

# Committee To Protect Journalists



## AMERICAS WATCH

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JOURNALISTS IN JEOPARDY:

THE HAITIAN REALITY

Americas Watch / Committee to Protect Journalists

October 11, 1984

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An Americas Watch / Committee to Protect Journalists Report

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## INTRODUCTION

The Committee to Protect Journalists and the Americas Watch sponsored a mission to Haiti from August 12-15, 1984 to investigate a recent crackdown on the press and to express to the government our support for Haitian journalists' right to practice their profession freely.<sup>1/</sup>

The delegation was headed by Colman McCarthy, a columnist for the Washington Post and a board member of the Committee to Protect Journalists, Judith Moses, a producer for ABC's 20/20, and Holly Burkhalter, Washington representative for the Americas Watch.

This report was written by Holly Burkhalter.

October 3, 1984

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<sup>1/</sup> See Appendix I for a list of individuals interviewed.

## JOURNALISTS IN JEOPARDY: THE HAITIAN REALITY

"There are no restrictions on how  
journalists can function in Haiti."

Jacques Noel  
Secretary of State for  
Political Affairs  
Haitian Foreign Ministry

The Haitian Constitution guarantees freedom of the press, speech and assembly<sup>1/</sup> and the government of Haiti has ratified the American Convention on Human Rights which guarantees, among other things, freedom of the press. Although such freedoms have often been sidestepped, in May 1984, U.S. Secretary of State George Shultz observed "there was an opening in press freedom greater than has existed since 1980."

Despite these guarantees and Secretary Shultz's assertions, newspapers are still confiscated, radio stations are closed and journalists are beaten, harassed, jailed and exiled.

Authorities justify such repression by the existence of several laws that have been used to silence Haitian journalists for years. The amended press law of 1980,<sup>2/</sup> for example, provides for prison sentences of one to three years for members of the press engaged in "offending the Chief of

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<sup>1/</sup> See Appendix II.

<sup>2/</sup> See Appendix III.

State or the First Lady of the Republic" or "making any attack against the integrity of the people's culture." The law also includes a formal requirement (which cannot be met by daily newspapers) that all publications be submitted to the Interior Ministry 72 hours in advance, and that journalists be licensed by the Minister of Interior.

In addition to the press law, Haitian journalists can be silenced through the Anti-Communist Law<sup>1/</sup> of 1969, which can be used to charge government critics with "crimes against the state."

These laws have been imposed over the years to muzzle dissent, destroy independent radio stations and newspapers and punish editors and journalists. Over the last four years, the laws have been used in the following fashion:

1. In December 1980, the Anti-Communist Law was invoked to justify the interrogation, detention and forcible expulsion of nearly every independent-minded journalist in Haiti and the closing of several news organs. Among those expelled were Gregoire Eugene (editor of Fraternite) who spent four years in exile in the U.S., Pierre Clitandre and Jean-Robert Herard

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<sup>1/</sup> See Appendix IV.

(editor and political editor of Le Petit Samedi Soir) and Richard Brisson and Michele Montas (program director and reporter for Radio Haiti Inter). It was also used to close Haiti Inter permanently and to shut Radio Metropole and Radio Cacique for varying periods.

At the same time, the publications Le Conviction, Le Petit Samedi Soir, Regard, Coquerico and Inter-Jeune were temporarily or permanently suspended. Sylvio Claude, the editor of Conviction was tried, convicted, imprisoned and served two years in jail.

2. In March 1982, repression against the press was renewed when a newscaster for Radio Metropole was forced to discontinue his broadcasts; also, in May, a group of journalists who tried to produce a Christian Democrat newsletter were arrested, interrogated and warned against any further such attempts.
3. More recently, in May 1984, Interior Minister Roger Lafontant issued a

communiqué, reminding Haitians that the press law required them to obtain authorization from the Interior Ministry to establish new publications; also that if they failed to observe these procedures, the government would ban their publications.

