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ICJ

REPORT

INTERNATIONAL COMMISSION OF JURISTS
COMMISSION INTERNATIONALE DE JURISTS COMISION INTERNACIONAL DE JURISTAS

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2 May 1995
Ref. 2/57/5
(please quote)

Your Excellency ,

On behalf of the International Commission of Jurists (ICJ) I have the honour to submit the ICJ report on the Preliminary assessment of Dr. Walter Rodney's Death on 13th June 1980. .

Please note that we remain at your disposal for a further dialogue and exchange of information about the issues raised in this report. However, we would appreciate receiving your comments on this report as soon as possible.

The ICJ wishes to thank your government for all the support provided to the ICJ team during their mission in Guyana.

Please accept the assurance of my highest consideration.

Adama Dieng
Secretary General

The Hon. Bernard De Santos, SC, MP
Attorney-General and Minister of Legal affairs
Attorney-General's Chambers
Georgetown - Guyana
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REPORT

*OF the International Commission of Jurists
On the Preliminary Assessment of
Dr. Walter Rodney's Death
On 13th June, 1980*

Guyana, 14-17 March 1995

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1. Mission's mandate and activities.

At the request of the Government of Guyana, the International Commission of Jurists (ICJ) sent from 14 March through 17 March 1995 a team to investigate the circumstances of the death of Dr. Walter Rodney, which occurred on 13 June 1980. Dr. Rodney was a well-known Guyanese historian and politician.

The team was composed of:

- Dr. Christian Tomuschat, Professor of Public Law at the University of Bonn (Germany); former member of the United Nations Human Rights Committee; member of the ICJ Executive Committee; and presently member of the United Nations International Law Commission. Dr. Tomuschat served as the Chairman of the team.
- Felipe Gonzalez, Professor of International Human Rights Law and Jurisprudence at Diego Portales University in Santiago, Chile, Director of the Department of Investigations at the Faculty of Law at that University Human Rights Law Group, an ICJ-affiliated organization.
- Judge Richard O. Kwach, Justice of the Kenya Court of Appeal in Nairobi, Kenya.

During its visit, the team met with a member of governmental representatives, including the Prime Minister, the Attorney General, and members of the military and the police. It also held meetings with non-governmental organizations and individual citizens.

In addition, the team was provided with a set of documents. Both governmental and non-governmental groups made these documents available to us. Material included judicial files, statements and analyses concerning Dr. Rodney's death made by various groups, newspapers and others. However, the team did not gain access to some documents that should be of importance, namely the police file on Dr. Rodney's death and two reports prepared by British forensic experts on the same matter.

The delegation also visited the site of the explosion that killed Dr. Rodney, as well as the other places where Dr. Rodney and Donald Rodney reportedly stopped during the night prior to the incident.

In concluding its activities, the team presented its recommendations to the Government of Guyana on further actions that it considers appropriate to be taken regarding the death of Dr. Rodney. A press release was issued containing the recommendations (see Annex 1).

II The death OF Dr. Walter Rodney.

Walter Rodney was born on 23rd march, 1942. He attended Queen's College in Georgetown, where he won a scholarship to the University of the West Indies in 1960 to read history. Afterwards, he proceeded to the University of London, where he obtained his Ph.D in history at the School of Oriental and African Studies in 1966. He lectured in history at the University of the West Indies, the University of Dar-es-Salaam (Tanzania) and at the other academic centres. Dr. Rodney was considered to be one of the foremost authorities on African and West Indian history. He was married to Patricia Rodney and was father of three children. In the mid-seventies, he joined the Working People's Alliance (WPA), then a Guyanese civic group. In 1979, the WPA became a political party, and Dr. Rodney was one of its leaders, reputedly the one with the highest appeal to the public among them. The WPA opposed the policies of the Government, then led by Mr. Forbes Burnham.

On 13th June, 1980, Walter Rodney died as a result of an explosion in the car in which he sat. When the explosion occurred, the car was parked at the corner of John Street and Hadfield Street, in Georgetown. That corner is located one block north from the Georgetown jail. Dr. Rodney sat on the left-front passenger seat. His younger brother, Mr. Donald Rodney, sat on the driver side. At the time of the explosion, Dr. Rodney had a device on his lap. At about 8:00 p.m. the device exploded, killing Dr. Rodney. The explosion blew off the car's windscreen and roof. The entire side of the car in which Dr. Rodney was sitting was mangled. His body was lying on the left front of the car, face downwards, the lower half of his body separated from his torso. His face suffered only minor burns. Donald Rodney, who received only minor injuries, ran out of the car, just after the explosion. All these are now undisputed facts.

