

HAITI

A QUESTION OF JUSTICE

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INTRODUCTION

President Jean-Bertrand Aristide, who had been ousted as the result of a military coup in September 1991, returned to complete his presidential term in October 1994 after the coup leaders agreed to relinquish power following the arrival in the country of a United States-led Multinational Force (MNF) on 18 September 1994. Between September 1991 and October 1994, when the country was effectively ruled by the then Commander-in-Chief of the Armed Forces, General Raoul Cédras, and Port-au-Prince Police Chief, Michel François, supporters of President Aristide and other opponents of the military régime were subjected to systematic and gross human rights violations, including “disappearances”, extrajudicial executions and torture. Numerous incidents of politically-motivated rape of women and minors were also reported. As part of a last-minute agreement between the US Government and the *de facto* authorities in Haiti, the latter agreed not to oppose the arrival in the country of the MNF or the return of President Aristide on 15 October 1994 and to give up power as soon as an amnesty had been agreed. By the end of October, an amnesty decree had been issued covering “political offences” committed during the coup period and the principal leaders of the coup had left the country to go into exile abroad.

As soon as the coup leaders left Haiti, there was a dramatic reduction in the scale of human rights violations although abuses continued to occur, particularly in rural areas where *chefs de section* (rural police chiefs under the command of the army) and members of the *Front pour l'avancement et le progrès d'Haïti (FRAPH)*, Front for the Advancement and Progress of Haiti, a paramilitary group which worked closely with the military, continued to wield power locally. Although many people associated with the military régime fled Haiti or went into hiding, many others continued to live openly in the country and little attempt was made by the MNF or the Haitian authorities to ensure that appropriate legal action was taken against those responsible for human rights violations during the coup period or to carry out a systematic disarmament program. Although some members of the armed forces or paramilitary were arrested by the MNF, either in connection with past abuses or ongoing criminal activity, most were released shortly afterwards. Twenty-six, including two former bodyguards of General Cédras and a former departmental military commander, were handed over to the Haitian authorities in January 1995 but they too were released, reportedly because the MNF had not supplied sufficient information on which to base prosecutions. A US embassy spokesman said at the time that the MNF no longer believed that they constituted a threat. The Haitian authorities did, however, immediately embark on a program of important institutional reforms, particularly with regard to the security forces, prisons and, to a lesser extent, the justice system, which have led to significant improvements in the human rights situation and which are described in greater detail below. Despite many positive initiatives, serious problems remain, especially with regard to the administration of justice. In particular, there have so far been only tentative efforts to bring perpetrators of past human rights violations to justice.

In March 1995, the US-led MNF was replaced by the United Nations Mission in Haiti (UNMIH), consisting of 6,000 soldiers and 900 police from 37 countries as well as technical staff. Its mandate at present expires in February 1996 when President Aristide is due to be replaced by René Préval, the candidate of the *Lavalas* movement¹, who won outright in the first round of the presidential elections held on 17 December 1995. Under the terms of the Haitian Constitution, President Aristide was barred from seeking re-election for a second term. The new president is expected to pursue the reforms initiated by President Aristide.

In October 1994 the International Civilian Mission in Haiti (MICIVIH), jointly organized by the Organization of American States (OAS) and the UN, which had had to abandon its work twice after its initial deployment in 1993, was able to return to Haiti. By September 1995 it had 134 human rights observers deployed in 12 regional offices covering all nine departments of the country. It too, at the time of writing, is scheduled to leave Haiti at the end of February 1996. Since its return, it has been involved not only in monitoring and promoting respect for human rights but has also provided advice and expertise to the Haitian authorities on how to build institutions essential to the protection of human rights, as well as assisting in the work of the National Commission of Truth and Justice (see below) and monitoring the human rights aspects of the local, legislative and presidential elections. Both MICIVIH and UNMIH can only remain in Haiti at the request of the Haitian Government. At the time of writing, it is understood that no such request has yet been made to the UN. UN Secretary-General Boutros Boutros Ghali said in his report on "The Situation of Democracy and Human Rights in Haiti" (A/49/926, 29 June 1995) that he would have no hesitation in recommending that the mandate of MICIVIH be extended to July 1996. Amnesty International believes that, given the still fragile nature of Haitian institutions and the continuing potential for a return to the violence of the past, the UN and OAS should seek to maintain an effective human rights monitoring program on the ground in Haiti for as long as possible.

GOVERNMENT INITIATIVES AND RECENT DEVELOPMENTS

The Security Forces and Paramilitary Groups

One of the first measures taken by President Aristide upon his return was to reduce the size of the Haitian Armed Forces and to separate police powers from those of the army. The notorious *chefs de section* were also officially disbanded. With the assistance of the US Justice Department's International Criminal Investigations and Training Assistance Program (ICITAP), an interim police force, called *Force de la police intérimaire de la sécurité (FPI)*, Interim Public Security Force, and composed predominantly of 3,500 former soldiers from the very army which had been responsible for human rights abuses over the previous three years, was

¹ *Lavalas* means literally 'avalanche' and is the name of the political movement that first brought President Aristide to power in the 1991 elections.

established to work under the supervision of international police monitors. There was widespread concern that insufficient measures were taken to screen out alleged human rights violators from the interim force. The FPI was to be gradually phased out as newly-trained recruits emerged from the National Police Academy which was inaugurated in February 1995.