The May declaration on the press, however, was only a beginning, as the government took stronger measures several weeks later when a number of newspapers and radio stations reported on an outbreak of riots in several Haitian cities.<sup>1</sup> L'Information, for example, ran a story entitled "The Riots of Hunger, Misery, and Unemployment in Gonaives, Cap Haitien, and Hincee" and included a comic strip that described the injustices of the Haitian system. Others, such as the Protestant radio station, Radio Lumiere, and the Catholic radio station, Radio Soleil, also reported on the riots.

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<sup>1</sup> In late May, riots erupted in the cities of Bombardopolis, Jean Rabel, Gonaives, Cap Haitien and Hincee. Many of the demonstrators were motivated by hunger and desperation and crowds attacked CARE warehouses demanding food and jobs. In some instances, the uprising assumed a distinctly anti-government character, with crowds throwing rocks at the police and shouting derogatory remarks about President Duvalier and his wife. In Gonaives, rioting began when police attacked a woman who had recently been released from the hospital. Observers estimate from two to nine people were killed when police attempted to disperse the crowds.

In early June, the authorities responded. Jean Marie Chanoine, Minister of State to the Presidency and Minister of Information, called in representatives of Radio Soleil, Radio Lumiere and L'Information. The journalists were told they were giving too much coverage to the riots and were ordered not to say things that would "incite the people."

Subsequently, officials took even stronger action. on June 18, L'Information's editor, Pierre Robert Auguste, along with Diudonne Fardin, editor of Le Petit Samedi Soir, and Gregoire Eugene, editor of Fraternite were arrested, and brought to Haiti's infamous prison, the Casernes Dessalines, for interrogation.

During three hours of questioning by Interior Minister Lafontant and Chief of Police Albert Pierre, Auguste, who was held for 40 hours, was accused of "trying to wreck the regime" and of provoking a battle between the Duvalieriste and Jean Claudiste partisans of Haiti's ruling party. In the presence of the Interior Minister, he was beaten and his finger was broken. Though Auguste was not charged and his press license was not revoked, he did not attempt to publish L'Information again until the week of August 12.

Mr. Eugene was also released after interrogation, but was placed under indefinite house arrest and forbidden to see visitors:<sup>1</sup>/ when the delegation tried to speak with him through the locked gate in front of his house, a guard



quickly broke up the interview. According to the Haitian-American paper, Haiti-Observateur, neither Eugene nor his wife, mother-in-law nor children were allowed to leave their home, which was under round-the-clock police guard. Only his 15-year-old nephew was permitted off the premises to buy food, but even he was arrested and released only after protests. Further, Eugene's printing press and latest issues of Fraternite were confiscated.

Mr. Fardin was released with a warning about running articles critical of the government and he resumed publication of Le Petit Samedi Soir.

Like the newspapers, radio stations were also under attack. Radio Soleil, the Catholic station that broadcasts in Creole and French, reported the story of the arrests of Fardin, Eugene and Auguste as did Protestant Radio Lumiere.<sup>2/</sup> As a result, Radio Soleil received anonymous threats and

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<sup>1/</sup> This restriction was lifted on September 22.

<sup>2/</sup> Curiously, Anthony Georges Pierre, the State Secretary for Information and Public Relations of the Ministry of Information, who oversees national television and radio, informed us that his stations did not report the arrests of the journalists because such arrests never took place. He also denied that Auguste had been beaten. When the delegation asked whether national radio and television were ever prohibited from airing certain stories by the government, we were assured that they were autonomous institutions and that they were never forbidden to broadcast anything.

warnings and it suspended broadcasts for several days. Fearing more reprisals, it appealed to the Bishop of Haiti for protection.

The Catholic station received another threat on July 26, when three masked men appeared at the transmitter location some 10 kilometers outside of Port-au-Prince. The intruders forced the guard to open the facility and turn off the transmitter, saying that they were looking for "secret documents." Broadcasting resumed shortly thereafter, and the men were not identified. While staff at the station could not identify the assailants, they assumed the three were sent by authorities to intimidate them.