At this time, no investigation has been able to determine with precision how this explosion came about. *There are two basic versions* in this respect, one provided by Donald Rodney and the WPA and the other by the Government of the time.

According to *Mr. Donald Rodney's version of the facts*, on Friday 13 June 1980, at about 7:30 p.m, he picked up Walter Rodney and drove the vehicle to Broad Street, parking it on the southern parapet east of Russell Street. Donald Rodney then proceeded to the home of Gregory Smith, near the corner of Russell and Howes Sts. According to Donald Rodney's statement, he knew Smith as a radar and electronics technician. Mr. Smith was a Sergeant of the Guyana Defence Force (GDF), and had participated in a training course on radio and electronics in Great Britain. Mr. Smith had approached Walter Rodney with an offer to make walkie-talkie sets. Possession of walkie-talkie was illegal for civilians at that time in Guyana. Allegedly, the WPA needed these devices to make easier contact since they were under frequent surveillance and this would facilitate protection at public meetings, which were often interrupted by the police.

1. We obtained a 43-page document entitled "Recognition Handbook Working People's Alliance", whose foreward states: "These notes are designed to provide a guide to the easy recognition of persons of the Working People's Alliance and vehicles that are associated with the organization's activities. It must be appreciated that vehicle numbers and colour may change from time to time as is now a regular practice with the organization. It provides photographs, ethnic origin, date of birth, height, weight, address, physical description, occupation and passport number of 20 WPA members. It also includes a list of 47 cars reputedly associated with WPA activities, along with information concerning make, colours, name of owner, address of owner and remarks.

According to this version, on the night of 13 June, Donald Rodney went to Smith's home to collect one walkie-talkie set for testing. Smith looked surprised by Donald's presence, as he was expecting Walter to come. The object delivered by Smith was in a brown paper bag and seemed to be box-shaped. Smith said that there had to be two tests, insisting that the second test should take place near the prison, in order to check whether the transmission would be interfered with by the prison's extensive metal walls. Smith then explained to Donald Rodney that the test would consist of a visual signal on Rodney's set when Smith activated the companion set that would remain in his possession. They synchronized their watches, because Smith wanted to make certain that if Rodney received a signal it would be from him.

Subsequently, Donald Rodney went back to the car and drove to John Street, where he parked it. The signal light flashed. Then he drove off north along John Street, passed the prison and parked the car a few yards before Hadfield St, turning off the ignition and car's lights. They kept waiting for a signal light that did not come. Suddenly there was a big explosion. Donald Rodney saw that his brother Walter was seriously injured and ran out of the car to seek help. He went to Dr. Omawale's home on Croal Street and told Andaiye and Karen de Souza that a terrible accident had happened, asking them to go to the scene. He was later taken into the medical care of Dr. Horace Taitt. Donald Rodney asserts that at no time did he have knowledge that the box given to him by Gregory Smith contained an explosive device.

Mr. Burnham's Government's official version on the facts was provided by "A Brief on the Walter Rodney Bombing Incident", issued by the Ministry of Information on 21 June 1980. According to this account, on the night of June 13th, "two 'beat duty' constables saw a white Mazda Capella car - PBB 2349 - drive up and park in the vicinity of John and Hadfield Streets, a short distance away from the Georgetown prison. Minutes later, a loud explosion rocked the parked car, terrifying residents. The constables reportedly saw someone get out from the driver's side of the vehicle and hurry away. They began moving towards the vehicle, but were checked in their advance by a dangling overhead electric wire, damaged by the explosion. Mastering their initial apprehension, they approached the vehicle, whose wind-screen and roof had been blown off, and observed the body of a human being who seemed to have been killed by the explosion. About ten minutes later, the police arrived on the scene, examined the vehicle and questioned residents in the area.

The governmental recollection of the facts added that identification of the body found in the car was difficult. It also states that during the following morning, local radio stations were saying that the police were still trying to identify the badly disfigured body found in the car and that one radio station actually stated that the face was badly disfigured.² By mid-Saturday morning on 14th June, there was an official recognition that the body was that of Dr. Walter Rodney. In addition, the Ministry of Information Brief stated that efforts were made to bring in two British forensic experts, Dr. Frank Skuse and Dr. Hugh Johnson. According to the governmental document, "every aspect of the investigation is being reported to the media."

2. We had access to written transcripts of local radio transmissions broadcasted on 13 and 14 June. These radio reports were frequently repeating the government's version and when mention of the WPA's account was provided, this account was criticized. According to the information gathered, local radio stations were under governmental control in 1980.