In June 1995 the first class of police cadets graduated from the academy to begin forming the new *Police nationale d'Haïti (PNH)*, Haitian National Police, which falls under the responsibility of the Ministry of Justice. Later in the year, to speed up training, ICITAP began running additional courses for the new recruits in the USA. By December 1995, nearly 3,000 new police had been deployed. On 6 December President Aristide signed a presidential decree ordering the dissolution of the remaining 750 members of the FPI. One hundred of them, said to be "the most effective members", were transferred to the PNH while some 225 others were to become unarmed guards at the National Palace. A code of ethics for the PNH was established and the office of General Inspector of Police was set up to investigate abuses carried out by police officers.

Over the past few months, Amnesty International has received reports of a number of incidents in which police personnel, sometimes in the course of their duties and sometimes while off duty, have used their firearms in inappropriate circumstances, in some cases causing the death of the person concerned. They include members of both the interim police and the new police force whose deployment commenced in June 1995. Though in some cases the policeman concerned has been suspended from duty pending investigation, so far it is not clear what legal or disciplinary action, if any, has been taken.

A recent example was an incident which took place on 23 November 1995 in Cité Soleil, a shanty town in Port-au-Prince, when an officer of the PNH, who according to some reports was off duty, fired at a bus during an altercation with a driver and killed a six-year-old girl. Members of the FPI, backed up by UN personnel, had to go into the area to rescue him and other PNH personnel who were besieged in the local police station by local inhabitants who were angry at the policeman's action. During the violence that followed the death of the young girl, at least three other civilians were killed in circumstances that have not yet been clarified though some reports suggest that the FPI may have been responsible. Three policemen were also injured, according to police sources. It is not yet clear what action, if any, has been taken by the Haitian authorities against the officer who killed the girl or any other police officer who might have taken inappropriate measures during the ensuing trouble.

In an attempt to fill the security void that existed in many areas, particularly in the first few months after the return of President Aristide, *brigades de vigilance*, vigilance brigades, made up of civilian volunteers, were set up in many communities, with the encouragement of the Haitian authorities and in some cases with the assistance of the MNF. Some are well-organized and work closely with the local authorities. However, others have resorted to taking action themselves rather than reporting problems to the police, sometimes resulting in the death of

criminal suspects. A recent study of the *brigades de vigilance* by MICIVIH found that they had come about as a protection measure for a defenceless population and concluded that as long as the Haitian police force is perceived as inadequate, they will continue to exist. Amnesty International believes that the Haitian Government and UNMIH should carefully monitor the activities of the *brigades de vigilance* and take steps to ensure that they are properly trained, only operate under strict chain-of-command control of the authorities and that they are held accountable for any abuses they commit.

To all intents and purposes, the *Forces armées d'Haïti (FADH)*, Haitian Armed Forces, no longer exist. An army commission was set up in early 1995 to consider the institution's future and that of the 1,500 soldiers who in theory still belonged to it. However, in April 1995 President Aristide announced that he intended to introduce a constitutional amendment before the National Assembly to completely abolish the army. At the time of writing, the parliament, in which pro-government forces have a sizeable majority, is due to debate the issue. The proposal is expected to be approved. In the meantime, the final remnants of the FADH were scheduled to be formally retired on 31 December 1995. In the face of concern that the demobilized FADH and FPI members may pose a security threat if alternative work was not found for them, the authorities were reported to be considering a proposal to integrate some of them into special police units to handle airport security, border patrol and prisons.

In October 1994, a law was passed outlawing paramilitary groups though not naming any particular group, the most well-known being the FRAPH. The law prohibits the financing, organization and maintenance in whatever way of armed corps other than those permitted by the constitution and Haitian law. Upon arriving in Haiti, the MNF raided the Port-au-Prince headquarters of FRAPH, which at that time purported to be a legitimate political party. In late 1994, the Haitian authorities issued arrest warrants for the former FRAPH leader, Emmanuel Constant, and his deputy, Louis Jodel Chamblain, reportedly in connection with a judicial investigation into FRAPH's involvement in human rights violations. Both of them fled abroad. In March 1995, the Haitian Government sought the extradition of Emmanuel Constant from the USA. A US court ordered his deportation to Haiti in August 1995 but he appealed against the ruling. He later withdrew his challenge to the deportation order and at the time of writing the US authorities are said to be making arrangements for him to be returned to Haiti, where the Haitian authorities are reportedly preparing to bring him to trial on as yet unspecified charges.