In early July, repression against journalists continued with a police raid on the home of Sylvio Claude, president of Haiti's nascent Christian Democrat Party and editor of the party's newspaper, Conviction. Though Claude was away, police beat his daughter and seized the galleys for the next issue of the paper. To date, Claude is still in hiding.

Because Haiti's press is, in theory, free, authorities rationalize actions against it in several ways. When the delegation discussed the harassment of journalists associated with Conviction, Fraternite, and L'Information, Jacques Noel, State Secretary for Political Affairs at the Foreign Ministry, assured us that the recent edititions of these papers "had no relationship whatsoever to the functions of

journalism." He insisted that instead, "their sole purpose was to question the Republic's institutions." Further, he justified the journalists' arrests on the grounds that the government had had to take steps "because of the need for stability for economic development."

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Broadcasters and journalists were not the only ones to suffer from the recent crackdown. On July 4, police arrested Hubert DeRonceray, Haiti's representative to UNESCO and the President of the UNESCO Committee on Conventions. DeRonceray and his wife, Michele Gaillard, also work for the Haitian Center for Investigative Social Sciences (CHISS), a UNESCO-funded research and education foundation which has a number of programs for Haitian youth.

DeRonceray was questioned about interviews he had given to local and foreign newspapers.<sup>1/</sup> And, although he was released 44 hours later, on July 12, both he and his wife were arrested and interrogated once again. Police threatened to beat Gaillard, and upon their release, DeRonceray was put

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<sup>1/</sup> In an interview in Le Petit Samedi Soir, DeRonceray criticized Haiti's "prolonged colonial state, where the people live in rural subsistence, suffering from illiteracy and ignorant of their elementary rights." He went on to describe "a structure of disequilibrium perpetrated by irrationality and greed," and called for a break in the cycle of under-information and misinformation.

under house arrest for the rest of the year.<sup>1/</sup> Moreover, their phone was disconnected and their post office box was monitored.

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Independent journalists are well aware of the taboo subjects: criticism of the presidency for life, of President Duvalier and his wife, of government officials or the system that keeps them in power.

Nevertheless, the more courageous of the Haitian journalists try from time to time to raise these issues, as they affect nearly all aspects of Haitian life. Thus, the May 10 L'Information entitled "The Press, Power and Society" included articles about the unconstitutionality of the latest press communique and the cover ran a cartoon of the press with a huge chain across its mouth. Similarly, the first issue of Fraternité on April 28 included an article on the illegality of the constitution and called for the abolition of the presidency for life and free election of a new president. Finally, the April 28 Le Petit Samedi Soir spoke of "The president's silence in the face of economic, legal and spiritual crisis in Haiti."

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<sup>1/</sup> This restriction was lifted on September 22.

Thus, observers say, the arrests of the editors of the three publications in June and the destruction of Sylvio Claude's press equipment in July were no surprise: the editors had questioned the validity of the Haitian government.

The crackdown, however, signifies more than enforcement of the 1980 press law. Almost all those interviewed, including U.S. embassy officials, concluded that the most recent repression was the officials' response to the riots that rocked the country in May. According to one reporter, the riots left behind "a fear mentality, a super sensitivity." Thus the arrests, warnings and closings were designed to show that authorities were firmly in control as well as to punish the press for transgressing the press law. And it follows that the media that covered the riots most fully were the hardest hit afterwards.

Despite assurances by authorities that economic issues are the sort that Haitians need and want to consider, any attempt by journalists to address them is perceived as an attack against the system. Anthony Georges Pierre, of the Information Ministry, for example, stated that Haitians are far more concerned about food, health, housing and human rights than about the jailing of journalists. In the same vein, Jacques Noel told the delegation that "because Haiti was one of the poorest countries of the world, people were not concerned with politics but with the need to create

better economic conditions." However, as was mentioned above, when the media reported on exactly this issue (e.g., the food riots), the government immediately clamped down.

