, respondents were asked whether it was OK for the police to "cross the line occasionally" to catch criminals or whether they should "obey the law at all times." Only 23 per cent said it was OK to cross the line, while a huge 77 per cent of the populace expressed the opinion that the law should always be obeyed. Hence, the survey results indicate "a very strong support for the rule of law" among Jamaicans.

Disconnect between principle and practice

At the same time, the research team — led by Lawrence A Powell of the Centre and Balford Lewis of the Department of Sociology, Psychology and Social Work — found a disconnect between principle and practice.

Weak observance of civil and human rights in areas like law enforcement and the prison system, increasing incidents of vigilante attacks, and the excessive and sometimes deadly use of force by the police in treating with alleged offenders were cited as examples of the disconnect.

"These developments have led many to question the level of commitment of Jamaicans to the principles of rule of law and the right to due process."

My guess is that part of the difficulty is that the rule of law concept means different things to different people.

"The formal definition refers to explicit criteria of the law or legal system such as an independent and impartial judiciary; laws that are public; absence of laws that only apply to specific individuals or classes; absence of retroactive laws; and provisions of judicial review of government actions."

For many Jamaicans, though, the concern would be less about 'formal definition' and more about the extent to which outcomes of fairness and justice are routinely realised without regard to status, power, privilege or influence.

The principle is that no one is above the law. Has that been the experience in Jamaica where people often say and believe that there is one law for the big man and one for the small man or, more recently, one law for 'downtown and one for Liguanea'? 'We want justice' is perhaps the most common refrain in citizen protests and demonstrations that attract media attention.

When the Constitution can be flouted with impunity and lawmakers take their seats in Parliament knowing that they were not legally entitled to those seats, then it is difficult to proclaim the sanctity of the rule of law.

The survey results also show statistically significant fluctuations in levels of support for the rule of law in Jamaica from 2006 to 2010.

The authors point to a 10 per cent decline over the last two years which, they say, indicates "citizens' frustration with the failure of the authorities to curb the escalating crime problem and a growing tendency on the part of some segments of the society to support the use of 'whatever means necessary' to deal with the problem."

Of course, vigilante justice runs counter to any definition of the rule of law and must be resisted by well-thinking persons. At the same time all of us, but especially lawmakers and those in authority, must ensure that the law is not just about formal institutions and structures. In practice, it must strive always to be manifestly fair and just.

The decline in support for the rule of law must be arrested and reversed if for no other reason than the proven relationship between respect for the rule of law, democratic governance and economic development. Jamaica is not in a position to slip any further on any of these indicators.

#### Decline in trust of the prime minister

A related finding of the survey was that levels of trust that citizens placed in social and political institutions and political actors were generally low.

Of the 11 organisations observed in the 2010 survey, only four received average support of above 50 on the 100-point scale.

The army and the mass media enjoyed the highest levels of trust, scoring approximately 66 and 61 points respectively. Other institutions receiving marginally above 50 points were the Electoral Office and Supreme Court. The institutions in which citizens expressed least trust are the police and political parties, having received mean scores of about 33 and 34 respectively, the survey found.

Interestingly citizens' trust in most of the key institutions had increased marginally between 2006 and 2008.

The authors suggested that this rise in confidence was related to the promise of improved governance associated with the election of the new Bruce Golding political administration which promised much by way of a new approach to governance and to fighting corruption.

But by 2010 there was a trend of declining confidence, with only the Army receiving an appreciable increase in support. "Most notable are the 14-point and the 10-point decline in trust in the prime minister and the police respectively since 2008," it said.

Since the survey, the police have begun to show positive gains in the fight to reduce murder, down a significant 45 per cent since January. So their stocks should be rising. Mr Golding, by contrast, has no gains to show — only wounds from the Manatt enquiry. Will they heal in time for the next elections? [kcr@cwjamaica.com](mailto:kcr@cwjamaica.com)