Emmanuel Constant is widely alleged, and himself claims, to have been in the pay of, and under the orders of, the US Central Intelligence Agency (CIA) during the coup period. As a result of a damages claim brought against Emmanuel Constant by Alerte Belance, a Haitian woman living in the USA, for an alleged assault by FRAPH in 1993, it emerged that the US authorities were in possession of some 60,000 pages of documents which had been removed from the FRAPH offices by the MNF in October 1994. As a result of subpoenas brought by US lawyers, the US Department of Defence admitted that it was in the process of reviewing

the classification status of the documents. In October 1995 the Haitian Senate sought the assistance of international human rights organizations in their efforts to recover the documents which were considered essential to any prosecutions against FRAPH members as well as to the work of the National Commission of Truth and Justice (see below). In December 1995 a spokesman for the US State Department announced that the documents would be returned once they had been reviewed and the names of all American citizens removed, though he did not rule out that Washington would keep some of the documents.

The failure of the authorities to take appropriate action against those responsible for human rights violations during the coup period or to carry out an immediate and effective disarmament program in the aftermath of the change of government in October 1994 is widely considered to have contributed to the emergence of armed gangs, particularly in slum areas such as Cité Soleil. A gang known as *l'Armée Rouge*, the Red Army, was alleged to be largely responsible for the violence in Cité Soleil following the police shooting in November. In December 1995, the local police chief said he believed there were some 200 members of the gang in Cité Soleil, scattered in small cells, and that they were essentially mercenary in nature. However, local residents claim that the majority of armed civilians in the area are former *attachés* and FRAPH members who have taken advantage of local distrust of the police to stir up trouble. Local pro-government youths who protested against the police shooting in November say that they are not against the police as such but do not trust the local police force, which they allege continues to include former soldiers who they believe should be removed.

The Prison System

With the assistance of UNMIH, the UN Development Program (UNDP), the International Committee of the Red Cross (ICRC) and foreign development agencies, the Haitian Government has embarked on a prison reform project. In May, it established the *Administration pénitentiaire nationale (APENA)*, National Penitentiary Administration, a civilian agency located within the Ministry of Justice, to oversee the running of Haitian prisons. Though still poor by international standards, prison conditions have gradually shown a marked improvement over those that existed in the past. However, overcrowding, resulting mainly from long delays in the judicial process, is still a serious problem and has provoked tensions in some prisons. Sanitary conditions, food supplies and health care, on the other hand, are said to have generally improved in most places. However, on 14 December 1995, MICIVIH reported that ten detainees had died in the National Penitentiary between 22 October and 25 November from an illness resulting from poor nutrition and lack of sunlight. All prisons reportedly now maintain up-to-date lists of all detainees, something that rarely happened in the past. Amnesty International has, however, been concerned about recent reports of ill-treatment.

While there is so far no evidence that torture is being used to extract confessions as in the past, prison guards have reportedly resorted to beating detainees for disciplinary reasons on

some occasions. According to MICIVIH, several incidents of ill-treatment that occurred in August and September 1995 were investigated by the relevant authorities and in some cases disciplinary action was taken against those responsible. It also reported that twenty minors, aged between 12 and 17, being held at Fort National Prison in Port-au-Prince were beaten on 28 November after a fight had broken out between them. Following an investigation of the incident, including medical examination of the victims, MICIVIH concluded that the prison personnel had used disproportionate and improper force in their attempts to re-establish order. It found that, apart from the alleged beatings, they had released teargas into a crowded cell and fired a warning shot into the air. A few days later, on 8 December, two minors were reportedly beaten in the same prison after being re-arrested following an escape attempt. It is not yet clear what action, if any, has been taken against the guards alleged to have carried out the beatings. MICIVIH recommended the government to adopt a code of ethics for APENA personnel and to draw up regulations on how to maintain prison discipline. It also urged international funders, as a matter of urgency, to continue supporting the efforts of the Haitian authorities to find short and medium-term solutions to the serious problems that still exist in the prisons.

Reform of the Justice System

Compared to other areas, progress in reforming the Haitian justice system has been slow, one of the major problems being the shortage of properly-trained and experienced personnel. Some judges and prosecutors have been replaced and salaries have been improved. However, corruption and inefficiency reportedly continue to be widespread within the system, which is vastly under-resourced to the extent that it hardly functions at all in some rural areas. In other places where there are judges and court personnel, they often lack even the most basic equipment to be able to carry out their job. UN agencies and foreign governments have been providing assistance in this field, with the US Government promising US\$18 million over five years for judicial reform. In July 1995 the Haitian authorities set up the *Ecole nationale de la magistrature*, National Magistrates' College, to train the judiciary. A few judges and prosecutors were also sent to France to undergo training and in December an agreement was signed with the Canadian Government to provide further assistance in the field of training, among other things. Other initiatives taken in the field of justice include the establishment of the post of *Protecteur des citoyens et citoyennes*, Protector of Citizens, a type of ombudsman, to investigate abuses perpetrated by public officials. It was also announced that 20% of the budget of the Ministry of Justice would go towards providing compensation for victims of human rights abuses committed during the coup period. Despite these positive steps, serious problems continue to exist with the administration of justice.

