

8 February 2019

Jamaica: Defamation sentence against WHRD Latoya Nugent has a chilling effect on women's and LGBT movement

On 31 January 2019, the Supreme Court of Jamaica found woman human rights defender (WHRD) **Latoya Nugent** guilty of defamation. The Court ordered that she pay J\$ 16 million in compensation to the former Moravian Church Minister, Dr Canute Thompson, who brought the lawsuit against her. The decision is being formally challenged by her lawyer. The case is related to information posted by the WHRD on social media in 2016 regarding the alleged sexual abuse and rape of minors perpetrated by Moravian Church Ministers¹ in Jamaica, after receiving information from alleged victims. Since her comments, two other Moravian Ministers have been charged with sexual abuse.

[Latoya Nugent](#) is co-founder of **Tambourine Army**, a social justice movement that seeks to end impunity against sexual and gender violence, as well as of WE-Change (Women's Empowerment for Change). Through the latter initiative, she provided training in public policy and advocacy to lesbian, bisexual and transgender women, as a means of fostering their social participation and the creation of safe spaces for exercising their rights. Since 2013, she worked to promote LGBTI rights at J-FLAG, one of the most well-known civil society organisation in Jamaica.

The civil action was brought by former Moravian Minister Dr Canute Thompson, who sought damages of J\$20 million, as well as an official apology from the WHRD. The action relates to a series of comments Latoya Nugent posted on social media in December 2016, in which she exposed allegations of sexual violence, including rape, against a number of Moravian Ministers. Since then, the former President of the Moravian Church, Paul Gardner, and Minister Rupert Clarke have both been criminally charged with sexual abuse and a number of allegations against members of the Moravian Church have emerged.

The Supreme Court ruling from 31 January 2019 ordered that the WHRD pays J\$16 million in compensation, an amount that appears excessive and disproportionate in light of the defendant's economic position. The Inter-American Court of Human Rights, in the case of Santander Tristán Vs. Panama noted that "extremely high civil [...] reparation may be more intimidating and inhibiting to the exercise of freedom of expression than a criminal sanction, as it has the potential to compromise the personal and family life of whom it denounces [...]." Latoya Nugent faces the risk of being imprisoned if she cannot pay the multi-million dollar compensation.

1 The Moravian Church was established in Jamaica on 1754, with origins in regions of the current Czech Republic. It comprehends around 30,000 Jamaican members, who are organised in local congregations.

The inordinate compensation order imposed on Latoya Nugent sends a powerful and chilling message to those who wish to come forward with allegations of gender violence and has the potential to undermine the women's rights movement in Jamaica by setting a precedent for those who dare to speak out about sexual abuse, particularly within context of religion. It also has the potential to undermine freedom of expression by abuse survivors. Public figures, in particular, often count on a high degree of social influence and support therefore are subjected to a increased public scrutiny.

Before facing a civil process, in March 2017 Latoya Nugent was arrested, detained, and charged with three counts of "using her computer for malicious communication" under section 9 (1) of the Cybercrimes Act. She was facing a possible four-year sentence but the matter was discontinued by the Director of Public Prosecutions in May 2017, following a review that determined that there was not enough evidence to make it a viable prosecution. The woman human rights defender was released at the time.

According to media reports, the Director of Public Prosecutions is understood to have subsequently encouraged Dr Canute Thompson to seek civil remedies against the WHRD. The judicial harassment she has endured left Latoya Nugent in a delicate emotional state, which prevented her from presenting a proper defense on the civil demand. After ordering a default judgment against Latoya Nugent, on 31 January 2019 the Supreme Court found her guilty. The decision is being legally challenged.

Since 2017, the women's rights movement in Jamaica has gained force due to a public campaign called #SayTheirNames, which sought to address the silence and impunity that typically surrounds gender and sexual-based violence. The campaign has helped to raise victim's voices and push forward complaints on these grounds.

Front Line Defenders is concerned that this ruling against WHRD Latoya Nugent seeks to have an intimidating effect on the community of human rights defenders in Jamaica, particularly those WHRDs speaking out for victims of abuses committed by public figures.

Front Line Defenders urges the authorities in Jamaica to:

1. Review the sentence against Latoya Nugent, in light of the restriction it poses to the exercise of freedom of expression and also on the exorbitant amount determined as compensation;
2. Take measures to ensure that public officials refrain from making statements or declarations stigmatising the legitimate work of women and LGBTI human rights defenders;

3. Carry out an immediate, thorough and impartial investigation into the existence of crimes of sexual abuse and rape contained in public denounces, with a view to publishing the results and bringing those responsible to justice in accordance with international standards;
4. Take all the necessary steps to allow the exercise of the rights to free association and peaceful demonstration in Jamaica, especially for women human rights defenders.
5. Take all necessary measures to allow the exercise of freedom of expression in Jamaica, in order to assure that women human rights defenders who denounce sexual and gender-based violence will not face reprisals.
6. Guarantee in all circumstances that human rights defenders in Jamaica are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions including judicial harassment.