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List of frequently-used acronyms

| | |
|--------|---|
| CEP: | <i>Conseil Electoral Provisoire</i> , Provisional Electoral Council |
| DAP: | <i>Direction de l'Administration Pénitentiaire</i> , Direction of Penitentiary Administration |
| FADH: | <i>Forces Armées d'Haïti</i> , Haitian Armed Forces |
| FRAPH: | <i>Front Révolutionnaire Armé pour le Progrès d'Haïti</i> , Revolutionary Armed Front for the Progress of Haiti |
| HNP: | <i>Police Nationale d'Haïti</i> , Haitian National Police |
| NGO: | Non-governmental organization |
| OAS: | Organization of American States |
| OPC: | <i>Office de Protection du Citoyen</i> , Ombudsman's office |
| UN: | United Nations |

Some important dates in recent Haitian political history

| | | |
|-------|--------------|---|
| 1990: | 16 December | First free elections - Jean Bertrand Aristide won 67% of vote. |
| 1991: | 6 January | Failed coup attempt. |
| | 7 February | Aristide inaugurated as president (René Préval named Prime Minister). |
| | 30 September | Military coup led by General Raoul Cédras ousted President Aristide. |
| 1993: | 3 July | Governor's Island Agreement, foreseeing Aristide's return to Haiti on 30 October, signed by Cédras and Aristide. |
| 1994: | 11 May | <i>De facto</i> President Emile Jonaissant installed by the military. |
| | 19 September | US-backed Multinational Force (MNF) entered Haiti, immediately after Cédras acceded to an agreement signed by former US president Carter and Jonaissant allowing for a general amnesty. |
| | 10 October | Cédras resigned, leaving the country shortly thereafter. |
| | 15 October | Aristide returned to Haiti. |
| 1995: | 25 June | Legislative elections held. |
| | 17 December | Presidential elections; René Préval elected. |
| 1996: | 7 February | Préval inaugurated. |
| | 15 February | Préval named Rosny Smarth as Prime Minister. |
| 1997: | 6 April | Senate elections held. |
| | 9 June | Prime Minister Smarth resigned. |
| 1998: | 15 December | Senate ratified Jacques Edouard Alexis as Prime Minister. |
| 1999: | 11 January | Mandates of most local and legislative officials ended; Préval did not extend them, beginning a period of rule by decree. |
| | 14 January | Jacques Edouard Alexis assumed the duties of Prime Minister; the cabinet and government program were formed without parliamentary approval. |
| | 16 March | Préval appointed a Provisional Electoral Council (CEP) to organize elections. |
| 2000: | 4 January | The CEP presented a code of ethics for political parties; only two signed. |
| | 21 May | Races held between over 29,000 candidates for 7,500 local and legislative posts. |
| | 7 July | The Organization of American States (OAS) pulled its electoral observers out of Haiti to protest vote-counting methodology. |
| | 9 July | Second-round elections held in some races. |
| | 28 August | New parliament installed. |
| | 26 November | Presidential elections held; Jean Bertrand Aristide was the victor. |

HAITI

Human Rights Challenges Facing the New Government

INTRODUCTION

On 7 February 2001 Jean Bertrand Aristide was sworn in for the second time as president of Haiti. He took office with a five-year term ahead of him in which to implement the programs and reforms deferred by military coup in 1991. He had been elected in 1990 by 67% of the vote in Haiti's first free elections. The coup, which was carried out seven months after his inauguration, was followed by three years of active and brutal repression against his supporters by Haiti's military leaders and their paramilitary allies.¹ Aristide was restored to office in 1994 in the wake of a multinational intervention; however, in spite of calls from some sectors that he be allowed to make up the three years of his term spent in exile, he remained in office only slightly over a year before new elections were held, in accordance with the pre-coup electoral timetable.

With his recent inauguration in February 2001 President Aristide, assisted by his Prime Minister Jean Marie Chérestal, has once again been given the opportunity to confront as head of state the challenges facing Haiti. Some significant gains were achieved in the decade since his first election, including Aristide's disbanding of the military, the creation and strengthening of a new civilian police force and partial efforts at judicial reform.² Moreover, since the local and legislative elections held in 2000, Haiti has a fully functioning government apparatus for the first time in over three years.

The difficulties facing the country, however, are many. Increasing levels of drug trafficking, violent crime, electoral and political violence, efforts to politicize key institutions and gang-like activity present ever more formidable obstacles. The manner in which the new administration deals with serious human rights concerns regarding the functioning of the police and judiciary; the existence of illegal security forces linked to newly-elected officials; the prison system; and the vulnerability of human rights defenders in a context of increased political violence will be crucial for Haiti's future.

In this document Amnesty International outlines its key concerns in these areas, and gives a series of concrete recommendations to the administration of President Jean Bertrand Aristide for protecting human rights in Haiti at the start of this new period.

¹ See Amnesty International, *Haiti: On the Horns of a Dilemma: military repression or foreign invasion?*, AI Index: AMR 36/33/94, August 1994.

² See Amnesty International, *Haiti: Unfinished Business: justice and liberties at risk*, AI Index: AMR 36/01/00, March 2000; Amnesty International, *Haiti: Still Crying Out for Justice*, AI Index: AMR 36/02/98, July 1998; and Amnesty International, *Haiti: A Question of Justice*, AI Index: AMR 36/01/96, January 1996.

Political background

Under Article 134-3, Haiti's 1987 Constitution disallows successive presidential terms. When newly-returned President Aristide stepped down to make way for René Préval in February 1996, it constituted the first peaceful handover between democratically-elected leaders in Haitian history. The government of new President Préval quickly became beset by political difficulties. It was without a Prime Minister from June 1997, when Rosny Smarth resigned from that post following allegations of electoral fraud. When the mandates of nearly all of the country's elected officials expired in January 1999 President Préval did not extend them, beginning instead a period of rule by decree. The vacant post of Prime Minister was filled by Jacques Edouard Alexis, whose nomination had received parliamentary approval but whose cabinet and program were never ratified.

Elections to fill the vast number of vacant posts nationwide were scheduled and postponed several times. Voter registration finally began in January 2000. Over 90% of the electorate were believed to have registered for the new photograph-bearing voter identification card.

Some efforts were made to curb any electoral violence and to minimize potential disruptive effects of the electoral contests. In January 2000 several parties signed a Code of Ethics developed by the *Conseil Electoral Provisoire (CEP)*, the Provisional Electoral Council;³ the code required parties and candidates to abstain from spreading opinions or encouraging actions that would endanger the sovereignty, public order, integrity or security of the country. Parties, candidates or their supporters were forbidden to disrupt meetings organized by rival parties or candidates. Weapons were disallowed in public gatherings linked to the elections. The *Fanmi Lavalas*⁴ party of Jean Bertrand Aristide signed the code, though main opposing coalition *Espace de Concertation* (Consultation Forum) and party *Organisation du Peuple en Lutte (OPL)*, Organisation of People in Struggle, did not, citing lack of confidence in the CEP's ability to enforce the code.⁵

Shortly before the May elections, a security plan for the electoral period was drawn up with the participation of the government, the police, electoral officials and political parties. However, most of the benefits of efforts towards a peaceful and calm electoral climate were made void by the 3 April 2000 killing of well-known and much-respected journalist Jean Léopold Dominique.

³ The nine-member provisional electoral council was appointed by then-President Préval in March 1999. Article 191 of the Haitian Constitution provides for the formation of a permanent council as an independent institution.

⁴ *Lavalas*, the Haitian Creole word for 'flood,' was the term used to describe the vast popular movement that brought Jean Bertrand Aristide, a Catholic priest, his electoral victory in 1990. *Fanmi Lavalas*, or 'Lavalas Family,' is the current name of his political party.

⁵ See Amnesty International, *Haiti: Unfinished Business: justice and liberties at risk*, AI Index: AMR 36/01/00, March 2000.

The killing of Jean Dominique

In one of the most high-profile acts of violence in recent Haitian history, prominent radio journalist and longtime advocate of human rights principles Jean Dominique was shot dead by unknown assailants who waited for him outside the courtyard of his radio station, Radio Haiti Inter, on 3 April.⁶ Station guard Jean Claude Louissaint was killed with him. Jean Dominique had been an outspoken advocate of change from during the Duvalier period,⁷ and had continued to publicly draw attention to anti-democratic tendencies within diverse sectors of the Haitian political scene and society.

Photo of Jean Dominique on his return to Haiti from exile at the end of Jean Claude Duvalier's dictatorship.

Several days after the killing, a march of several hundred people calling for those responsible for Jean Dominique's death to be brought to justice was disrupted by people claiming to be supporters of the *Fanmi Lavalas* party. After Jean Dominique's funeral, a group of such self-described partisans gathered outside the headquarters of another Port-au-Prince radio station, Radio Vision 2000, and threatened to burn it down, after burning the nearby headquarters of the political party *Konfederasyon Inite Demokratik (KID)*. That building also served as the headquarters for the *Espace de Concertation*. A few days earlier, journalists of Radio Vision 2000 had reportedly sent an open letter to the Ministry of Justice denouncing threats against its staff and requesting official protection.

For its part, Radio Haiti Inter resumed broadcasts one month after Jean Dominique's death. However, the targeted killing of such a popular and well-known activist, with unquestionable credentials in the democratic struggle, caused a great deal of fear, tension and self-censorship during the electoral period. Non-governmental organizations (NGOs) involved in human rights, as well as other groups, took part in numerous activities in memory of Jean Dominique; in one such initiative, over 11,000 signatures have been collected to a statement put together by those groups urging the authorities to investigate his death and bring those responsible to justice.

⁶ See Amnesty International, 'Haiti: Elections must not be marred by violence', News Service 83/00, AI Index: AMR 36/005/2000, 5 May 2000 and 'Haiti: Amnesty International urges UN not to abandon Haiti', News Service 229/00, AI Index: AMR 36/009/2000, 4 December 2000.

⁷ Dictator François Duvalier retained power from 1957 until his death in 1971; at that time his office passed to his son Jean-Claude, who was ousted in 1986.

The investigation into the killings got off to a slow start. Leads were not followed up immediately and some of the investigating judge's efforts were hampered by incidents such as that which occurred when a group of demonstrators occupied the courtyard of the justice building, ostensibly to show support for then-senatorial candidate Dany Toussaint, who had been summoned for questioning by the investigating judge. In a separate development, one suspect was reportedly arrested after having been shot in the buttocks by members of the Haitian National Police; he then died in hospital, and his body was said to have been taken from the morgue in circumstances which have yet to be clarified.

The judge responsible for the case was replaced in October, and the new judge requested an unlimited extension of the investigative period, which was granted by the *doyen*, the senior judge of the court. The new judge called several individuals for questioning, including the director of Radio Vision 2000, the chief of police, several police officers and members of the security detail of the National Palace and Dany Toussaint. The latter, elected to the Senate, initially refused, invoking parliamentary immunity. The judge summoned several of his associates, and eventually ordered that one of the police officers serving as his bodyguard be jailed after the guard allegedly became verbally aggressive. Radio stations reported that the judge had received further verbal threats from a *Fanmi Lavalas* deputy. In a positive move, at end February Senator Toussaint requested a temporary absence without pay from the Senate and announced his intention to comply with the summons.

Ongoing electoral tension

As the first round of elections drew near, acts of intimidation and violence continued. These were most frequently reported to be at the hands of people claiming to be supporters of *Fanmi Lavalas*, but on several occasions partisans from other parties were said to be responsible. Party candidates and leaders did not publicly condemn the violence by their supporters, or make any visible attempt to restrain or control them.

The Electoral Observation Mission of the Organization of American States (OAS) reported that there were more than 70 acts of violence in the three months leading up to the May elections, in which seven candidates or party activists died.⁸ In the environment of political tension surrounding the elections all deaths of candidates or other political figures were viewed as particularly suspect. However, following inquiries by Amnesty International into some of these killings, the organization believes that in at least some cases the deaths were not politically motivated, but were rather the result of common crime.

Local and legislative races, involving a reported 29,000 candidates running for 7,500 posts, were held on 21 May 2000. Voting took place relatively peacefully, with high voter turnout. *Fanmi Lavalas* candidates were widely acknowledged to have won the majority of races. Delayed elections were held in the department of the Grand' Anse on 11 June; the department had been the scene of conflict between rival parties, in which electoral offices and houses of those believed to be sympathetic to rival parties were burned and some activists went into hiding.

⁸ The OAS Electoral Observation Mission in Haiti, "Chief of Mission Report to the OAS Permanent Council," 13 July 2000, para. 9.

However, after disputing the methods used to tally votes in Senate races to determine whether run-off elections were necessary, the OAS, the United Nations (UN) and key governments condemned the results of the May elections as published by the CEP. Léon Manus, head of the CEP, left the country for the USA, where he denounced President Préval for having pressured him to tabulate results in favour of *Fanmi Lavalas* candidates. International donors cut off aid to and observation of further elections, isolating the Haitian government. Some went further, making economic aid contingent on revision of the May results.

Within Haiti, ongoing intimidation and violence, often by self-described political partisans, contributed to a climate of tension and insecurity. A second round of elections for some posts in the Chamber of Deputies was held in July; the OAS, in protest at the May Senate results, did not observe this round.

In August a group of 193 Haitian intellectuals published a “Citizens’ Protest” against electoral violence and intimidation and in favour of democratic principles. In spite of such efforts, however, violent incidents continued. To give only a few examples, on 4 September, a fragmentation grenade was reportedly thrown by unknown assailants at the locale of the national state television station, *Télévision Nationale d’Haïti*. On 6 September, the Port-au-Prince locale of the grassroots credit union *Fondasyon Kole Zepol* (FONKOZE) was robbed and one of its staff abducted by armed men in police uniforms. The body of the staff member was found days later. Though an investigation was opened, the extent of police involvement in the incident was not clear.

Violence intensified in the week preceding the presidential elections in late November, with a series of explosions in which at least 16 people were injured and two children were killed. Nonetheless, the actual voting took place peacefully. Most opposition parties did not participate, and assessments of voter participation varied widely. Jean Bertrand Aristide was incontestably the overwhelming choice of those who voted.

In December it was announced that Aristide and outgoing USA president Bill Clinton had signed an eight-point accord addressing, among other issues, the resolution of the dispute over the May election results. However, opposition figures continued to reject Aristide’s election and discussed establishing an alternative government. In response, on 9 January 2001 representatives of popular organizations claiming to support *Fanmi Lavalas* issued threats of physical violence against members of opposition parties and journalists during a press conference in the Saint Jean Bosco church in Port-au-Prince.

In issuing the threats, the speakers referred to a list of public figures reportedly opposed to the upcoming inauguration of Aristide; they warned the individuals concerned to change their position within three days or face violence. Religious leaders, journalists and others protested; Amnesty International again called on the authorities to take steps to curb violence by all political sectors, and urged that special protection be given to those affected by the threats.⁹ Port-au-Prince prosecutors opened an investigation, though one interview in mid-January, with

⁹ See Amnesty International, ‘Haiti: Amnesty International urges immediate response to threats of political violence’, News Service 7/01, AI Index: AMR 36/001/2001, 11 January 2001.

the lawyer of one of the men involved, was disrupted by an aggressive demonstration by his supporters, leading to the temporary closure of the *parquet*, the prosecutors' office.

In the third week of January four more hand-made bombs reportedly exploded in Port-au-Prince, with no fatalities. President-elect Aristide wrote to leading opposition politicians inviting them to meet to resolve the political crisis. In the meantime, opposition figures held an open meeting in which they reiterated their rejection of the results of earlier elections and their intention to set up a provisional government pending new elections. Aristide and opposition leaders met in early February but were unable to reach an agreement. Aristide was inaugurated on 7 February.

Opposition parties, for their part, continued to refuse to recognize Aristide and named Gérard Gourgue as a 'provisional president.' In a speech given around the time of Aristide's inaugural address, Gourgue contributed to political tensions by inviting the return to Haiti of former military from the notorious Haitian Armed Forces, the *Forces Armées d'Haiti* (FADH).¹⁰

Withdrawal of the International Civilian Support Mission in Haiti

In spite of the deteriorating human rights situation, in November United Nations Secretary General Kofi Annan recommended that the UN's International Civilian Support Mission in Haiti (MICAH) be discontinued when its mandate ended on 6 February 2001.¹¹ This marked the end of the international human rights monitoring presence which had begun in 1993, during the period of the *de facto* military authorities, with a joint UN / OAS monitoring mission. Amnesty International criticized the Secretary General's decision. It argued that a premature withdrawal, particularly of the human rights component of the mission, effectively negated the results of past efforts to promote a climate of respect for human rights, and was potentially detrimental to an already-fragile human rights situation.¹² Discussions were reportedly underway among the OAS and countries who had been identified as "Friends of Haiti"¹³ during the 1990s, among other actors, regarding how best to address the need for ongoing human rights monitoring in Haiti.

At the same time, international donors maintained the distance they had taken from Haiti, particularly following the May electoral dispute. In February 2001, the European Community confirmed that it had frozen 44.4 million euros (US\$ 41.7 million) intended for programs in Haiti, as it considered the May events to constitute a violation of article 9 of the Cotonou Agreement between European and African, Caribbean and Pacific countries regarding democratic principles

¹⁰ Text of speech printed in "Haiti: opposition's provisional president Gourgue addresses nation," BBC, 14 February 2001.

¹¹ MICAH's mandate began in March 2000, but due to financial and other constraints the first advisers under its three 'pillars,' police, justice and human rights, were not fielded until June.

¹² See Amnesty International, 'Haiti: Amnesty International urges UN not to abandon Haiti', News Service 229/00, AI Index: AMR 36/009/2000, 4 December 2000.

¹³ Argentina, Canada, Chile, France, USA and Venezuela.

and human rights.¹⁴ The United States Agency for International Development (USAID) reiterated at end February that the US\$ 70 million slated for Haiti would be provided through non-governmental organizations (NGOs) rather than through the government.¹⁵

Socio-economic context

Reductions in international aid have potentially devastating effects. Haiti remains the only nation in the Americas to be classified in the 'low human development' category of the United Nations Development Program (UNDP)'s Human Development Index, with a rank of 150th out a total of 174 countries worldwide.¹⁶ According to the Haitian NGO *Plate-forme Haitienne De Plaidoyer Pour un Développement Alternatif* (PAPDA), Haitian Platform in Defence of an Alternative Development, 80% of the rural population in Haiti lives in conditions of absolute poverty, with an income of less than US\$ 1 per day.

The latest UNDP figures indicate that the average gross domestic product per capita in Haiti is one fifth that for the rest of Latin America and the Caribbean and only 6% that of countries rated as having 'high human development.'¹⁷ Literacy for those aged 15 and older is 47.8% in Haiti as compared to 87.7% for the region;¹⁸ those able to attend school must pay for it themselves, as due to lack of public funds for education, 90% of schools are private.¹⁹ Public health services are practically non-existent, particularly in the countryside. However, the effects of this lack are partially alleviated by the presence of several hundred doctors and other medical personnel whose services have been donated by the government of Cuba; they are stationed in health posts throughout the country. Life expectancy is estimated at 54 years, as compared to 69.7 years for the rest of Latin America and the Caribbean and 77 years for countries with 'high human development.'²⁰

¹⁴ "EU sanctions Haiti over non-respect for democracy - ACP," *Agence France Presse*, 6 February 2001; and "Gel de l'aide de l'Union Européenne," *Haiti on Line*, 2 February 2001. The Cotonou Agreement is a twenty-year trade accord signed on 21 June 2000 between the European Community and African, Caribbean and Pacific (ACP) countries, replacing the Lomé Convention. The stated objectives include "to promote and expedite the economic, cultural and social development of the ACP States, with a view to contributing to peace and security and to promoting a stable and democratic political environment" (The Cotonou Agreement, 21 June 2000, article 1.)

¹⁵ "Le gouvernement américain maintient sa position sur la crise," *Radio Métropole* transcript, 22 February 2001.

¹⁶ *Human Development Report 2000: human rights and human development*, United Nations Development Program, 2000. This report is based on estimates and figures from 1998.

¹⁷ *Op. cit.*, UNDP Human Development Index, 2000. Average gross domestic product per capita is given as US\$ 1,383 in Haiti as opposed to US\$ 6,510 regionally and US\$ 21,799 for countries with 'high human development.'

¹⁸ *Op. cit.*, UNDP Human Development Index, 2000.

¹⁹ Interview with PAPDA, Port-au-Prince, November 2000.

²⁰ *Op. cit.*, UNDP Human Development Index, 2000.

In 2000 the situation was exacerbated by conflicts in the electoral and political arena. Fears of instability, coupled with decisions on the part of governments responsible for much of the international aid to Haiti to distance themselves from the country, contributed to a drop in value of the local currency, the *gourde*. The effect was to reduce purchasing power even more, making daily subsistence an ever greater struggle for the majority of Haitians.

CURRENT HUMAN RIGHTS CONCERNS

Below, Amnesty International outlines its concerns with regard to unofficial and illegal security groups, the police, justice, prisons and the situation of human rights defenders in Haiti. Following this section, Amnesty International makes a series of recommendations to the new administration of President Jean Bertrand Aristide with regard to these crucial areas.

A. Recent violations by illegal security groups

Threats and acts of intimidation by political partisans and international discord over election returns were accompanied by worrying developments in the maintenance of law and order in several localities in the country. Soon after taking up their functions, some mayors and local administrators elected in the May contests began to develop their own unofficial armed security forces, often composed of political partisans. These groups have been responsible for a number of human rights violations. While there were clear political motivations in some of these incidents, in others the groups had appropriated law and order functions, at times in response to pressure from partisans to create jobs.¹⁹

There is no provision in Haitian law for public security forces attached to elected officials. Following the disbanding of the military, the police force, which operates under the Ministry of Justice, is the only remaining security body with legal standing under the Haitian Constitution. Its function is to ensure law and order and to protect the life and property of citizens.²⁰ Mayors and their municipal councils, for their part, are tasked with administrative and management duties and are subject to oversight by the Ministry of the Interior.²¹ Given Haiti's dual history of a highly politicised public security force at the service of those with political power, and backed by equally politicised unofficial paramilitary forces, the emergence of these new illegal forces attached to elected officials is an extremely worrying development which, if not addressed promptly, could come to constitute a serious challenge to the maintenance of the rule of law.

The Prime Minister of Haiti and high-level justice, police and legislative officials have recognized the gravity of this trend and have pledged to dismantle illegal forces and to prosecute

¹⁹In one such instance, in early November, Port-au-Prince radio stations broadcast statements by the second mayor *adjoint* of the city announcing the creation of heavily armed security brigades, to be made up of young women and men trained by the mayor's office, with the aim of protecting markets and public spaces. The radio stations noted that in previous weeks the mayor's office had been the scene of violent demonstrations by young partisans from the newly-elected mayoral team's party, demanding jobs; the stations queried to what extent the decision to create the new armed brigades was influenced by the need to respond to pressure from demonstrators.

²⁰ See Articles 269 and 269.1.

²¹ *Decret du 22 octobre 1982 sur l'organisation et le fonctionnement de la commune*, art. 5.

those participants responsible for human rights violations. To date, however, little progress seems to have been made.

Violations of the right to physical integrity

2 November, Hinche²²

On 18 September 2000, several thousand supporters of the *Mouvman Peyizan Papaye* (MPP) and opposition parties in the Central Plateau took part in a peaceful march from Papaye to Hinche to draw attention to concerns about security and the political situation in the Central Plateau. A few shots were allegedly fired by unknown persons during the march itself, but did not disrupt the event, and no one was injured.

The MPP then organized a meeting in Hinche to discuss similar concerns. The meeting was set for Thursday 2 November; the organizers wrote to the *Police Nationale d'Haïti*, Haitian National Police (HNP), to request protection and issued an open invitation for participation on the radio. During its visit to the area on the day following the meeting, Amnesty International spoke with a range of sources in and around Hinche about their version of subsequent events.

The meeting was scheduled to take place in the Recif Night Club, a walled space containing a roofed dance area near the marketplace in Hinche. According to meeting organizers, the police and the Hinche mayor's office, there was a confrontation between *Fanmi Lavalas* partisans and organizers on the morning preceding the meeting. The former were apparently trying to put up political posters in the area around the venue, when meeting organizers objected. In the altercation, a *Fanmi Lavalas* partisan was reportedly injured in the hand.

The meeting commenced about 2:45 p.m., and reportedly had several hundred participants from Hinche town and the surrounding areas. The environment was said to be peaceful. Participants reported that as it was ending, at about 5:15 p.m., stones began to be thrown into the locale from the yard of a neighbouring house, which belonged, according to some sources, to an employee of the Hinche mayor's office. This continued for several minutes. Several participants were said to have been injured.

As participants began to leave the meeting, shots were fired by assailants positioned at several points. Police indicated that the weapons used included automatic weapons such as the Uzi and T65 as well as .12 gauge shotgun and .38 revolver. Though there were four police officers assigned to provide protection at the meeting, police sources said that they were outgunned and were obliged to take shelter with meeting participants.

²² See Amnesty International, 'Haiti: Government must act to disband armed groups', News Service 214/00, AI Index: AMR 36/008/2000, 10 November 2000.

At least five people were shot by those firing at the meeting venue. Four of them, two meeting participants and two passers-by, were shot near the exit or in the street outside the locale. One of the passers-by, who was working on a truck parked nearby, was caught unawares in the street and shot through the right ankle. Another was pushing a cart along the road when the shooting commenced, and was shot through the back. Of the wounded participants, one, a 47-year-old MPP member, was shot in the right side and was also injured in the hand by assailants throwing stones. Another participant, a young *Espace de Concertation* partisan, was hit by a bullet in the back of the neck as he headed down the street away from the locale; his friends collected him and took him to the local hospital.

Attack victim with bullet wound.

Dieugrand Jean Baptiste, brother of MPP leader Chavannes Jean Baptiste, was shot on the ground inside the compound. According to some witnesses, he was deliberately shot as he attempted to take shelter, by assailants who they believed had recognized him. The bullet penetrated his chest cavity, reportedly damaging his left lung; he was later evacuated to Port-au-Prince, where he underwent emergency surgery.

Chavannes Jean Baptiste, assisted by his bodyguards, was rushed from the venue; his entourage drove away in two cars, both of which were hit by bullets as they were fleeing the scene. The mayor of Hinche told Amnesty International that, though he was not present when the firing began, he believed that meeting participants were responsible for shooting each other; this version was contradicted by meeting participants and some authorities, who reported that the firing came from outside the meeting only, with no exchange of gunfire. Several witnesses and authorities indicated that the attack seemed to have been well-planned and organized.

Those shooting reportedly included personnel of the mayor's offices of Hinche and Maissade, a nearby town. Some witnesses indicated seeing the mayor of Maissade among those firing on the meeting. He was also reported by witnesses to have been among a group of armed men which, once the meeting had been broken up, proceeded to the house of the coordinator of the *Espace de Convergence* party. The coordinator's wife and her four small children fled out the back and hid. He and his men broke in and ransacked the house; they reportedly stole some material before dousing the rest with gasoline and setting fire to the house, burning it completely to the ground.

House of the coordinator, burned by armed attackers.

As mentioned above, the mayor of Hinche said that he was not present at the time of the shooting. Several sources reported that he was present throughout the evening, however, and that he threatened HNP officers that he would fire at them if they obstructed him and his men in any way. Gunfire, some of it from heavy arms, was heard in central Hinche throughout the night, though no further injuries were recorded. The group that had attacked the meeting burned

an MPP truck which had been used to bring chairs to the venue, as well as five motorcycles and two bicycles belonging to meeting participants. The sound system used for the event was stolen.

Burnt motorcycles and bicycles inside the Recif locale.

The mayor of Hinche reported that during the disturbance he apprehended the justice of the peace of La Victoire, another town, and confiscated his motorcycle, after finding him in the company of those who had organized the meeting. He said that he was taking steps to have the judge removed from office. Other sources indicated that the judge was beaten during the confrontation. Following the incident, the mayor of Maissade claimed in a radio broadcast that he had come to 'bring order' to the area.

No arrests were made during the disturbances, though police confiscated the weapons of two MPP members late in the evening, reportedly because the permits were out of date. The next day, the local justice of the peace carried out a survey of the damage and submitted his report to the prosecutor; the latter submitted the dossier to the *cabinet d'instruction*, the investigating office.

Following the violence at the peaceful demonstration and reports that the mayors of Hinche and Maissade were among the assailants, Prime Minister Alexis gave a public radio declaration reminding the mayors and other local officials that they do not have policing functions and that the HNP is the only legal security force. He also reminded local officials that any effort on their part to create their own armed forces would be considered illegal. Minister of Justice Camille Leblanc told Amnesty International that he planned to visit the area to investigate the incident and to meet with local officials to explain that they have no mandate to interfere in these issues. It is not clear what steps have subsequently been taken in this regard.

10-14 September 2000, Petionville

Armed individuals under the authority of the mayor's office reportedly engaged in a major day-time sweep of the market area in Petionville in early September. The sweep was intended to dislodge a gang of thieves said to have been operating in the market.

Some of those arrested in this sweep told Amnesty International how they were apprehended as they went about their business by a 'brigade' of men, some of them armed with .38 revolvers or batons; there was at least one uniformed police officer with them. Several detainees reported separately that they were beaten with batons, then tied up together, beaten again and loaded into a white pickup belonging to the Petionville mayor's office.

Petionville lockup in November 2000.

They were taken to the Petionville police station. Police officers told Amnesty International that the '*agents de la mairie*,' 'agents of the city hall,' had badly beaten some people during arrest, and that they arrived at the police station with head and leg wounds.

Police officers also admitted that, following these arrests, the holding cell at Petionville police station became severely overcrowded, with 48 men and boys crammed into the small space. Detainees who were present at the time said that there was no room on the floor for them all to stand, not to mention sit down, so some men and boys were obliged to cling to the bars above floor level or were confined to makeshift hammocks which they hung from the ceiling. As one detainee said, '*nou te mare en le, nou pa te kap domi*' ('we were tied up in the air, we weren't able to sleep.') They spent over two weeks in these conditions; when they began serious protests, they were taken out of the cell and beaten by police officers. In addition to these injuries, several detainees were reportedly taken to hospital with severe swelling in their limbs due to the impossibility of movement in such closely packed conditions.

Those arrested were taken to the Port au Prince *parquet*, prosecutor's office, on 2 October. As they had not been arrested according to procedures laid out in the Haitian legal code, either following investigation or in the very act of committing a misdeed, there was no information available to back the charges (generally '*association de malfaiteurs*,' or gang-related activity) listed in the police station register against them. The casefile forwarded to prosecuting officials consisted of a list of 28 names, but no information justifying or explaining their detention. Police and justice officials admitted to Amnesty International during its November 2000 visit that the arrests had been illegal and arbitrary, and voiced dismay at the disregard for legal safeguards and police procedures. For their part, mayoral officials admitted to Amnesty International that the arrests had no legal basis.

Several sources had referred to an incident earlier in September in which the illegal security force reportedly beat a suspected thief to death on the steps of the police station; for its part, the mayor's office indicated that the man had been killed by a mob.

In response to Amnesty International's expression of concern, the mayor's office indicated that it took the initiative to form this group in the interest of security in the area, due to the lack of capacity of the HNP. The mayor's office said that at times their representatives patrol with the police, but at times they act on their own; and that they consider their group to be more effective than the police due to the efficiency of the community network of *Fanmi Lavalas* organizers who pass on information about potential problems within their neighbourhoods. The mayor's office claimed that its officers had been trained by official police trainers and received materials from the HNP; the Director General of the HNP denied this.

The local officials claimed, in addition, that police and justice officials welcome these activities and view them as supportive of their own work. Both local police and justice officials, however, denied this. They said, rather, that on a day-to-day basis they can do little else but go along with the activities and try to deal with the consequences as best they can, but that they are concerned about the disregard for legal framework and safeguards underlying the existence of these unofficial forces. They also stressed to Amnesty International that a firm response from their superiors was needed to curb such activities wherever they occur.

Violations of the right to freedom of expression, association and assembly

25-26 November 2000, Pliché²³

The afternoon of Saturday 25 November, the day before the presidential elections, a group of armed men including Jean Candio, deputy elect for St. Louis du Sud and Cavaillon, as well as Martel René and Bailly Vincent, mayor and adjoint mayor elect of Cavaillon, reportedly entered the Catholic church in Pliché, 4th communal section of Cavaillon, Department of the South and broke up a community meeting being held there to discuss local tourism. According to some reports, they arrived in a pickup belonging to the local office of the national telephone company, Teleco, and were accompanied by at least one Teleco employee. At least seven members of the group were armed, according to witnesses; weapon types included revolver, .12 gauge shotgun and Uzi-style machine gun. They demanded that the church be closed, as the presidential elections were going to be held the next day.

The men reportedly kicked and struck some of the people present in the church and turned over pews and flower pots. They forced everyone out of the church and, once outside, ordered them to lie down on the ground. The parish priest, Père Yves Edmond, resisted. In response, several of the men reportedly aimed their weapons at him. The mayor said that he was forbidding any religious services, including celebration of the village festival, until after the elections.

The next day the same armed men returned, broke up the celebration of mass and ordered worshippers out of the church. At no point was there a police presence.

Father Yves Edmond called on police and justice officials to take action. On 26 November a group of 18 priests from the Department of the South, including the bishop of Les Cayes, wrote a letter directly to President Préval asking that those responsible for this violence be brought to justice, and that reparations be made to the community.

The district senator, Yvon Feuillé of *Fanmi Lavalas*, disputed this version of events and accused Father Edmond of supporting the rival OPL party. For their part, the local officials implicated admitted to closing the church but denied using violence. The Episcopal Conference of Haiti, *Conférence Episcopale d'Haïti*, condemned the officials' behaviour. Father Yvon Massac, an influential member of *Fanmi Lavalas*, called on the party to take steps against any officials elected on the *Fanmi Lavalas* ticket who formed illegal armed groups and pressured or committed violence against others, and suggested that the officials involved in the Pliché incident offer an apology to the community. The local justice of the peace opened an investigation; for its part, the Chamber of Deputies also sent a commission to Pliché to investigate. The outcome of these investigations had not been made public as this document went to press.

4 November, St Louis du Sud

A group of armed men led by the local mayor reportedly fired shots in the air to break up a meeting in which Haitian intellectual Hervé Denis, Minister of Culture under Aristide at the time of the 1991 coup, was speaking. The meeting was organized by members of the *Espace de Concertation* in the commune of St. Louis du Sud, Department of the South; the mayor

²³ Information on this incident was provided by the Haitian NGOs Southern Network for the Defence of Human Rights and the National Coalition for Haitian Rights, as well as by press accounts.

reportedly indicated that he and his followers had disrupted it because it had been organized without his authorization. Though those present protested to national authorities, no follow-up was reportedly made.

Interference in the functioning and independence of the judiciary

26 October 2000, Maissade

At end October, the mayor of Maissade and a group of sympathizers demonstrated and burned tyres in the street off the main square before closing the *tribunal de paix* of Maissade. The mayor confiscated the materials and motorcycles provided to the justice of the peace by the Ministry of Justice, and left them in the care of the police. For their part, the police reportedly did not take part in the closure of the *tribunal de paix*; they told Amnesty International that they had not been involved in the incident in any way.

The mayor reportedly informed the departmental prosecutor, the *commissaire de gouvernement* in Hinche, that he had closed the tribunal because the judge was not affiliated with his own *Fanmi Lavalas* party. According to some sources, the mayor began his pressure after the justice of the peace issued warrants for two *Fanmi Lavalas* partisans on charges of theft; the tribunal was closed following their transfer to Hinche prison. The justice of the peace subsequently went into hiding.

The day after the closure, a group of supporters of the OPL party apparently tried to reopen the tribunal, but it was again closed by a group of individuals said to be linked to the mayor's office. No one was visibly armed and there were no injuries reported.

The justice of the peace submitted a report to departmental judicial authorities, destined for the Ministry of Justice. When Amnesty International raised the issue with the Minister of Justice, he said that he would investigate it.

Fanmi Lavalas partisans also reportedly closed the *tribunal de paix* in Cerca Carvajal earlier in October, under similar circumstances. As reported above, the mayor of Hinche told Amnesty International that he had apprehended the justice of the peace of La Victoire and taken away his motorcycle after finding him in the company of organizers of the 2 November MPP meeting in Hinche.

Maissade had been the scene of confrontation between party partisans earlier in the year. The human rights NGO *Coalition Nationale pour les Droits des Haïtiens*, National Coalition for Haitian Rights (NCHR), reported²⁴ that in the early morning hours of 12 July officers of the special HNP unit *Unités départementales de maintien d'ordre (UDMO)*, the Departmental Units to Maintain Order, arrested five *Espace de Concertation* members following reports of gunshots. During the arrest, the UDMO officers were reportedly accompanied by *Fanmi Lavalas* members rather than local HNP officers. After the arrest, the UDMO agents were said to have allowed the *Fanmi Lavalas* supporters who had been accompanying them to mistreat the detainees. They were transferred to Hinche the next day, and eventually released.

²⁴ Open letter from NCHR to the *Conseil Supérieur* of the HNP, 17 August 2000, reproduced on Haiti Online, 28 August 2000.

B. Conduct of the Haitian National Police

Background

As outlined previously, following his return from exile Aristide abolished the Haitian military, the *Forces Armées d'Haïti* (FADH). In November 1994 the new *Police Nationale d'Haïti*, Haitian National Police (HNP) was created by law. The creation of a new police force under civilian control²⁵ and mandated to guarantee public order and protect Haiti's citizens²⁶ represented a departure from the past, which had been characterized by a repressive public security force at the service of those who wielded political power.

Expectations for the new force were high. Some serious human rights violations were committed,²⁷ but the publication in 1995 of a *Code de Déontologie* (Code of Conduct) and the creation of an *Inspection Générale* (Office of the Inspector-General) were viewed as positive steps in enforcing a respect for human rights within the police. For the first time in Haiti, in September 2000 police officers were tried in connection with human rights violations; three officers and a police commissioner were found guilty of the killings of eleven men in the Carrefour-Feuilles neighbourhood of Port-au-Prince (see below).

At the same time, the police came under growing pressures which challenged the professionalism and strength of the institution. These included an increase in drug trafficking through Haiti; efforts by some political sectors to undermine the impartiality of the institution; and rising electoral violence throughout 2000.²⁸

Recent reported violations by the police

There were some reports of illegal killings by police in 2000, as well as allegations that in some instances they were acting in conjunction with illegal security groups (see above). Beatings of criminal suspects following arrest were reported to be frequent, and during its November 2000 visit Amnesty International found evidence of several recent cases of this type.

²⁵ The Ministry of Justice, as per article 269 of the Constitution of the Republic of Haiti: "la Police est un Corps Armé. Son fonctionnement relève du Ministère de la Justice."

²⁶ Article 269-1 of the Constitution of the Republic of Haiti: "Elle [la police] est créée pour la garantie de l'ordre public et la protection de la vie et des biens des citoyens. Son organisation et son mode de fonctionnement sont réglés par la Loi."

²⁷ See Amnesty International, *Haiti: Unfinished Business: justice and liberties at risk*, AI Index: AMR 36/01/00, March 2000; Amnesty International, *Haiti: Still Crying Out for Justice*, AI Index: AMR 36/02/98, July 1998; and Amnesty International, *Haiti: A Question of Justice*, AI Index: AMR 36/01/96, January 1996.

²⁸ See Amnesty International, *Haiti: Unfinished Business: justice and liberties at risk*, AI Index: AMR 36/01/00, March 2000.

Local human rights groups continued to try to follow up on such allegations, but were obstructed by the breakdown in the functioning of the *Inspection Générale*, with which they had built up regular relations. This occurred in April 2000, when the head of the *Inspection Générale*, Luc Joseph Eucher, was transferred to a diplomatic position outside the country. The post remained vacant for nearly a year, with as a result little or no progress in internal investigations of alleged violations.

The delay in naming a new head fuelled concerns about the strength of the commitment within the police to respect for human rights norms. In the light of other developments described more fully below, it also sparked debate about the potential politicization of the police force as a whole, since this official was one of the police hierarchy, along with Director General Pierre Denizé and Secretary of State for Public Security Robert Manuel, whom popular organizations with ties to *Fanmi Lavalas* as well as party leaders had demanded be replaced throughout 1999.²⁹ Within a week of Aristide's inauguration, however, the post was filled, with the naming of Jean Baptiste Arvel Victor as the new head of the *Inspection Générale*.

The police reaction to electoral violence

More than any active violations of human rights, however, the HNP were most frequently criticized by local groups and in the domestic press in 2000 for failing to intervene to protect citizens from disruptive, violent and at times politically motivated behaviour by other groups. In one such example, on 27 March 2000 demonstrators, some of whom reportedly claimed ties to the *Fanmi Lavalas* party, set fire to tyres at barricades around Port-au-Prince. The central market was burnt and four people were reportedly killed. Demonstrators were said to be calling for, among other demands, the resignation of the CEP. The HNP did not actively intervene, leading Amnesty International and other groups to publicly call on it to carry out its duty to safeguard public security in a professional and impartial manner.³⁰

In the days following the May elections, police arrested around 30 opposition candidates and partisans, some of them following demonstrations against alleged electoral fraud perpetrated by *Fanmi Lavalas* supporters. Among those arrested was Paul Denis, former senator and candidate for re-election, from the OPL party; he was arrested in Les Cayes on illegal firearm charges with four others. All were subsequently released.

Again, in June, the HNP did not confront violent political demonstrators claiming to support *Fanmi Lavalas* who set up barricades, burned tires and stoned vehicles while calling on the CEP to publish the final results of the May elections. This inaction led the domestic press and others to charge that the police lacked effectiveness and even demonstrated partisan sympathy with the demonstrators. Some police sources indicated to Amnesty International, however, that at

²⁹ See Amnesty International, *Haiti: Unfinished Business: justice and liberties at risk*, AI Index: AMR 36/01/00, March 2000. Robert Manuel resigned and left Haiti in October 1999.

³⁰ See Amnesty International, 'Haiti: Political violence', News Service 060/00, AI Index AMR 36/04/00, 30 March 2000.

least part of the unwillingness to intervene was due to reluctance to confront demonstrators who they perceived to be tacitly backed by the government.

In the context of the dispute over vote tallying methodology, in August 2000 the USA announced it was shutting down a training program and other aid to the HNP.³¹

In one incident officers did attempt to carry out their policing role in a political rally: on 2 October, demonstrators awaiting the arrival of Aristide to register his candidacy in Port-au-Prince nearly lynched three police officers, including the Delmas commissioner, after they tried to challenge a heavily armed and well-known *Fanmi Lavalas* activist. The commissioner subsequently fled the country with five other police commissioners following rumours, widely believed to be unfounded, of a plotted coup. Following their departure, remaining commissioners and departmental directors were transferred to other regions, rendering more difficult the effective provision of security during the November elections. A summons was issued for the activist. The Minister of Justice, speaking in relation to this incident, affirmed that no one, regardless of political affiliation, is above the law and that everyone must respond equally before the justice system;³² however, as this document went to print the demonstrator had yet to appear in court.

Discussions regarding recruitment and developments in rural policing

Discussions have begun about how to provide police coverage in rural areas currently under-served by the HNP. There is widespread agreement within the Haitian NGO community, as well as among members of the judiciary and police, that to ensure independence and to avoid the risk of politicisation of the public security force, rural police should not be under the control of local elected officials but rather, part of the existing structure of the HNP under the Ministry of Justice. Similarly, recruitment of new officers to the HNP must continue to be carried out in an apolitical manner, with an eye to ensuring the impartial and nonpartisan character of the police force.

C. Situation of the judiciary

The lack of independent, impartial and accessible justice is one of the most substantial impediments to respect for human rights in Haiti. The justice system remains largely dysfunctional, in large part due to the legacy of past dictatorships, which used the courts as another means of ensuring their own control. In addition, reform efforts since the return to democracy six years ago have been disjointed. As a result, developing and implementing a coherent plan for reform of this fundamentally important institution is one of the greatest expectations facing Haiti's new lawmakers.

³¹ "U.S. Halts Haitian Program," AP, 8 August 2000; "Le ministre haïtien relativise la décision du gouvernement américain de mettre fin à son programme d'assistance et de formation à la PNH," Agence Haïtienne de Presse, 4 August 2000.

³² "Haiti: Justice minister promises to pursue Cadavre, Raymond cases," Metropole web site as reported by the BBC, 18 January 2001.

Developments in the administration of justice

The Ministry of Justice invited NGOs, the Ombudsman's office, *Office de Protection du Citoyen* (OPC), and others to take part in a week-long seminar at the *Ecole de la Magistrature*, Magistrates College, in September to comment on seven draft laws. They cover the creation of a General Inspection unit to oversee the behaviour of judicial officers; a code for judges; independence of the judiciary; the organization of the Magistrates College; drug trafficking; money laundering; and the composition of a council of judges.

The draft bill on independence of the judiciary is of particular importance, as it includes several provisions aimed to guarantee the impartiality and non-partisan nature of judicial officials. According to Article 175 of the Haitian Constitution, for example, the President names justices of the peace from a list submitted by local *Assemblées Communales*, Communal Assemblies. Provision 37 of the draft bill would require that all nominees be instead selected through a process organized by the Magistrates College, thereby ensuring their basic competence and avoiding purely political nominations.

Important progress in addressing impunity

Raboteau

The Raboteau trial marked a pivotal moment in the struggle against impunity in Haiti.³³ At the same time, local human rights activists noted that during the trial, the day-to-day review of evidence of past violations had the effect of raising the profile of human rights concerns in general in the public discourse.

Raboteau is a heavily-populated shanty town along the coast at Gonaïves, a city in the Artibonite department. Throughout the period of the *de facto* military authorities, it was particularly targeted for repression by the army and paramilitary because of its activist past and the strong support of its inhabitants for ousted president Aristide. As a result of a joint military and paramilitary operation which began on 18 April 1994, an unknown number of people lost their lives. Homes were sacked and burned and men, women and children beaten. Some died from the beatings or from gunshot wounds while others drowned as they fled into the sea. Some bodies were never recovered, as the survivors had to flee the area for their own safety.

Efforts to bring those responsible for the massacre to justice have gone on for several years. By 1998 at least 22 people were in detention pending the outcome of the investigation into crimes committed in the course of the massacre, including murder, attempted murder, assault, torture, illegal imprisonment, abuse of authority, theft, arson and destruction of property. Arrest warrants were issued for the leaders of the 1991 military coup and other military officers and paramilitary leaders, for their alleged role in masterminding the massacre. Efforts by the authorities to track down those responsible included unsuccessful attempts to extradite several suspects from Honduras, Panama and the USA.

³³ See Amnesty International, 'Haiti: The Raboteau trial - a chance to strike back against impunity', News Service 188/00, AI Index: AMR 36/007/2000, 3 October 2000.

Jury member speaks during the Raboteau trial.

Following commendable efforts by the Haitian justice system, with the support of the *Bureau d'Avocats Internationaux*, International Lawyers Bureau, the trial opened in October 2000. More than thirty people attended from Raboteau to bear witness; in addition, five independent international experts testified about the context of repression in which the massacre was carried out, the military structure involved and the forensic evidence available. The *Plateforme des organisations haïtiennes des droits de l'homme (POHDH)*, Platform of Haitian Human Rights Organizations; NCHR; the *Commission Nationale Justice et Paix*, National Justice and Peace Commission; and the *Commission diocésaine Justice et Paix de Gonaïves*, Diocesan Justice and Peace Commission of Gonaïves, issued several joint reports on the progress of the trial, with analyses of the functioning of the jury, prosecutors and defence attorneys. The *Bureau d'Avocats Internationaux* also issued weekly updates on the trial.

On 9 November 16 people were convicted of taking part in the massacre. Twelve of these, including Captain Castera Cénafils, military commander of Gonaïves at the time, and Jean Tatoune, accused of belonging to the paramilitary group FRAPH (at first known as the *Front révolutionnaire pour l'avancement et le progrès haïtiens*, Revolutionary Front for Haitian Advancement and Progress, later to become the *Front révolutionnaire armé pour le progrès d'Haïti*, Revolutionary Armed Front for the Progress of Haiti), were condemned to life in prison with hard labour. The four others received shorter sentences of between four and ten years; all 16 were ordered to pay damages into a fund for the families of victims. Six defendants were acquitted.

Thirty seven defendants including General Raoul Cédras, head of the military government; Emmanuel Constant, founding leader of FRAPH; police chief Michel François; and Cédras' deputy Philippe Biamby were tried *in absentia*. They were all sentenced to life in prison with hard labour, and were fined one billion gourdes, or roughly US\$ 43 million. In the USA, NGOs engaged in a renewed campaign for the extradition to Haiti of Emmanuel Constant. Several other former military or paramilitary members implicated in human rights violations, including former military police captain Jackson Joanis, convicted *in absentia* for the 1993 assassination of activist Aristide supporter Antoine Izmerly,³⁴ were detained in the USA in late 2000.

The Ministry of Justice indicated that investigations were underway with a view to preparing trials of other well-known instances of past human rights violations.

Carrefour-Feuilles

On 28 May 1999 in the Carrefour-Feuilles neighbourhood of Port-au-Prince, 11 people³⁵ were

³⁴ Amnesty International, *Haiti: Still Crying Out for Justice*, AI Index: AMR 36/02/98, July 1998; Amnesty International, 'Haiti: Eye-witness account of extrajudicial execution', News Service 146/93, AI Index: AMR 36/WU 03/93, 4 November 1993; and Amnesty International, Urgent Action 321/93, AI Index: AMR 36/20/93, 13 September 1993.

³⁵ Victims were Monfils 'Calypso' Alexandre; Issé 'Ti-Tonton' Austin; 'Dadou'; Lionel 'Nene' Louis; Dieumaitre Charles; Dieunord Voltaire; Michael Louis; Eddy 'Rasta' Saint Jean; Saint Fils Gilles; Mira Registre; and Joseph Gilbert Gilles.

shot dead by police. Circumstances indicated that they had been summarily executed.³⁶ Police claimed that three of them had been killed in a shoot-out, but witnesses testified that police shot the men while they were in custody and lying on the ground. Police then reportedly arrested eight others. Witnesses who saw the bodies in the city morgue reported that ten of the young men had been shot in the head, while the remaining one had been shot in the chest.

The Minister of Justice announced the opening of a three-judge commission of inquiry into the Carrefour-Feuilles killings. Six police officers suspected of involvement were detained, including Port-au-Prince Commissioner Rameau following his arrest in and extradition from the Dominican Republic. Another officer had been arrested earlier but reportedly escaped from detention. Following the arrests of these police officers, several of whom had been implicated in earlier killings, reports of extrajudicial executions by the police declined.

The trial of those accused took place in September 2000. Two police officers were acquitted, and four others, including Commissioner Rameau, received the minimum sentence of three years. Some sources expressed dismay at the application of the minimum sentence and at elements such as the reported presence of police in civilian clothes in the courtroom, which they said discouraged the attendance of some victims' families. However, there was generally a positive reaction to this first trial of members of the Haitian National Police accused of human rights violations, and to the quality of the evidence amassed by the prosecution, which included ballistic evidence.

D. Prisons

As of 29 September 2000, authorities of the *Direction de l'Administration Pénitentiaire (DAP)*, Direction of Penitentiary Administration, of the Haitian National Police registered a total of 4,335 detainees. This total is nearly three times the estimated maximum capacity of the system, which the authorities placed at 1,500.³⁷ Of the detainees, one fifth (20.03%) had been tried; the remainder were in pre-trial detention. Among the population 93.59% were men, 4.96% were women or girls and 1.45% were boys. Roughly half of all detainees were housed in the *Pénitencier National*, National Penitentiary, in Port-au-Prince, the official capacity of which is 800.

Amnesty International noted that the DAP administrators interviewed continued to demonstrate strong efforts in the areas of record keeping and management, a marked improvement on past practices. Nonetheless, actual conditions in Haitian prisons continued to fall below international standards, due to overcrowding, lack of resources and outmoded facilities in some regions. The difficulties in supplying food noted during Amnesty International's 1999 visit had been somewhat resolved, so that provision of meals was more regular. Officials brought to the attention of Amnesty International that proper care for conditions of detention was hindered by the fact that

³⁶See Amnesty International, *Haiti: Unfinished Business: justice and liberties at risk*, AI Index: AMR 36/01/00, March 2000; and Amnesty International, Urgent Action 129/99, AI Index: AMR 36/05/99, 3 June 1999.

³⁷ Interview, Port-au-Prince, 9 November 2000.

the overall prison budget has remained unchanged since 1995, in spite of a nearly three-fold increase in the number of detainees and the effects of inflation.

During Amnesty International's November 2000 visit, prison officials reported having requested that the Minister of Justice allocate judges to the National Penitentiary, to review casefiles in order to make decisions to release or to try those caught in the backlog of pre-trial cases. The Ministry formally instructed judges to do so, and it is hoped that this will alleviate the backlog. In March 2000 the Ministry reportedly submitted a request for funds to the central government to fund efforts to reinforce the prosecutors' offices as one means of promptly addressing untried cases.

Efforts continue to investigate and punish alleged human rights violations by prison guards. Prison officials told Amnesty International about an alleged incident in Jacmel in October 2000, in which a guard was said to have raped a female detainee. The guard was detained during the course of an internal investigation; police then passed the case to the public prosecutor for follow-up. The final outcome was not known at the time of drafting this report.

In June 2000, new internal disciplinary regulations for prison guards, *Règlement de Discipline Générale*, were issued by DAP. These regulations, developed with assistance from UNDP, were seen as an important step in ensuring respect for the human rights of detainees.

E. The situation of human rights defenders

NGOs came under pressure at several points during 2000, most notably during their efforts to commemorate the life and work of Jean Dominique. In one example, a 7 April march organised by a coalition of women's groups to press for justice with regard to the killings was reportedly disrupted by counter demonstrators who set up a burning barricade and chanted political slogans. According to reports, police were present but did not intervene until marchers asked for their protection.

Entrance to Radio Haiti Inter courtyard, where Jean Dominique was killed on 3 April 2000.

Also in early April the human rights organization NCHR, National Coalition for Haitian Rights, wrote to police authorities to request investigation of two recent incidents of surveillance of the organization's premises by unidentified individuals. The organization noted that this need was all the more pressing in light of the March 1999 shooting of its Port-au-Prince director, Pierre Espérance, by unidentified assailants.³⁸

³⁸ See Amnesty International, *Haiti: Unfinished Business: justice and liberties at risk*, AI Index: AMR 36/01/00, March 2000; and Amnesty International: Urgent Action 45/99, AI Index: AMR 36/01/99, 10 March 1999.

NGO sources indicated that there were no new series of threats issued or threatening leaflets found in 2000. However, some of them indicated that, while denunciations of violations by justice or police officials are generally tolerated, they cannot criticize, for example, acts of intimidation or violence by some self-described *Fanmi Lavalas* supporters or other political partisans without fear of reprisals.

With regard to their human rights monitoring activities, several NGOs reported that their contacts with the HNP had suffered following the departure of the former head of the *Inspection Générale*, who had appointed specific inspectors to respond to their requests for information; as mentioned above, a new head was appointed in February 2001 and it is hoped that the situation will improve. The NGO prison observation network continued its work in Fort Liberté, Gonaives, Les Cayes, Mirebalais, Port-au-Prince (Fort National) and Port de Paix.

Meanwhile, the staff of the OPC, *Office de Protection du Citoyen* or Ombudsman's office, has developed a draft bill regularizing its functioning and the particulars of its duties.³⁹ The bill as written would reportedly expand the organization's mandate.

CONCLUSION AND RECOMMENDATIONS

Amnesty International believes that the first six months of President Aristide's term constitute a crucial period in Haiti. The efforts that his government undertakes to address the pressing human rights concerns described above will have serious ramifications, not just for the immediate future, but for the long-term feasibility of a climate of respect for human rights in Haiti. The organization has developed specific recommendations for the new government, which it hopes will be of help in formulating responses to the difficult situation facing Haiti today.

I. Recommendations to the Haitian authorities

Regarding unofficial security groups

1. Per promises made to Amnesty International following the incident in Hinche described in this document, Haitian police and justice officials must investigate this and any other incident of violence by armed groups linked to elected officials. Officials suspected of involvement in human rights violations must be immediately suspended pending the outcome of impartial and independent investigation by the relevant judicial authorities. All those implicated in human rights violations must be brought to trial promptly and fairly, and the verdict made public.
2. The Haitian National Police, with the backing of local and national authorities, must ensure that unofficial security groups linked to elected officials are disarmed and disbanded, and must take all steps to prevent the formation of further such groups.
3. The Ministry of the Interior should clarify for local officials their responsibilities and the

³⁹ The Office was provided for in the 1987 Constitution and inaugurated in November 1997.

limits of their mandate, to help avoid such incidents in future.

Regarding the police

4. Haitian authorities must take all possible steps to safeguard the impartiality, professionalism and public accountability of the police force. Recruitment of new members must be carried out in a way as to ensure their lack of political partisanship.
5. National authorities must make every effort to reinforce the police in the lawful exercise of its law and order functions, so that the force can fully carry out its duty to safeguard public security in a professional and impartial manner.
6. The Head of State, Minister of Justice and Director General of the HNP must send a strong and clear message to all police officers that human rights violations will not be tolerated. Those suspected of involvement in human rights violations must be immediately suspended pending the outcome of impartial and independent investigation and the casefile passed to the relevant judicial authorities for follow-up.
7. All HNP personnel must be made fully aware of, and abide by, the UN Code of Conduct for Law Enforcement Officials, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and all other relevant international standards.
8. The new Inspector General of the HNP must ensure that former links with NGOs and other members of civil society be reinforced. His office must publish regular detailed reports of the status of investigations relating to police officers suspected of committing human rights violations. Consideration must be given to the establishment of a complaints unit within the office of the Inspector General, to increase public recourse to the unit.
9. Discussions of any new policing units, such as rural police, must first and foremost stress the need to maintain an impartial and independent public security force.

Regarding electoral or political violence

10. President Aristide must respond promptly and firmly to any continuing violence, intimidation, or efforts to politicise Haitian institutions by partisans of his own political party. A clear message must be sent to partisans that such behaviour will not be tolerated. Similarly, a message must be sent to officials of Haitian institutions, particularly the police and the judiciary, that they will be supported in carrying out their duties professionally and impartially, even when this entails acting against individuals who claim to be partisans of the *Fanmi Lavalas* party.
11. The Haitian authorities must take all possible steps to fully and impartially investigate acts of violence such as the bomb explosions in Port-au-Prince in the week preceding the presidential elections, and more recently in mid-January, and bring those responsible to justice.

Regarding justice issues

12. In instances in which members of the former military or paramilitary forces currently abroad return to Haiti, authorities should make every possible effort to follow up any allegations of involvement in past human rights violations and to ensure that those implicated in past violations are brought to trial promptly and impartially.
13. The Haitian authorities must make every possible effort to successfully conclude the investigation into the deaths of Jean Dominique and Jean Claude Louissaint. All justice and other officials involved in the investigation must be protected and supported so that they can fully and impartially carry out their work.
14. Every effort must be made to strengthen the independence, impartiality and effectiveness of the justice system. Within those efforts, special attention must be paid to ensuring the impartiality and independence of public prosecutors. Recruitment and training must be carried out in a way as to ensure political impartiality.
15. Where local justice authorities are under pressure from political partisans, local officials or other groups, central authorities must act swiftly and decisively to put an end to such pressure and to support the independence of local judicial officials.
16. The authorities must give the highest priority to the process of judicial reform, acting as quickly as possible on the reform law. This reform should follow up on the recommendations of the National Commission for Truth and Justice, and take into account international standards such as the UN Basic Principles on the Independence of the Judiciary, the UN Guidelines on the Role of Prosecutors and the UN Basic Principles on the Role of Lawyers.
17. Authorities should make every possible effort to continue the progress made, with the Raboteau and Carrefour-Feuilles trials, in combatting impunity.

Regarding the prison system

18. As a long-term aim but at the earliest possible opportunity, the authorities must seek, with the assistance of foreign governments and international organizations, to achieve prison conditions that are consistent with the UN Standard Minimum Rules for the Treatment of Prisoners and other relevant international standards.
19. Every possible step must be taken within the judicial system and the prison system to alleviate the severe overcrowding currently prevalent in Haitian prisons.
20. A separate rehabilitation facility for minors must be established as soon as possible, in accordance with the requirements of Haitian law. Every effort must be made to ensure that treatment of minors in detention complies in every way with the requirements laid out in article 37 of the Convention on the Rights of the Child.

Regarding human rights defenders

21. The Haitian government must take immediate and effective steps to guarantee the safety of human rights defenders, journalists and other public figures at risk for their activities to investigate and raise public awareness of human rights concerns.
22. Authorities at all levels of government must commit themselves to investigating allegations of threats, intimidation or attack against human rights defenders and bringing those responsible to justice.
23. The Haitian government must take all possible steps to ensure that the principles contained in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the UN General Assembly on 9 December 1998, are fully incorporated into national law and mechanisms.

Regarding other matters

24. The Haitian Government should ratify as soon as possible the UN Convention against Torture, the International Covenant on Economic, Social and Cultural Rights, the two optional protocols to the International Covenant on Civil and Political Rights, the Inter-American Convention to Prevent and Punish Torture and Inter-American Convention on the Forced Disappearance of Persons, and incorporate such standards, as well as those it has already ratified, into domestic legislation, including the Constitution.

II. Recommendations to all Haitian political parties

1. Leaders of all political parties must respond promptly and firmly to any violence, intimidation, or efforts to politicise Haitian institutions by their partisans. Political parties must take all possible measures to ensure that their partisans behave in accordance with the law; when they engage in illegal activities, all political parties must facilitate the work of the authorities in investigating and sanctioning their behaviour.
2. Political parties and other groups must make every possible effort to facilitate investigations into acts of violence such as the bomb explosions in Port-au-Prince in the week preceding the presidential elections, and more recently in mid-January. Parties and other groups must facilitate all efforts to bring those responsible to trial.

III. Recommendations to the USA and Haitian authorities

1. The USA authorities should pass on to the Haitian authorities any information in the possession of the CIA or other USA government agencies which may shed light on the identity of those responsible for human rights violations in Haiti. The USA Congress should consider conducting an independent investigation into the possible direct or indirect involvement of USA officials in human rights violations in Haiti at the time of the *de facto* military government. Any USA citizens found responsible for such

violations should be held to account for their actions.

IV. Recommendations to international organizations and governments involved in Haiti

1. International institutions and donors should make the impact of their actions on the overall climate of respect for and protection of human rights in Haiti the guiding principle in any decision to expand, modify or end their activities in the country.
2. The United Nations, the Organization of American States and concerned governments must make every possible effort to engage in dialogue with the Haitian Government regarding the need for human rights monitoring and any other type of human rights involvement required by the current situation in Haiti.
3. International governmental and non-governmental organizations should give the highest possible priority to assisting Haiti in the tasks of judicial reform and reinforcement of key institutions in accordance with international human rights standards.