In both law and practice, Haitian journalists are routinely prohibited from criticizing their country's "institutions." Thus, the newspapers and radio stations that criticize the most durable Haitian institutions of all -- poverty and inequality -- are the most vulnerable to government oppression. Despite the risks, however, many journalists still try to educate and inform about Haiti's social, economic and political inequities in the hopes of ameliorating them. We urge the Haitian government to honor its commitment to the American Convention on Human Rights and allow the free exercise of Haitians' rights to publish, speak and broadcast.

## APPENDIX I

While in Haiti, the delegation met with Jean Robert Estime, Foreign Minister; Jacques Noel, State Secretary for Political Affairs; and Fernande Balmir, Director General of the Foreign Affairs Ministry. We also met with Fritz Joisaint, Director of National Television; Anthony Georges Pierre, State Secretary for Information and Public Relations of the Ministry of Information; and Pierre Jeannot, Executive Secretary of the official National Commission on Human Rights as well as other Commission members.

In addition, the team interviewed various journalists and broadcasters. We are grateful for the information they provided us about the reality of practicing their profession in Haiti. Also we applaud their courage as they attempt to offer the public accurate, honest accounts and analyses of events. Unfortunately, we cannot identify them as this would place them in very real danger.

II. CONSTITUTION OF HAITI  
(Of 1964 as amended 1971)

A series of annual decrees by the Legislative Chamber purport to suspend a number of constitutional provisions and bestow Full Powers on the Chief of the Executive Power. The provisions affected are indicated by an asterisk (\*). For the text of the decrees, see below, III. A French text of the 1964 Constitution (without the 1971 amendments) is available for consultation.

CONSTITUTION OF HAITI \*

PREAMBLE

The Haitian people proclaim the present constitution in order to:

- Establish their sovereignty;
- Define their rights, duties, and responsibilities;
- Establish a balance of the powers of the state;
- Establish an efficient organization of the government;
- Protect labor;
- Guarantee justice and social security;
- Provide the benefits of culture to all Haitians without distinction;
- Safeguard and promote the health of the Haitian people;
- Strengthen internal peace; and

Thus establish a Haitian nation that is socially just, economically free, and politically independent under a democracy adapted to its customs and traditions

TITLE I

THE TERRITORY OF THE REPUBLIC

Article 1. Haiti is an indivisible, sovereign, independent, democratic, and social republic. \*\*\*

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\* As amended by Decree of the National Constituent Assembly, dated January 14, 1971, published in Le Moniteur of January 20, 1971.



Article 11. The status of naturalized Haitians shall be lost in all cases provided by law, particularly by continuous residence for more than three years outside Haitian territory without duly granted authorization.

A person who loses his nationality in this manner may not reacquire it.

Article 12. Aliens may not benefit from the advantages intended especially for Haitians by establishing a corporation pursuant to the laws of the republic. In this connection, retail business shall be reserved exclusively to Haitians.

Article 13. Any alien who is in the territory of the republic must obey the laws and regulations of the country and shall enjoy the protection accorded to Haitians, except in the event of any measures which it may become necessary to apply against nationals of countries where Haitians do not enjoy the same protection.

Article 14. The right to own real property shall be accorded to aliens residing in Haiti and to foreign companies for the needs of their agricultural, industrial, commercial, or educational enterprises, within the limits and under the conditions prescribed by law.

This right shall likewise be accorded to aliens residing in Haiti for their residential needs. Foreign construction companies shall have the benefit of a special status regulated by law.

However, an alien residing in Haiti may not own more than one dwelling in the same locality. He may in no case, engage in the business of renting real estate.

This right to own real property shall terminate two years after an alien has ceased to reside in the country or after the operations of the agricultural, industrial, commercial, or educational enterprises of foreign individuals or companies have terminated.

The law shall determine the regulations to be followed, in the event of the cessation of residence or operation in Haiti, in liquidating the property acquired in the country by foreign individuals or companies.