Overall there has been a marked improvement in detention procedures by comparison with the past. Haitian law requires that, except in cases of *flagrante delicto*, arrests and house searches be carried out only with a warrant issued by a justice of the peace and only between 6am and 6pm. All detainees have to be brought before a magistrate within 48 hours of arrest.

While recent reports indicate that by the end of 1995 these requirements were generally being adhered to, Amnesty International continued to receive occasional reports that arrests and searches were carried out at night and sometimes without the necessary warrant. This was particularly the case with regard to some searches and arrests made in the context of the disarmament operation ordered by President Aristide in November 1995 following the murder of his cousin and deputy in the National Assembly, Jean Hubert Feuillé, by unknown gunmen. In December 1995, Amnesty International also began to receive worrying reports that, despite orders to the contrary, some police officers were not wearing uniforms or badges while on duty, to enable the population to identify them, and that they sometimes travelled in unmarked vehicles. In order to have the confidence of all sectors of Haitian society, Amnesty International believes that it is essential for the Haitian police to uphold the law at all times and to operate as transparently as possible.

Although on the whole greater attention appears to be being paid to adhering to detention procedures at the time of arrest, many detainees are then left languishing in prison for weeks or months because of the failure of the justice system to process their cases. MICIVIH reported in December 1995 that an investigation into the situation of several women and minors detained in Fort National Prison had revealed that their files were empty and that there was therefore no justification for their continued detention. It called on the Minister of Justice to instruct the relevant authorities to immediately halt all illegal or arbitrary detentions and recommended that the *Commissaires du gouvernement*, Public Prosecutors, and *juges d'instruction*, investigating judges, should visit prisons at least once a month to review the situation of all detainees.

Frustration and a lack of confidence in the judicial process has led people on a number of occasions to take the law into their own hands. There have been several dozen incidents, particularly in early 1995 and again more recently, in which ordinary citizens have taken the law into their own hands and, often spontaneously, killed or attempted to kill people believed to be guilty of serious crimes, including human rights abuses under past governments. While the government has publicly condemned such acts, usually known as "*déchoukage*"², little attempt has been made to arrest and bring to trial those responsible for such killings. Amnesty International believes that, in order to deter further acts of "*déchoukage*", the authorities at all levels should make it clear that such acts will not be tolerated, by ensuring that appropriate action is taken against those responsible in accordance with Haitian law and by issuing clear public statements of its intention to do so.

Official investigations of serious crimes, including possible human rights violations, have generally been very slow. Over the past year, a number of killings have occurred, many of them with ostensibly criminal motives but some in which a political motive cannot be ruled out.

² Literal translation: "uprooting".

Victims have included both government opponents and supporters. Several were carried out in a manner suggesting professional killers might be involved. Investigations are believed to be under way into most cases but in few cases have the culprits been arrested or brought to trial. Replying to claims by a US journalist, quoting US military intelligence as his source, that 80 political killings in Haiti had been carried out by Aristide supporters since October 1994, a spokesman from the US Embassy in Port-au-Prince said that there was no evidence indicating that the killings were politically-motivated acts committed by Aristide supporters. In a press release issued on 12 September 1995, MICIVIH reported the occurrence of some 20 "commando-style" executions, recorded since the beginning of the year, where robbery did not appear to have been the motive. It noted that the victims included former FRAPH members, *attachés*³ and business men and women but said that so far no set of elements had emerged to link the crimes together and the identities of the killers remained unknown. It urged the Haitian authorities to strengthen police and judicial capacity for criminal investigation so that such crimes would not go unpunished. In October a special investigation unit was reportedly set up by the Ministry of Justice to investigate such killings.

In only one case, that of the murder of right-wing politician and lawyer Mireille Durocher Bertin, a prominent opponent of President Aristide, and her client Eugène Baillergeau on 28 March 1995 in Port-au-Prince, has there been any specific allegation of the involvement of a government official. In that case, the Haitian Government established a commission made up of officers of the interim police and headed by Major James Jean-Baptiste to investigate the case. It also sought assistance from the US Government who sent a team of detectives from the Federal Bureau of Investigation (FBI) to assist the Haitian police in their work. Press reports at the time of the killing indicated that Mireille Durocher Bertin had been warned by government officials that there was a plot to kill her but she reportedly refused a government offer of protection. Some press reports, said to be based on US military intelligence, alleged that the killings had been carried out on the orders of the then Haitian Minister of the Interior, Mondésir Beaubrun. Another theory put forward later suggested that the incident may have been drugs-related. Seven people who had been detained in connection with the investigation, some before the killings even took place, were released on bail in September 1995. To Amnesty International's knowledge, no progress has been made in ascertaining whether there was any involvement of government officials or in identifying and bringing to justice those responsible.

Amnesty International is concerned at the lack of progress in bringing to justice those responsible for killings such as that of Mireille Durocher Bertin, believing that it can only contribute to the apparent perception that is already shared by many Haitians across the political spectrum that the state cannot be relied upon to administer justice.

The National Commission for Truth and Justice

³ Civilian auxiliaries who worked with the police and army during the coup period.

In December 1994, the *Commission nationale de vérité et de justice*, National Commission of Truth and Justice, was established by presidential decree and was officially inaugurated in March 1995. Its task was “to globally establish the truth concerning the most serious human rights violations committed between 29 September 1991 and 15 October 1994 inside and outside the country and to help towards the reconciliation of all Haitians, without prejudice to judicial remedies that might arise from such violations”.⁴ It was also to try to identify those responsible for such violations and to recommend just reparations for the victims, as well as recommend reforms of state institutions and measures to prevent the resurgence of illegal organizations. The Commission is presided by Haitian sociologist Françoise Boucard and composed of six other experts, three Haitians and three from abroad. The original six-month duration of its mandate was extended to nine months and it was due to publish its final report in late December 1995. For a number of reasons the Commission has reportedly encountered serious difficulties in accomplishing its task, not least in obtaining adequate funding from abroad. MICIVIH has provided technical assistance to the Commission, including support in the field of forensic anthropology, but has not participated directly or taken any decisions in the process. Although at the time of writing the Commission has not yet published its report, Amnesty International fears that it may not have had sufficient time and resources to adequately address many of the issues it was mandated to cover.

⁴ French original: “*d’établir globalement la vérité sur les plus graves violations des droits de l’homme commises entre le 29 septembre 1991 et le 15 octobre 1994 à l’intérieur et à l’extérieur du pays et d’aider à la réconciliation de tous les Haïtiens, et ce, sans préjudice aux recours judiciaires pouvant naître de telles violations*”.

THE QUESTION OF IMPUNITY

Upon returning to Haiti, President Aristide said, "We shall prepare the coffee of reconciliation through the filter of justice". While calling for patience and admitting that the system is slow, he has subsequently on several occasions urged Haitians to present formal complaints against those suspected of committing human rights abuses in the past and called on them to denounce corrupt officials. Special offices called *bureaux de doléances*, complaints offices, were set up in some places to receive such complaints. However, as far as Amnesty International is aware, few such complaints have been adequately investigated by the authorities so far. The government itself announced that it would be seeking the assistance of a team of foreign lawyers to help with the investigation of several important cases of human rights violations that had occurred under the military régime. To Amnesty International's knowledge, trials have been completed in only two cases so far (see below).

The need to strengthen the judiciary and the capacity of the police to investigate crimes is clearly urgent in order to guarantee respect for human rights in the present and the future. However, of equal importance is the need to bring to justice as soon as is reasonably possible those responsible for human rights violations committed in the past, not only during the rule of General Cédras but also under previous administrations. Speaking at a news conference on 15 March 1995, President Aristide said that the Haitian Government's request for FRAPH leader Emmanuel Constant to be extradited from the USA to stand trial in Haiti was "a way of showing what justice means to us. We do not want impunity to spread throughout the country. Just as we reject vengeance and violence, we also reject impunity. Impunity means that I can kill people and the justice system does not punish me. We want to build a system, based on the law, that is able to question those people believed to be guilty, for subsequent trial in the courts."⁵

Despite such statements of intent by President Aristide, so far little progress has been made in bringing the perpetrators of human rights violations to trial. While this can in part be attributed to the general problems facing the justice system, some judges are reportedly frightened to try such cases for fear of reprisals, especially once the UN forces leave the country. There are also signs that the political will to do so does not truly exist, particularly at the level of the police and the judiciary. Trials have taken place with regard to only two of the cases in which the government had sought the assistance of foreign lawyers, that of the death from torture of Jean-Claude Museau in 1992 and the extrajudicial execution of Antoine Izméry in September 1993, which are described in further detail below. Both trials were held in the absence of most of those alleged to be responsible for the two killings and only one man is currently serving a prison sentence. A few other less prominent cases are believed to have been brought to trial in the provinces as the result of complaints presented by victims or their relatives

⁵ Text of report by Haitian Métropole radio, originally in créole, as reported in English by the BBC Summary of World Broadcasts, 18 March 1995

but details are hard to obtain. Investigations are continuing into a number of other well-known cases, also described below, but again progress is slow. Apart from the case of Emmanuel Constant already mentioned above, the Haitian Government appears to have made little effort to seek the extradition from other countries of those alleged to have been responsible for human rights violations under the military government or previous administrations.

The following example illustrates some of the obstacles faced by those seeking to bring alleged human rights violators to justice. In March 1995, a former *chef de section* from Chenot, near Marchand Dessalines, Artibonite department, was arrested in connection with human rights abuses committed under his jurisdiction during the coup period. US soldiers took him from Marchand Dessalines to St Marc Prison. A delegation from Amnesty International, which was visiting the country at the time and happened to be in St Marc, was informed of his arrest by local human rights activists who were afraid he might be released or permitted to escape as had already happened in a number of other similar cases. The delegation visited the prison to confirm his presence and then went to the public prosecutor's office to clarify his legal situation. It was by that time over 48 hours since his arrest. They were told by an official, who clearly knew that the man was in detention, that he had not been brought before a magistrate yet because the police had not officially informed them of his arrest. The delegation requested the official to implement the necessary legal procedures. It is not clear what happened in the immediate aftermath of the delegation's visit. However, on 4 May 1995, the former *chef de section* was released from prison, reportedly after local officials accepted a large bribe from him. Several officials were arrested in connection with the alleged bribes but subsequently released. It is not clear what further action, if any, was taken against them. There was public outcry over the release of the former *chef de section* and Amnesty International wrote to the Minister of Justice expressing concern about the handling of the case. On 4 July 1995 the former *chef de section* was re-arrested and taken to the National Penitentiary, where he is believed to be held at the time of writing. He is reported to be under investigation for several cases of torture and at least one murder.

Victims of human rights violations or their relatives who attempt to seek justice through the Haitian courts have to be sure that their complaints will be properly and promptly processed. They need to feel confident that the justice system is capable of bringing to justice those responsible for human rights violations and that the authorities will take steps to protect the complainants against possible reprisals. It should also be remembered, on the other hand, that the accused also have the right to receive a fair trial in accordance with international standards.

Trials of human rights violators

On 30 June 1995 former army lieutenant Jean Eméry Piram, the former police chief of Cayes, was sentenced in his absence to 60 years' forced labour in connection with the death from torture of 30-year-old teacher **Jean-Claude ("Claudy" or "Klody") Museau** in Cayes in January 1992⁶. Jean-Claude Museau had been arrested on 30 December 1991 for putting up posters of President Aristide. He was released on 6 January 1992 but died two days later. Before dying, he was able to describe the torture to which he was subjected while in detention and identify those who were responsible. The investigation of this case was among those that President Aristide announced in January 1995 would be given priority by the authorities. The court case was based on a complaint presented by the family against Jean Eméry Piram and four others, three soldiers and a doctor, who were allegedly present when Jean-Claude Museau was tortured. The judge investigating the case determined that there were sufficient grounds to institute legal proceedings against Jean Eméry Piram and the three soldiers. Efforts to locate them were fruitless and in the end only Jean Eméry Piram was indicted and tried in his absence. Little public information is available about how the judgement was reached.

The second case to come to court was that relating to the extrajudicial execution of **Antoine Izméry**, a businessman and prominent supporter of President Aristide, who was gunned down on 11 September 1993 in the Church of the Sacred Heart in Port-au-Prince while attending a mass commemorating a massacre that had occurred five years earlier.⁷ The gunmen burst into the church and forced Antoine Izméry to accompany them outside where they made him kneel down before shooting him twice in the head. This case was also among those which President Aristide said would be given priority. On 25 August 1995, Gérard Gustave, known as "Zimbabwe", who used to work as an "*attaché*" with the Haitian army, was sentenced to forced labour for life for the assassination of Antoine Izméry. On 25 September 1995, several other people, believed to number seventeen, were tried in their absence in connection with the same case. Seven were sentenced to forced labour for life. They included former police chief Michel François, former Captain Jackson Joannis, the then head of the *Service d'investigation et de recherches anti-gang*, Anti-Gang Investigation and Research Unit, of the Port-au-Prince police, and former Major Marc Kernizan, also based at Port-au-Prince police headquarters at that time, who were said to have masterminded the assassination. Among them also was Louis Jodel Chamblain, deputy leader of the FRAPH. Most of the accused are believed to be living abroad, mainly in the neighbouring Dominican Republic. It is understood that under Haitian law

⁶ For further details of the case, see *Haiti: Human Rights Violations since the Coup*, AMR 36/03/92, January 1992.

⁷ For further details, see *Haiti - Human Rights Gagged: Attacks on Freedom of Expression*, AMR 36/25/93, October 1993.

they have five years in which to return to Haiti and seek a new trial if they wish to do so. In the meantime, the court has ordered their assets to be seized.

In October 1995 a court in Jérémie sentenced two former FRAPH members, Louis Ylavois and Linus Legagneur, to forced labour for life for the murder of **Jean-Claude Dimanche**, a supporter of President Aristide, in 1993. It is believed that in this case proceedings were brought at the instigation of the victim's family.

Cases under investigation by the Haitian authorities

The massacre of over 200 peasants at Jean-Rabel on 23 July 1987

In August 1995 warrants were reportedly issued for the arrest of eight individuals, including a prominent landowner, who are wanted in connection with the investigation of the massacre on 23 July 1987 of over 200 peasants in and around Jean-Rabel in northern Haiti in the context of a land dispute⁸. Most of those killed were members of a group called *Tet Ansamn*, Heads Together, a grassroots development and advocacy group organized by the Catholic Church, who were said to have been ambushed by peasants in the pay of local landowners. According to eyewitness reports, members of the security forces either stood by or lent support as people were shot or hacked to death. A landowner implicated in the massacre was arrested in early 1995 on suspicion of "plotting against the internal security of the state" but was released in September. It is not clear whether charges are still pending against him for either case. As far as Amnesty International is aware, so far no one else has been arrested in connection with the Jean Rabel massacre. A peasant leader was recently quoted as saying about the case, "We feel there is a lack of will, at the level of the justice system and also on the part of the people who are responsible for picking people up."

The extrajudicial execution of Guy Malary on 14 October 1993

Justice Minister Guy Malary, his driver and bodyguard were shot dead in Port-au-Prince on 14 October 1993.⁹ Their vehicle, which was riddled with bullets, rolled over and hit a wall. Uniformed police who arrived on the scene ordered journalists not to film as they took the bodies away. At the time of his death, Guy Malary, who had shortly before been appointed to the post of Justice Minister by the exiled President Aristide, had been masterminding a plan to formally separate Haiti's army and police upon President Aristide's return to power which, at that time, was scheduled for October 1993. He had also been involved in inquiries into certain high-profile

⁸ See *Haiti: Current Concerns*, AMR 36/ 41/88, November 1988.

⁹ See *Haiti: On the Horns of a Dilemma: Military Repression or Foreign Invasion?*, AMR 36/33/94, August 1994.

human rights cases and had received death threats. The case is one of the cases the government itself is seeking to prosecute. In September 1995, a man suspected of involvement in the assassination of Guy Malary was released from prison in controversial circumstances. The man had been arrested earlier in the year in connection with other offences but was subsequently questioned by lawyers helping the government in the Malary investigation. The man was ostensibly released on the grounds that he had been acquitted of the earlier charges. The *Commissaire de gouvernement*, Public Prosecutor, Jean-Auguste Brutus, who authorized his release subsequently said that it was a mistake and that he had not realized he was under investigation for the assassination of Guy Malary. The man's release reportedly occurred a few days before he was due to testify to the team of foreign lawyers assisting the government, not only regarding the assassination of Guy Malary but also the assassinations of Antoine Izméry and Father Jean-Marie Vincent (see below). The then Minister of Justice, Jean-Joseph Exumé, reportedly told a US journalist that the man was under the protection of the United States whom he alleged had paid his legal costs and arranged his release from prison. Questioned about his allegations later, he reportedly refused to comment. US officials denied that the US was in any way involved in securing the man's release and furthermore stated that the man had no connection with the US authorities at the time of the assassination of Guy Malary. The Haitian police are said to be seeking to re-arrest the man, who is also said to be wanted on a charge of raping a 14-year-old girl twice, but it is feared he has left the country.

Massacre of unarmed civilians in Raboteau, Gonaïves, on 22 April 1994

Two former soldiers, a lieutenant and a captain, have reportedly been detained, together with a former *attaché*, in connection with the investigation of a massacre that took place in the coastal shanty town of Raboteau, Gonaïves, on 22 April 1994¹⁰. The residents of Raboteau had been a particular target of the Haitian military since 1991 because of their well-known loyalty to President Aristide. On 18 April 1994, soldiers ransacked homes and beat and detained several residents while trying to locate a local activist. They returned on 22 April, accompanied by FRAPH members, and opened fire with machine guns forcing residents to flee in small boats. The final death toll was difficult to establish. Estimates ranged from 20 to as many as 50. Forensic investigations were recently carried out in the area by the National Commission of Truth and Justice, with the assistance of MICIVIH. Latest reports indicate that the judicial investigation has been temporarily suspended because of the dismissal of the *juge d'instruction*, investigating judge, who was in charge of the case.

¹⁰ See *Haiti: On the Horns of a Dilemma: Military Repression or Foreign Invasion?*, AMR 36/33/94, August 1994.

The extrajudicial execution of Father Jean-Marie Vincent on 28 August 1994

Investigations are understood to be under way into the extrajudicial execution of Father Jean-Marie Vincent on 28 August 1994¹¹. It is one of the cases President Aristide announced would be examined by the team of foreign lawyers brought in by the government. Father Jean-Marie Vincent, who was a close friend and supporter of President Aristide and had worked for many years with peasants in the Jean-Rabel area (see above), was shot dead by several armed men as he was entering the residence of the Montfortain fathers in Port-au-Prince. It was remarked by many at the time that the police, who were widely suspected of being behind his assassination, arrived at the crime scene remarkably quickly. As far as Amnesty International is aware, no arrests have so far been made in connection with the case.

¹¹ See Urgent Action Extra 52/94, AMR 36/41/94, 30 August 1994.

CONCLUSIONS AND RECOMMENDATIONS

The human rights situation in Haiti has seen a dramatic improvement since October 1994. The Haitian Government has repeatedly emphasized its commitment to justice and has initiated many important reforms aimed at strengthening Haitian institutions and respect for human rights. Amnesty International welcomes the measures that have so far been implemented and hopes that they will continue and go on receiving the full support of the international community. The organization recognizes the enormous problems faced by the Haitian authorities and understands that it is not realistic to expect radical reform to be successfully completed overnight. The achievements made so far need to be consolidated and the many contradictions that characterize the present situation need to be ironed out. In order to demonstrate that the Haitian people can have confidence in their justice system and to make it clear that impunity for human rights violations will not continue to be the norm as it was in the past, Amnesty International believes that the Haitian Government needs to step up its efforts to ensure that those responsible for human rights violations, committed both before and since October 1994, are brought to justice.

Amnesty International welcomes the so far tentative steps taken by the Haitian authorities to bring those responsible for human rights violations to trial. However, it is concerned that there has been little public transparency in the way the trials referred to above were conducted and is seeking further details of the procedures followed. It further questions the effectiveness of trying suspects in their absence without apparently having exhausted attempts to locate them or seek their extradition, if abroad. In terms of breaking the circle of impunity and deterring further human rights violations, it is essential that all necessary steps are taken, in accordance with Haitian and international law, to arrest suspected human rights violators, that they be seen to receive a fair trial in accordance with international standards and that the full facts of each case be brought into the public domain.

Recommendations to the Haitian Government:

- C Urgent measures need to be taken to speed up judicial reform so that justice can be seen to be done in all cases of human rights violations according to Haitian and international law;
- C Every effort should be made by the relevant authorities to prosecute, in accordance with Haitian and international law, those alleged to have been responsible for human rights violations that have occurred both before and since October 1994;
- C Investigations into human rights violations, including “disappearances” and extrajudicial executions, should conform to standards set forth in the UN Principles on Extra-Legal, Arbitrary and Summary Executions and supplemented by the UN *Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions*;
- C All members of the Haitian security forces should be familiar with, and adequately trained in order to abide by international human rights instruments, including the UN

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- Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- C Both the security forces and the judiciary should be under strict orders to abide by the Haitian Constitution and Haitian law regarding the issuing of warrants, the carrying out of house searches and the detention of suspects;
- C Any member of the security forces or the judiciary who breaches such regulations should be immediately suspended by the appropriate authority and a prompt investigation undertaken by an independent body in order to establish what further action might be appropriate;
- C Any official suspected of carrying out human rights violations should be brought to justice in accordance with Haitian law and international standards;
- C Both the security forces and judiciary should act as transparently as possible when carrying out their duties;
- C The *brigades de vigilance* should operate only under strict chain-of-command control of the authorities and be held accountable for any abuses they might commit;
- C In order to deter further acts of *déchoukage*, the authorities at all levels should make it clear that such acts will not be tolerated, by ensuring that those responsible are brought to justice in accordance with Haitian law and issuing clear statements to that effect;
- C In accordance with Haiti's obligations under the International Covenant on Civil and Political Rights, which it ratified in 1991, and article 25 of the Haitian Constitution, prison officials should be under strict orders not to subject those in their charge to beatings or any other form of cruel, inhuman or degrading treatment or punishment;
- C Any prison official suspected of being responsible for such ill-treatment should be immediately suspended pending investigation by an independent body in order to establish what further action might be appropriate;
- C The Haitian Government should ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Recommendations to the international community:

- C Foreign governments need to continue supporting in whatever way they can, and always in full consultation with the Haitian authorities, the reforms being carried out by the Haitian Government to ensure respect for human rights. Priority needs to be given, as a matter of urgency, to measures aimed at strengthening the administration of justice;
- C The international community should consider how it can support efforts to bring to justice those responsible for the gross violations of human rights that took place in Haiti not only under the *de facto* military régime of General Raoul Cédras but also under previous administrations, including those of François and Jean-Claude Duvalier. While the obligation to bring human rights violators to justice rests primarily with the Haitian Government, other governments also share that obligation. This principle should apply

wherever such people happen to be, wherever the crime was committed, whatever the nationality of the perpetrators or victims and no matter how much time has elapsed since the commission of the crime;

- C Given the still fragile nature of Haitian institutions and the continuing potential for violence in the country, the United Nations and the Organization of American States should continue to both support the efforts of the Haitian Government to ensure respect for human rights and seek to maintain effective human rights monitoring on the ground in Haiti for as long as possible.