In response to Donald Rodney's claims about the role played in the incidents by a Sergeant Gregory Smith, the official document stated that: "At present there are two Gregory Smiths [in the Guyana Defence Force], both of whom are still in the army and therefore could not fit the description of 'wears a large afro,...and also has large sideburns and a thick beard', since the afro and beard are contrary to the army regulations", adding that "none of the two Gregory Smiths ever attained the rank of sergeant".

The government document further elaborates on the WPA's inclination for violence, mentioning several previous incidents, notably the burning of a People's National Congress (PNC) building in 1979. The PNC was Mr. Burnham's political party. It added that the Rodneys knew that they were in possession of a bomb that was expected to explode at the Georgetown prison.

In analyzing these two versions of the circumstances surrounding Dr. Rodney's death, we have come to the conclusion that it is decisive to determine the role of a person called Gregory Smith.

The existence of a person named Gregory Smith was put in doubt by the Burnham Administration. As indicated in the above mentioned official statement, the Government denied Smith's existence. The Office of the Chief of Staff of the GDF also issued a statement, published in the press on 20 June 1980, concluding that "there has never been any Sergeant with the name Gregory Smith in the GDF" (Guyana Chronicle, Friday June 20, 1980, at front page). The Chief of Staff is the highest ranked military authority in Guyana.

However, earlier statements about the existence of a Sergeant Gregory Smith were soon confirmed by another person, Pamela Beharry, who gave a statement to the police on June 20th. In her statement, Ms. Beharry said that she had met Gregory Smith at her home in 1979, when one Gwendoline Jones was living with her and Mr. Smith was visiting Ms. Jones regularly. Gwendoline Jones was the mother of 5 children, 2 of them fathered by Gregory Smith. On occasions, Smith stayed for long periods. Mr. Smith had told Ms. Beharry that he was stationed at the Marine Section of the Guyana Defence Force at Ruimveldt. On one opportunity, Ms. Beharry and Ms. Jones visited Mr. Smith at the GDF in Ruimveldt; both were required to write their full names in a book. Subsequently they spoke to Mr. Smith, who was dressed in his uniform.

According to Ms. Beharry's statement, she moved to another place in January 1980, but continued visiting Ms. Jones regularly. By that time, Mr. Smith was bringing radio receivers, walkie-talkies and other types of radio equipment to the apartment. She says that she learned from Ms. Jones that Army officers made frequent visits to Mr. Smith. After 13 June 1980, the date of Dr. Rodney's death, Ms. Jones and her 5 children vanished.

Ms. Pamela Beharry also provided further information about other persons who met Gregory Smith, including Harry Persaud (reportedly then a Deputy Headmaster of the Rama Krishna School), one Trini and Lancelot Husbands, Ms. Beharry's spouse.

Despite Ms. Beharry's testimony and further information provided by a local newspaper,

the Guyana Defence Force did not publicly recognize the existence of a Sergeant named Gregory Smith. According to the information gathered by the team, the GDF did recognize Mr. Smith in private to the police; however, the GDF even failed to provide a photograph of Smith for the police investigation.

Indeed, it was on occasion of the preliminary assessment conducted by this team that for the first time an official recognition of the existence of Gregory Smith was made by former General @ Norman McLean. Gen. McLean was the GDF's Chief of Staff who denied Smith's existence in June 1980.

Our team was also able to confirm that Ms. Gwendoline Jones, who was mentioned in Ms. Beharry's statement as the mother of two children fathered by Mr. Smith, has not been traced since June 1980.

Also in connection with Mr. Smith, reports from the press subsequent to June 1980 informed that one Joan Melvin was Mr. Smith's girlfriend, whose home in Tucville was used by Smith for his electronic servicing work. During our visit, we were able to confirm, based on information provided by Ms. Marilyn from the Ministry of Foreign Affairs, the following facts in regard to Ms. Joan Melvin:

- a) that she was seconded from the Ministry of Health, Housing and Labour to the Ministry of Foreign Affairs on 23rd June 1980;
- b) that on 6th July 1980, a decision posting her to the Guyanese Mission in Toronto, Canada was issued;
- c) that on 28th July 1980, she took her new position in that country;
- d) that on 17th November 1980, someone reported to the Guyana Mission in Toronto that she was ill, but it was later found out that she had vanished;
- e) that Ms. Melvin was dismissed from the Public Service of Guyana by the Public Service Commission on 4th February 1981, effective as of 17th November 1980 (the date she vanished).