Any violation of the provisions of the first and second paragraphs of this article shall result in the pure and simple seizure of the property by the state.

Any citizen may report such a violation or the circumstances of cessation of residence or of operations.

Article 15. In the cases determined by law an alien may be refused admission to, or sojourn in, the territory of the republic.

An alien may be deported from Haiti when he interferes either directly or indirectly in the political life of the state or spreads doctrines that are anarchistic or contrary to democracy.

## Chapter IV

### Individual Rights and Guarantees

Article 16. Haitians shall be equal before the law, subject to the special advantages conferred on native-born Haitians.

Every Haitian may take an active part in his country's government, hold public office, or be appointed to a government position, without distinction as to color, sex, or religion.

In the administration of government services, the appointment of personnel, and the terms and conditions of their employment, must be free of privileges, favors, and discrimination.

Article 17. Individual liberty shall be guaranteed. No one may be prosecuted arrested, or detained except in the cases determined by law and in the manner which it prescribes.

In addition, no one may be arrested or detained except by order of a legally competent official.

For the execution of such an order, it is necessary:

1. that it formally state the reason for the arrest and the law that punishes the act charged;
2. that legal notice of it be given and that a copy of the order be left with the accused at the time of its execution, except in case of flagrante delicto.

No one may be kept under arrest more than forty-eight hours unless he has appeared before a judge who is assigned to rule on the legality of the arrest and the judge has confirmed the arrest by a decision giving reasons.

In the case of a petty offense, the arrested person shall be referred to the justice of the peace, who will then pronounce a final decision.

In the case of a more serious offense, an appeal may be filed, without prior permission, simply by addressing a petition to the presiding judge of the competent civil court, who, on the basis of the oral statement of the prosecutor, shall rule on the legality of the arrest in a special session of the court, without postponement or rotation of judges, all other cases being suspended.

In either case, if the arrest is judged illegal, the arrested person shall be released, any appeal to a higher court or the Court of Cassation notwithstanding.

Any unnecessary force or restraint in the apprehension of a person or in keeping him under arrest, any moral pressure or physical brutality, is forbidden.

All violations of these provisions shall be considered arbitrary acts against which the injured parties may, without prior authorization, appeal to the competent courts, prosecuting either the authors or the perpetrators, regardless of their rank or the body to which they belong.

Article 18. No one may be denied access to the judges whom the constitution or the law assigns to him. A civilian may not be tried by a military court nor may a military person be denied access to a court of ordinary law, in an exclusively civil matter, except when a state of siege has been declared by law.

Article 19. House searches and seizures of papers shall be prohibited except by virtue of law and in accordance with legally prescribed procedures.

Article 20. This law shall not be retroactive in effect except in criminal cases when it is favorable to the offender.

The law shall be retroactive in effect whenever it takes away vested rights.

Article 21. No penalty may be established except by law, or imposed except in the cases provided by law.

Article 22. The right of ownership is guaranteed to the citizens. Expropriation for a legally established public purpose may be effected only by the advance payment, or deposit, in favor of the person entitled thereto, of fair compensation.

Property also entails certain obligations. Its use must be in the public interest.

Landowners have an obligation to the community to cultivate, work, and protect their land, particularly against erosion.

The penalty for failure to fulfill this obligation shall be prescribed by law.

The right of ownership shall not extend to springs, rivers, or other water-courses, mines, and quarries in the subsoil. These are part of the public domain.

The law shall establish regulations governing freedom to prospect for and work mines, ore-bearing earths, and quarries, ensuring an equal share of the profits of such exploitation to the owner of the land and to the state or its concessionnaires.

The law shall fix the limit on the right of ownership.

Article 23. Freedom to work shall be exercised under the control and supervision of the state and shall be regulated by law.

However, save for the exceptions and distinctions established by law, all importers, agents, and manufacturers' representatives shall be prohibited from engaging in retail trade, even through an intermediary.

The law shall define what is meant by an intermediary.

Article 24. Every worker shall be entitled to a fair wage, job training, health protection, social security, and the welfare of his family insofar as his country's economic development permits.

It shall be a moral obligation of the employer to contribute to the education of his illiterate workers according to his means.

Any worker may participate, through his representatives, in the collective determination of working conditions. All workers shall be entitled to rest and leisure.

All workers may protect their interests through trade-union activities. Each worker shall belong to the trade union representing his particular occupation.

Annual vacations with pay shall be compulsory.

Article 25. Capital punishment may not be imposed for any political offense except treason.

The crime of treason consists in taking up arms against the Republic of Haiti, joining avowed enemies of Haiti, and giving them aid and comfort.

Article 26. Everyone has the right to express his opinion on any matter and by every means within his power.

The expression of thought, whatever form it takes, may not be subjected to prior censorship except when war has been declared.

Abuses of the right of freedom of speech shall be defined and punished by law.

Article 27. All religions and faiths shall be equally recognized and free. Everyone may profess his religion and practice his faith, provided he does not disturb law and order.

No one may be compelled to belong to a religious organization or to follow a religious teaching contrary to his convictions.

Article 28. Since marriage tends to purity of morals by contributing to a better organization of the family, the fundamental basis of society, the state shall facilitate it and encourage its spread among the people, particularly in the rural class.

In the organization of marriage, the law shall protect Haitian women in particular.

Article 29. Freedom of education shall be exercised in accordance with the law, under the control and supervision of the state, which should see to the moral and civic training of the young.

Public education shall be the responsibility of the state and the communes.

Primary education shall be compulsory.

Public education shall be free of charge at all levels.

Technical and vocational training shall be generalized.

Higher education shall be open to all, on an equal basis, according to merit only.

Article 30. In the cases determined by law, a jury shall be used in criminal trials and for political offenses committed through the press or by some other means.

Article 31. Haitians may assemble peaceably and without arms, even for the purpose of discussing political affairs, without prior authorization, in conformity with the laws governing the exercise of this right.

This provision shall not apply to public gatherings, which shall be entirely subject to police regulations.

Article 32. Haitians shall have the right of association, of forming political parties, labor unions, and cooperatives.

This right may not be subjected to any preventive measure. And no one may be compelled to join an association or a political party.

The law shall regulate the conditions for the functioning of these groups and shall promote their formation.

Individuals, never in behalf of a group.

Any petition addressed to the legislative body must give rise to the regulatory procedure making it possible to rule on the object of the petition.

\* Article 34. Correspondence shall be inviolable, subject to the penalties provided by law.

Article 35. French shall be the official language. Its use shall be compulsory in government services. However, the law shall determine in what cases and under what conditions the use of Creole may be permitted, and even recommended, for the purpose of safeguarding the material and moral interests of citizens who do not know the French language well enough.

Article 36. The right of asylum shall be accorded to political refugees, provided they conform to the laws of the country.

Article 37. Extradition in political matters shall not be permitted.

Article 38. The law may neither add to nor derogate from the constitution.

The letter of the constitution shall always prevail.

### TITLE III

#### DUTIES

##### Chapter I

##### Civic Duties

Article 39. Civic duties attend the status of citizen and civil and political rights.

Civic duties are the aggregate moral, political, social, and economic obligations of the citizen toward the state and the nation.

Article 40. For the citizen, voting is not only a right but an obligation imposed by his civic duty.

##### Chapter II

##### Responsibilities of Government Officials and Employees

Article 41. Before taking office, every official in the sense defined and specified by law shall swear on his honor to discharge conscientiously the duties of his office, to be loyal to his country, and to carry out and enforce the constitution and laws and the regulations enacted under the constitution or law. A written statement of the official's oath shall be prepared for his signature, and a certified copy of it issued to him for all pertinent purposes.

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Revised Press Law  
31 March 1980



Parlement  
Le Lait et le Jus

JOURNAL OFFICIEL DE LA RÉPUBLIQUE HAÏTI

Département  
Secteur de l'Économie

125ème Année No 25

AN XXIIIème DE LA RÉVOLUTION DUVALIERISTE

Jeudi 3 Avril 1980

### SOMMAIRE

- Décret rapportant la Loi du 19 Septembre 1979 sur la Presse et la remplaçant par une nouvelle législation plus conforme à la Politique du Gouvernement.
- Décret de la Secrétairerie d'Etat des Finances et des Affaires Économiques sur la vente de l'un de ses terrains domaniaux situés à Port-au-Prince (5e lot) d'une superficie de 372 m<sup>2</sup> 27.
- Décret sanctionnant la Convention sur la Prévention et la Répression des Incidents entre les personnes jouant d'une protection internationale, y compris les Agents Diplomatiques — Convention soumise.
- Acte de l'Assemblée de la Société Anonyme d'Économie : « Gastard Antilman ».
- Arrêté approuvant la liquidation de la Société Anonyme d'Économie.
- Arrêté de la Secrétaire d'Etat des Finances et des Affaires Économiques sur la vente de l'un de ses terrains domaniaux situés à Port-au-Prince (5e lot) d'une superficie de 372 m<sup>2</sup> 27.
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## DECRET

JEAN-CLAUDE DUVALIER  
Président de la République

Vu les articles 20, 21, 22, 65, 90, 92 et 94 de la Constitution;  
Vu le décret du 13 Juin 1950, rapportant la Loi du 15 Décembre 1923 sur la Presse;  
Vu le Décret du 26 Août 1957 modifiant celui du 13 Juin 1950;  
Vu le Décret du 23 Août 1960 organisant un régime spécial en faveur des Sociétés Anonymes;  
Vu la Loi du 16 Septembre 1963 sur les Sociétés Anonymes Mixtes;  
Vu le Décret du 9 Janvier 1963 sur les droits d'auteur d'œuvres littéraires, scientifiques et artistiques;  
Vu le Décret du 12 Octobre 1977 sur la radiodiffusion;  
Vu la Loi du 10 Septembre 1979 sur la Presse;  
Vu les articles 9, 77, 78, 258, 282 (1er. alinéa), 283, 313 à 322 du Code Pénal;  
Vu les articles 19 à 53 du Code de Commerce;  
Vu les articles 12 et 14 de la Convention Inter-Américaine sur les droits de l'homme (Pacte de San José de Costa Rica) ratifié par la République d'Haïti le 20 Août 1979;  
Vu le Décret de la Chambre Législative, ex. date du 20 septembre 1979, suspendant les garanties prévues aux articles 17, 18, 19, 20, 21, 24, 43, 50, 70, 71, 72, 93 (dernier alinéa), 95, 105, 112, 113, 122 (2ème alinéa), 125 (2ème alinéa), 171, 223, 224, 235, 237, 241, 250, 255, 293 et 294 de la Constitution et accordant Pleins Pouvoirs au Chef du Pouvoir Exécutif, pour Lui permettre de prendre jusqu'au deuxième lundi d'avril 1980, par Décrets ayant force de Loi, toutes mesures, qu'il jugera nécessaires à la sauvegarde de l'Etat à la consolidation de l'Ordre et de la Paix, au maintien de la stabilité économique et financière de la Nation, à l'approfondissement du bien-être des populations rurales et urbaines à la défense des Intérêts Généraux de la République.

Considérant que la Constitution consacre le principe de la liberté d'expression qu'elle permet à chacun d'exercer dans tous les domaines et par tous les moyens en son pouvoir;

Considérant que la Presse est l'un des moyens de manifestation de la liberté de pensée, d'expression et de la liberté de la parole, elle joue un rôle primordial dans l'évolution des communautés de

habitants qui se doivent en retour de lui assurer l'indépendance et la sécurité ainsi que toutes les facilités nécessaires à son entier rayonnement.

Considérant que les délits de presse sont avant tout des délits de droit commun; que seuls ceux qui portent atteinte à l'ordre constitutionnel sont des délits politiques;

Considérant qu'il convient de rapporter la Loi du 19 Septembre 1979 sur la Presse et de la remplacer par une législation plus conforme à la politique de libéralisation du Gouvernement de la République;

Sur le rapport des Secrétaires d'Etat de l'Intérieur et de la Défense Nationale, de la Justice, de la Coordination et de l'Information;

Et après délibération en Conseil des Secrétaires d'Etat;

### DECRETE

#### TITRE I

#### DE LA PRESSE

Article 1er. — La Presse groupe :

- 1) les imprimeurs, les maisons d'édition et les librairies;
- 2) les journaux quotidiens, les hebdomadaires et autres périodiques, tels les magazines, les cahiers ou feuilles paraissant à intervalles réguliers;
- 3) les stations de radiodiffusion et de télévision telles que définies au Chapitre IV du Décret du 12 Octobre 1977 sur la radiodiffusion;
- 4) les agences de presse.

Article 2. — Tout citoyen haïtien peut, sans autorisation préalable, s'adonner aux professions afférentes aux quatre branches d'activités ci-dessus indiquées.

Article 3. — L'exercice de ces activités reste cependant soumis à la présente législation comme aux lois sur la profession commerciale, sur la propriété littéraire, sur la radiodiffusion et la télévision.

Article 4. — Tout imprimé rendu public doit porter l'indication des nom, prénom et domicile de l'imprimeur et de l'éditeur, la date et le numéro d'ordre de l'édition;

Article 5. — L'imprimeur est tenu, dans les 72 heures avant la parution de déposer cinq (5) exemplaires de l'imprimé, savoir :

— à Port-au-Prince, à la Secrétairerie d'Etat de l'Intérieur et de la Défense Nationale;

— en Province, à l'Hôtel de la Préfecture ou, à défaut de cette Institution, à l'Hôtel Communal;

Article 6. — Sont dispensés du dépôt :

- a) les ouvrages dits de ville (lettres, cartes d'invitation, d'avis, d'adresse, de visite, papier à lettres, enveloppes à en-tête...)
- b) les travaux d'impression dits administratifs (factures, actes, registres...);
- c) les travaux d'impression dits de commerce (tarifs, instructions, étiquettes, cartes d'échantillon ou autres);
- d) les bulletins de vote, les titres de publication non encore imprimés les titres et certificats d'action et d'obligations des sociétés commerciales.

#### TITRE II

#### DES ORGANES DE PRESSE ET DES JOURNALISTES

Article 7. — Toute entreprise de presse doit avoir un statut reconnaissable de nationalité haïtienne, jouissant de ses droits civils et politiques.

## TITRE VI INFRACTIONS ET SANCTIONS

Article 27.— Il est interdit aux organes de presse de diffuser des caricatures et des allégations tendant à dénigrer des actes, qu'ils soient ou délits, ou de nature à corrompre l'enfance ou la jeunesse ou à encourager le trafic et l'usage des stupéfiants sous peine d'une amende de 500 à 1.000 gourdes ou d'un emprisonnement d'un mois à trois mois avec saisie et destruction des publications.

Article 28.— L'outrage fait au Chef de l'Etat à la Première Dame de la République sera puni d'un emprisonnement d'un an à trois ans.

Article 29.— L'inaccomplissement des formalités prévues aux articles 4, 5, 8, 9, 12 et 13 de la présente loi entraînera la suspension, par le Département de l'Intérieur et de la Défense Nationale, de l'organe de presse ou de l'activité interdite.

Article 30.— L'inobservance de l'une des dispositions des articles 22 et 23 de la présente Loi est punie d'une amende de 500 à 1.000 gourdes ou d'un emprisonnement de 3 mois à 12 mois.

Article 31.— