

HAITI

Report of a Human Rights Mission  
June 26-29, 1983

Lawyers Committee for International Human Rights  
Americas Watch Committee  
International League for Human Rights

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## INTRODUCTION

Advocacy and defense of human rights is a hazardous pursuit in many countries. Accordingly, international human rights groups increasingly pay attention to the dangers experienced by men and women who work for human rights in their own countries, or simply report on violations as they occur.

This report examines the situation of people who support human rights in Haiti, and in particular a series of detentions in May 1983. It is based on a mission to that country in late June sponsored by three international human rights organizations: the Lawyers Committee for International Human Rights, the Americas Watch and the International League for Human Rights.

On May 9, 1983, Haitian security police detained Maitre Duplex Jean-Baptiste, a prominent lawyer who served as legal advisor to the Haitian League for Human Rights, along with four other persons: Frederique Denizé, Emmanuel Gilles, Antoine Phanor and Edouard Pierre. These detentions are the most recent in a series of harsh actions by Haitian authorities against critics of the Duvalier regime, and against members of the Haitian League for Human Rights. In recent years, Haitian authorities have frequently seized persons they consider disloyal to the government. They detain such people for long periods incommunicado without formal charges,

and then either release them without explanation or subject them to show trials.

When mission members arrived in Haiti, the five men detained on May 9 had been in custody for nearly two months; half of that time they were held incommunicado and in solitary confinement. The mission's purpose was to investigate the circumstances surrounding their detentions, to determine their physical condition and to learn what, if any, further legal action the government intended to take against them. Mission members sought also to obtain information about other arrests and detentions that have occurred in Haiti during the past year. In particular, the mission was concerned about a group of persons arrested and held incommunicado by Haitian authorities since March 1983.

The delegation discussed the human rights situation in Haiti with the Haitian ministers of Foreign Affairs, Justice and Interior, with United States Embassy personnel and other members of the diplomatic community. The delegation was headed by Professor Drew Days of Yale Law School, formerly the Assistant United States Attorney General for Civil Rights. He was accompanied by Michael Hooper, Esquire, Executive Director of the National Emergency Coalition for Haitian Refugees and author of previous reports on human rights in Haiti, and Elizabeth Leiman of the Lawyers Committee for International Human Rights.

The Lawyers Committee for International Human Rights is a public interest law center that promotes compliance with internationally recognized human rights law and legal principles. It was founded in 1975. Its Chairman is Marvin E. Frankel and its Executive Director is Michael H. Posner.

The Americas Watch is a citizens organization that promotes human rights in all countries of the Americas, emphasizing particularly efforts to make human rights figure significantly in U.S. foreign policy. Founded in 1981, its Chairman is Orville H. Schell and its Vice Chairman is Aryeh Neier.

Founded in 1942, the International League for Human Rights works with 40 affiliates worldwide and has consultative status with the United Nations (ECOSOC), UNESCO, the Council of Europe and International Labour Organization. It cooperates with regional organizations such as the Organization of American States. Its president is Jerome J. Shestack, Esquire, and its Executive Director is Felice Gaer.

### CONCLUSIONS AND RECOMMENDATIONS

Based on our recent mission to Haiti, the Lawyers Committee for International Human Rights, the Americas Watch, and the International League for Human Rights conclude:

- (1) On May 9, 1983, the Haitian secret police seized five persons without warrant or explanation from their homes in the middle of the night and detained them at Haiti's largest security prison, the Casernes Dessalines.
- (2) These detentions cause particular concern because they represent the latest in a series of official actions in 1983 against human rights activists and against the Haitian League for Human Rights in particular. The most prominent of those detained was Maitre Duplex Jean-Baptiste, a former lower court Judge and the Legal Advisor to the Haitian League for Human Rights. His detention without official explanation or charge silences one of the few Haitian attorneys still willing to represent clients not popular with the regime.
- (3) These detentions are a further indication of the Haitian government's disregard for the rule of law, including its failure to respect fundamental procedural protections guaranteed by its own Constitution. It remains routine in Haiti for government security forces arbitrarily to detain without charge, explanation, or due process protections those suspected of not being sufficiently loyal to the regime.

Some detainees are held incommunicado for long periods in undisclosed locations. Others are denied access to their families and to all legal assistance. Officially sanctioned brutality and mistreatment characterize Haiti's prisons. The judiciary offers no protection to political prisoners.

- (4) A Haitian government body, the National Commission on Human Rights, has played no role in limiting abuses such as those endured by Maitre Duplex Jean-Baptiste and the others imprisoned with him. By refusing to involve itself because these cases are "political" or because they "involve the judicial process," the Commission has condemned itself to irrelevancy. Moreover, such inaction mocks contentions by the Haitian government that formation of the Commission reflects "liberalization."

Based on these conclusions, the three organizations make the following recommendations:

- (1) The Haitian Government should release the five defendants who have now been held for more than three months without charges.
- (2) The Haitian authorities should immediately account for all prisoners held in their security prisons, specifying their dates of arrest, places of confinement, and the charges against them.
- (3) The Haitian Government should permit attorneys access to all of those charged with crimes in order to provide legal counsel, and to those in detention who have not been charged.
- (4) Haitian authorities should respect the rights to free expression, association and to engage in political activities.
- (5) The National Commission on Human Rights should publish a list of political prisoners in Haiti, and should conduct a thorough investigation of the circumstances surrounding the detentions of May 9. It should issue, expeditiously, a public report of its findings.
- (6) The United States Government should publicly urge the Haitian Government to respect its own constitution and its international obligations.

- (7) Specifically, the United States Government should encourage the Government of Haiti to halt security force abuses, including the practice of arbitrary detentions without explanation or charge, the practice of holding prisoners incommunicado, and of mistreating in detention those suspected of political offenses.

#### BACKGROUND OF HUMAN RIGHTS ABUSES IN HAITI

Haiti has long suffered from a history of government terror and human rights abuses. Since Francois Duvalier came to power in 1957, two generations of Duvaliers have wielded virtually unchallenged authority over the country. They have used this power to enhance their own personal fortunes, cementing Haiti's position as the poorest nation in the western hemisphere.

When the senior Duvalier became president, he established special security forces outside of the traditional military, their members selected for their intense loyalty to the Duvalier family. The most infamous of these special forces were known as the Ton Ton Macoutes. Such forces all but eliminated the rule of law through extralegal executions, torture, arbitrary arrests, prolonged detentions and other human rights abuses. The International Commission of Jurists described the regime of Francois Duvalier as follows:

In the world today there are many authoritarian regimes. Many have at least the merit of being based on an ideology, but the tyranny that oppresses Haiti has not even this saving grace. A few men have come to power by force and stayed in power by terror. They seem to have only one aim, to bleed for their own gain one of the most wretched countries in the world.\*/

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\*/ ICJ Bulletin No. 17, 1963.

In 1971, Jean Claude Duvalier succeeded his father as Haiti's President-for-Life. Although officially he announced the disbanding of the Ton Ton Macoutes, in fact he only slightly reorganized them under the new name of Volunteers for National Security. These forces continue to violate human rights, despite a "liberalization" announced in 1977 by Duvalier to halt his government's history of abuses. In February 1983, the U.S. Department of State wrote in its Country Reports on Human Rights Practices that "civil and political rights are severely restricted in Haiti," and that "[p]ublic criticism of the government is not generally permitted." Indeed, today -- as in Francois Duvalier's time -- those individuals who speak out in favor of civil and political rights are subject to harassment and reprisals by security police.

#### HUMAN RIGHTS MONITORS AND THEIR SUPPORTERS

Human rights monitors and groups that support human rights activities are particular victims of security force harassment. In the past six years, the government of Haiti has attacked members of the Haitian League for Human Rights -- Haiti's only private human rights group -- forcing them effectively to suspend human rights activities.

Organized in 1977 by law professors and defense attorneys from the private bar, the Haitian League for Human Rights was formed to promote and defend the principles of the Universal Declaration of Human Rights and of the Haitian Constitution. On November 9, 1979, some sixty security force members disrupted the first public meeting of the Haitian League. More than fifty of those present were beaten, including the League's president, Gerard Gourgue, and representatives of the French, Canadian and West German embassies. In late 1980 and 1981, several members of the League were arrested without charge, including League General Secretary Lafontant Joseph. In January 1981, Joseph was forcibly abducted as he was leaving the principal court of Port-au-Prince, and taken to the Casernes Dessalines, the prison where, historically, those accused or suspected of political offenses have been detained incommunicado for interrogation. There he was interrogated and severely beaten. Thereafter, at least three League members, including League founding member Joseph Maxi, went into exile or hiding.\* / Government harassment of League members continued in 1982 and 1983, so that only its president, Maitre Gourgue, is currently able to voice human

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\* / Previously, Maxi had been urging members of the Port-au-Prince Bar Association to represent prisoners held without charge in the National Penitentiary and the Casernes Dessalines.

rights concerns in public, and then only in a limited fashion.\*/

By this pattern of incommunicado detentions and official intimidation, the Haitian government has virtually silenced all independent -- and potentially independent -- voices. Victims include labor leaders, journalists, members of opposition political parties, and lawyers willing to represent clients in politically sensitive cases. Those perceived as government opponents continue to be arrested and detained incommunicado for long periods without formal charges. They are then either released, exiled, or subjected to show trials.

On December 28, 1982, for example, the government illegally seized Gerard Duclerville, and detained him without warrant or explanation. Duclerville is the founder of the Catholic Volunteers, a lay Catholic organization, who appeared on a popular radio program on Radio Casique.

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\*/ Two official government agencies, created to monitor human rights activities in Haiti, have remained notably silent following actions taken against the Haitian League for Human Rights. These groups are the human rights division in the Ministry of Foreign Affairs, formed in 1979, and the National Commission on Human Rights created by the Government in late 1982. Neither body has ever taken public action. For further discussion of the National Commission on Human Rights, see p. 18.

Duclerville apparently expressed sympathy with hundreds of street peddlers, when police evicted them from their stalls prior to the Pope's Haitian visit and it is possible that this broadcast was considered a violation of Haiti's severely restrictive press law.\*/ He was badly beaten twice, and never charged with a crime. Following a public appeal on his behalf by Haiti's Catholic bishops, Duclerville was released on February 9, 1983.

Then, in March 1983, the government detained at least eight other persons. Security forces forcibly entered their homes and detained them incommunicado. They have yet to be charged, and Haitian authorities have not officially acknowledged their detention. Authorities refuse to confirm their location.

In some cases, the Haitian government has formally charged prisoners detained incommunicado, and actually brought them to trial. These trials, however, have been poorly run and marked by gross procedural violations. The trial in 1981 of Sylvio Claude and 25 co-defendants, and the retrial in 1982 of Claude and 21 co-defendants, are

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\*/ This law has been condemned by the Organization of American States and the Interamerican Press Association, among others. Under the law, it is a crime to "offend the Chief of State or the First Lady of the Republic," and to make "any attack against the integrity of the people's culture."

noteworthy examples of government show trials of political prisoners.

In December 1978, as part of the government's "liberalization" program, President Duvalier declared that opposition candidates would be allowed to run in legislative elections scheduled for February 1979. At that time, two independent political parties were formed: the Haitian Social Christian Party, headed by law professor Gregoire Eugene, and the Haitian Christian Democratic Party (PDCH), led by Port-au-Prince businessman Sylvio Claude.

Claude was arrested three times in 1979, beaten, and tortured with electric shocks. By the time the election was held, his candidacy was declared illegal. Claude was never formally charged with any crime or allowed access to legal counsel or visitors. Claude's fourth arrest came in late October 1980. This time he was charged with violating Haiti's press law, and subsequently with security violations. Ten months later, Claude and 25 co-defendants were tried and convicted in a one-day trial that concluded at five in the morning. Twenty-two of the defendants, including Claude, were sentenced to 15 years at hard labor.

Claude remained in prison a year while appealing his sentence. The Supreme Court ordered a re-trial, which took place on August 27, 1982. Again, Claude and 21

co-defendants were convicted of security violations in a trial marred by blatant procedural irregularities. However, on September 22, 1982, on the 25th anniversary of Duvalier rule in Haiti, the Haitian government granted amnesty to Claude and his co-defendants.\* /

Since his release, Claude's fundamental freedoms to speak, to associate, to publish a newspaper and to engage in political activities have been severely restricted. Today in Haiti, anyone who is thought to have any association with Sylvio Claude, the Haitian Christian Democratic Party, or even with efforts to participate in an independent political process, is subject to surveillance and intimidation by the Haitian government.

#### DETENTIONS OF MAY 9 EVENTS AND RESPONSES

The arrests of May 1983 follow this same pattern. On May 9, during the week of municipal elections in almost half of Haiti, security police came in the middle of the night to the homes of five persons. Dressed as civilians,

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\* / For detailed accounts of these trials see: Violations of Human Rights in Haiti, June 1981-September 1982 and Report on the August 1981 Trial and Appeal of 26 Political Defendants in Haiti, both by Michael Hooper, available through the Lawyers Committee for International Human Rights.



they handcuffed the five and took them to the Casernes Dessalines. There they were stripped, placed in isolation cells containing only a half-mattress, and held incommunicado for 28 days. In the morning they were fed stale bread, and in the evening a mixture of partially-cooked corn meal and macaroni. Two who suffer from heart conditions were denied medication and medical attention.

On June 6, the five were taken to a police court convened by a local justice of the peace. This was the first occasion that those detained were permitted to see one another, and to learn that they had been arrested as a group. Two of those arrested had met once prior to June 6, and none of the others had ever met previously. At the police court, the government's prosecutor informed the defendants that they were suspected of conspiring against the internal security of the Haitian state. They were then taken before a juge d'instruction -- a charging or indicting judge -- who questioned them individually. At the end of the day they were taken to the National Penitentiary where they were allowed, for the first time since their detention, to receive daily food, medication, and visits on Sundays from female family members.\*/ They have been at the Penitentiary, awaiting

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\*/ In Haiti, the right to receive food from outside the prison is crucial, because prisoners are not fed enough to sustain them.

either release or formal charges, for over two months.

#### U.S. GOVERNMENT RESPONSE

The Department of State was informed of the purpose and timing of our mission in advance. State Department officers replied promptly to communications about the detentions. A June 24 letter from James Michel, Acting Assistant Secretary for Inter-American Affairs, reported that the State Department believed the detentions "represent a setback to the development of political processes in Haiti," and that American officials have "conveyed this concern to the government of Haiti at the highest levels, both here in Washington and through our Embassy in Port-au-Prince." The letter, however, identified three of the detained as members of the Haitian Christian Democratic Party. In fact, none of the five has ever belonged to the PDCH.

In Port-au-Prince, United States Embassy officials underscored Washington's concerns over the detentions. They explained that they had spoken with Haitian authorities on more than one occasion, and requested them either to charge or release the prisoners. They expressed belief that the arrests were connected to the Cape Haitian elections, and mentioned the possibility that some of the detained were candidates for the Port-au-Prince election scheduled for

August 7.\* / They were unaware that some of the detained have serious medical problems, and were able to offer no information concerning the disappearance of at least eight people in March 1983.

State Department officials both in Washington and at the Embassy in Port-au-Prince were instrumental in arranging for the delegation to visit the National Penitentiary and to interview the detained.

#### HAITIAN GOVERNMENT RESPONSE

The delegation met with three Haitian officials about the May 9 detentions: Jean Robert Estimé, Minister of Foreign Affairs; Roderique Casimir, Minister of Justice; and

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\* / Embassy officials told the delegation that American observers in Cape Haitian during the elections reported that, the day of the elections, the city was sealed off by security police who required all persons entering and leaving Cape Haitian to carry government-issued permits. They also reported that the National Election Commission had visited Cape Haitian twice prior to the election, and was present while elections were taking place. The three-member commission includes Interior Minister Roger Lafontant, whose responsibilities include overseeing the secret police and prisoners, and Colonel Albert Pierre, Commander and Chief Interrogator at Casernes Dessalines.

Roger Lafontant, Minister of the Interior, whose responsibilities include Haiti's court system, internal security and the security forces. Calling the five "terrorists," Haitian officials maintained that due process protections guaranteed by Haitian law need not be observed in cases of persons arrested and detained for security reasons. The government ministers told the delegation that all five defendants are connected with Sylvio Claude, and that they were helping Claude "to call the people to revolution and violence." Minister Lafontant told us he has evidence that all the detained sold Claude's newspaper, Conviction, and that they supported a group of Claude's accomplices who were "touring the country and burning homes of the poor." The delay in indicting the five, Haitian authorities explained, was both necessary and justified. Police, they said, were still searching for Claude accomplices who would provide the evidence necessary to bring formal charges. Minister Lafontant assured the delegation that a police investigation was underway, and that the results of this investigation would be presented to a charging judge. The judge would review the evidence, and either bring formal charges or order the five released. When pressed, Minister Lafontant estimated that the police would present the case to a judge some time in late July.

Mission members asked Haitian officials about other security police actions, including the abduction of at least

eight persons from their homes last March, who have not been heard from since. Minister Lafontant denied knowledge of some. He replied that others were clearly terrorists who would never be released, and who should not benefit from procedural protections. The delegation offered to provide a list of those believed to be in detention and the Minister agreed to let us know whether they were being held.

Haiti's official human rights body, the National Commission for Human Rights, was unable to offer information about the May detentions, or about others thought to be held by the government. The nine-member Commission was created by President Duvalier in 1982 to promote human rights in Haiti. Members of the Commission did not consider the May detentions part of their responsibilities, and drew a distinction between questions of human rights, which are their concern, and juridical matters, which are not. They pointed out that the preliminary judicial session on June 6 demonstrates a government intention to prosecute formally the five defendants in the future. They concluded that the detentions of May 9 are now "affaires de la justice" --judicial questions -- and, therefore, no longer within the Commission's mandate.

The Commission's apparent inability to participate in cases involving judicial proceedings is one of several

restrictions that limit its effectiveness. Unable to initiate action, the Commission can only react to formal complaints, such as letters from individuals. Commission members, for example, attributed their clear lack of information on those who disappeared in March to an absence of complaints received on their behalf.\* / Their action on complaints, members explained, consists in expressing concern to unspecified government officials. Such exclusive use of private channels makes it virtually impossible to monitor either the actions taken by the Commission, if any, or the effectiveness of its work.

#### THE INDIVIDUALS

Information, gathered through interviews with the prisoners themselves, directly contradicts Haitian government assertions that the prisoners are connected to the Christian

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\* / Commission response to complaints received, however, is not guaranteed. When asked by mission members about a particular prisoner, Roc Charles deRose, whose location has never been disclosed by Haitian authorities, only the Commission president recognized the name and brought out a file containing many letters written on his behalf from abroad. When asked why the Commission had not acted on this case, which had attracted so much attention, its members responded that they had intended to discuss it with the Interior Minister, but that he had gone away and had not rescheduled the meeting. Roc Charles deRose disappeared in November 1981.

Democratic Party and to the municipal elections. The following case histories contain information gathered at interviews with the prisoners at the National Penitentiary on June 29, and earlier with members of their families, and others knowledgeable about these arrests.

MAITRE DUPLEX JEAN BAPTISTE Maitre Jean Baptiste is a former lower court judge who practices law in Gonaives, a city north of Port-au-Prince. Legal Advisor to the Haitian League for Human Rights, he is one of several attorneys who represented defendants -- including Christian Democratic Party leader Sylvio Claude -- accused of political crimes. On May 9, 1983, he was arrested on his way to court in Gonaives, searched, handcuffed and forced to lie on the floor of a police wagon. He was brought to the District Commissioner, who asked if he intended to go to Cape Haitian for the elections with Salnave Desames, a priest who is rumored to have accompanied Sylvio Claude in recent months. Jean Baptiste replied that he had no intention of going to Cape Haitian, and that he had a busy court schedule that day in Gonaives which he could verify. The Commissioner then presented him with a document, alleged to be the official budget of the PDCH, which contained a line item appropriation for legal defense. Under the item were three names, including his and that of another lawyer, Antoine Phanor, who was also detained on May 9. Jean Baptiste

denied that any formal arrangement existed between himself and the Christian Democratic Party, adding that he had never received any money from the party. At the Casernes Dessalines, the commander in charge reminded him that there would be two sorts of investigations, the police and the judicial, and that he had better cooperate with the first. Jean Baptiste understood this to mean that, unless he cooperated with the police investigation, he might be beaten.

At the police court on June 6, Jean Baptiste was questioned repeatedly about possible connections with the Christian Democratic Party. Jean Baptiste again replied that he had never been a party member, and that he had never given money to Claude or to the PDCH. Jean Baptiste is a man in his 70s, who suffers from a heart condition which requires daily medication. He was denied this medication while in Casernes Dessalines. When he finally appeared before a judge on June 6, 1983, he needed physical support in order to stand.

FREDERIQUE DENIZE Frederique Denize owns a popular hotel, the Palace, in the center of Port-au-Prince. It is possible that Claude was among a number of wholesalers who provided citrus fruits to one of Denize's businesses in 1973. At the questioning on June 6, 1983, he too was asked about alleged connections to Sylvio Claude and the Christian Democratic

Party. In particular, he was questioned about selling an automobile to Claude that was intended for use in support of a revolution. Denizé denied that he had ever given or sold anything to Claude. He denied being a member of the Christian Democratic Party as well as any other involvement in politics. Denizé suffers from hypertension, and his physical condition deteriorated seriously when he was denied daily medication in the Casernes Dessalines. Only after his appearance before the judge on June 6 did Haitian authorities acknowledge the gravity of his condition. They transferred him to a military hospital, where he was handcuffed to the bed. Although he is now able to receive medication at the National Penitentiary, Mr. Denizé and his family are concerned about the continuing deterioration of his health.

ANTOINE PHANOR A practicing attorney in Port-au-Prince, Antoine Phanor lived in Israel from 1979-1981, where he served as assistant to the Haitian ambassador. When he was arrested on the early morning of May 9, Phanor was questioned about these activities. He was questioned also about alleged connections to Sylvio Claude and the Christian Democratic Party. Phanor remembered that in early September he had been consulted by two people asking whether citizens convicted of a security crime who were subsequently granted a presidential amnesty could run for office. The two returned several weeks

later to ask whether such citizens could vote. After Phanor told them that he could not answer without seeing pertinent legal documents, they left and never returned. Phanor thinks that one of the two may have been Claude. Phanor told authorities that he has never been a member of the Christian Democratic Party, and that he neither attended any Christian Democratic Party meetings nor received any money from the party.

EDOUARD PIERRE Edouard Pierre is 70 years old. A mason, he owns a small hardware/drygoods shop in the Premiere Cite, a section of Port-au-Prince. Haitian authorities apparently believe that Pierre is also involved with the Christian Democratic Party. In fact, though Pierre had been asked to attend Party meetings, he had refused to go. He told Haitian authorities that he had never been a Christian Democratic Party member, and that he had never contributed money to the party. He did tell them that Claude came to his house three times that year asking for food, and that on two occasions he had fed Claude Sunday dinner.

EMMANUEL GILLES Emmanuel Gilles is a nurse's aide who works at a general public clinic in a poor Port-au-Prince neighborhood. At the end of March, 1983, he was called to treat someone at a home in Fontamara, another area of

Port-au-Prince, and found Claude there. He treated Claude twice for a jaw ailment. Gilles was also called to treat Duclerville after he had been beaten. He denies any other contact with Claude, and any formal relationship with the Christian Democratic Party. Gilles has a history of heart trouble, and is without family to bring him food or clean clothing.