Reportedly, Mr. Gregory Smith has been living in Cayene, French Guyana, since late June 1980. According to the WPA, they received signed evidence from Kwakwani, a town about 150 miles from Georgetown where Mr. Smith's father lived at that time, that at about 10:30 a.m. on 14th June 1980, a Guyana Defence Force plane had brought Gregory Smith, a woman and a few children (allegedly Gwendoline Jones and her children) to that town. The evidence added that on 17th June, Smith was taken to an unknown destination. Afterwards, a person who has claimed to be Gregory Smith, living in Cayene, has made declarations to the Guyanese media on several occasions.

Other allegations that would be important to check are the following:

- that Gregory Smith obtained a passport under the name of Cyril Johnson at the Consulate of Guyana in Paramaribo, Suriname, following Dr. Rodney's death.

- That then GDF Chief of Staff, Gen. McLean, left a diplomatic reception approximately 45 minutes after the explosion, excusing himself by saying that Dr. Rodney had been killed. At that time the body lying in the car had not yet been identified according to official statements.
- That the police searched the house where Mr. Smith lived and took electronic equipment the day after the death of Dr. Rodney; this is to say, before any person had mentioned Smith's name. This date was provided by Ms. Pamela Beharry.
- That despite his electronics abilities, Mr. Smith would not have been able to manufacture by himself the kind of sophisticated device he gave to Donald Rodney on 13th June 1980, so somebody else must have provided him with the device.
- That a leaflet entitled "To Walter" (an issue of which we obtained), that made fun of Dr. Rodney's death, was distributed in the streets of Georgetown the day following the explosion; that is, before his body had been officially identified.

III A FULL INVESTIGATION INTO DR. RODNEY'S DEATH HAS NOT BEEN HELD.

The team has come to the conclusion that up to date no serious effort has been made by the competent governmental and judicial authorities to assess all the relevant evidence with a view to identifying the persons involved in Dr. Rodney's death. We have reached this conclusion based on the following circumstances:

- 1) There have not been serious attempts to determine the extent of the participation of Gregory Smith in the death of Dr. Rodney, despite substantial evidence pointing in such direction. Also regarding Mr. Smith, at no time have there been attempts to bring him before a Martial Court in connection with his alleged desertion from the Army.
- 2) No attempts have been made to locate Ms. Gwendoline Jones, a person connected to Mr. Smith who disappeared after Dr. Rodney's death.
- 3) No investigation has been conducted to determine the whereabouts of Ms. Joan Melvin, also related to Mr. Smith, despite reports (that we found out to be accurate) that she had been posted to a diplomatic position in Canada and later vanished.
- 4) Two forensic reports prepared by British specialists about Dr. Rodney's death

have never been made available to judicial authorities or to the public. These reports were not made available to us either, despite our repeated efforts.

- 5) The police file relating to Dr. Rodney's death was not traced during our visit. We asked the police and the Direction of Public Prosecution (DPP) for the file, but it was not provided to us.
- 6) The inquest concerning Dr. Rodney's death in 1988 was tainted with grave defects. In particular, the instructions given by the magistrate to the jury were totally inadequate, as she stated that "no one has ever laid eyes on this Gregory Smith, then rejected the possibility of an assassination, and finally instructed the jury that "accident or misadventure or no one criminally responsible is the only verdict you can find". Moreover, after repeatedly challenging the inquest's impartiality, the attorney for Dr. Rodney's relatives withdrew from the proceedings, due to the lack of interest on the part of the magistrate to determine the role of Gregory Smith or to bring Donald Rodney to testify before the Court

IV DONALD RODNEY'S FILE.

Following Dr. Rodney's death, charges were brought against his brother Donald Rodney for "possession of explosive without lawful authority". On 26th February 1982, Donald Rodney was found guilty of that charge and sentenced to 18 months imprisonment.

The charge and the subsequent decision were based on section 23 (1) of the National Security (Miscellaneous Provisions) Act. This law, later repealed, stated in section 23 (1):

"Subject to section 29, any person who, without lawful authority, the burden of proof of which shall lie upon him, purchase, acquires or has in his possession any firearm, ammunition or explosives shall be liable on summary conviction to a fine of one thousand dollars and to imprisonment for three years and, on conviction on indictment, to imprisonment for life". (emphasis added).

Appeal on behalf of Donald Rodney was lodged on the day of the sentence, on 26th February 1982. Since then, for over 13 years, no decision has been issued in this case by the Court of Appeal.

In reviewing the criminal proceedings against Donald Rodney, we have concluded that the trial did not meet the minimum standards of due process of law as encapsulated in the International Covenant on Civil and Political Rights, to which Guyana was already a party at that time. In particular, it is obvious that the presumption of innocence was not respected, in violation of Article 14(2) of the Covenant, which states that: "Everyone charged with a

criminal offence shall have the right to be presumed innocent until proved guilty according to law". Additionally, the length of the appeal proceedings does not seem to be in keeping with the right of the accused to a speedy trial. Moreover, no efforts were made to look for other persons allegedly involved in the facts; in particular, no attempts were made to bring Mr. Gregory Smith before the Court, despite the fact that he seemed to be a key person.

It is also unclear why the police investigation only led to a trial for possession of explosives and not to a comprehensive judicial inquiry that should have included Dr. Rodney's death. In fact, the Police Deputy Superintendent Ignatius McRae testified before the Court during the trial against Donald Rodney that he told the defendant that he was "making investigations into the circumstances surrounding the death of his brother, Dr. Walter Rodney".

II. RECOMMENDATIONS.

After having carefully examined the evidence placed before it, the team makes the following recommendations:

- 1) A comprehensive and thorough inquiry into the circumstances surrounding the death of Dr. Walter Rodney should be held. It should seek to establish any involvement in his death, taking into account the political background existing at that time.
- 2) The inquiry should be entrusted to an impartial and independent international commission with sufficient powers to summon and examine witnesses and gain access to any relevant governmental and judicial files.
- 3) The appeal proceedings in the case of Donald Rodney, pending since 26th February 1982, should be speedily brought to an end.

Geneva, April 1995

PRESS RELEASE

Upon the request of the Government of Guyana, a team of three lawyers was sent by the International Commission of Jurists (ICJ), a Geneva-based organization, to inquire into the circumstances surrounding the death of Dr. Walter Rodney, which occurred on 13 June 1980. The team was composed of:

- Dr. Christian Tomuschat, Professor of Public Law at the University of Bonn (Germany); former member of the United Nations Human Rights Committee; and presently member of the United Nations International Law Commission. Dr. Tomuschat served as the Chairman of the team.
- Felipe Gonzalez, Professor of International Human Rights Law and Jurisprudence at Diego Portales University in Santiago, Chile; Director of the Department of Investigations at the Faculty of law at that University; and, since 1991, Legal Officer for Latin American at the International Human Rights Law Group, an ICJ-affiliated organization.
- Justice Richard O. Kwach, Justice of the Kenya Court of Appeal in Nairobi, Kenya.

The team studied the material supplied to it from different sources, and heard statements by a number of persons from 14 to 17 March 1995. The team also visited the scene of the explosion that killed Dr. Rodney.

After having carefully examined the evidence placed before it, the team makes the following recommendations:

- 1) A comprehensive and thorough inquiry into the circumstances surrounding the death of Dr. Walter Rodney should be held. It should seek to establish any involvement in his death, taking into account the political background existing at that time.
- 2) The inquiry should be entrusted to an impartial and independent international commission with sufficient powers to summon and examine witnesses and gain access to any relevant governmental and judicial files.
- 3) The appeal proceedings in the case of Donald Rodney, pending since 26 February 1982, should be speedily brought to an end.

The team has come to the conclusion that in 1980, following the death of Dr. Walter Rodney, no serious effort was made by the competent governmental and judicial authorities to assess all the relevant evidence with a view to identifying the persons involved in the tragic event. No charges were brought at the time against anyone other than Donald Rodney, who himself was a victim of the explosion. Yet many elements indicated that the death had causes

that needed to be clarified. On the other hand, the inquest held in 1988 is tainted with grave defects. A fresh look at the available evidence is therefore both warranted and necessary. The team did not have access to all relevant factual elements. In particular, during its stay in Guyana the police file relating to the death of Dr. Walter Rodney could not be traced.

The team has also examined the relevant records of the criminal proceedings against Donald Rodney. It finds that the trial did not meet the minimum standards of due process of law as encapsulated in the International Covenant on Civil and Political Rights, to which Guyana is a party. In particular, it is obvious that the presumption of innocence was not respected. Additionally, the length of the appeal proceedings does not seem to be in keeping with the right of the accused to a speedy trial. The proceedings as well as the judgement of the appeal will have to take into account the applicable international rules that are binding on the State of Guyana.

A report specifying the team's findings will be submitted with a minimum delay.

The International Commission of Jurists is prepared to continue providing its assistance to the people of Guyana.

Georgetown, 17 March, 1995

Christian Tomuschat

Felipe Gonzalez

Richard O. Kwach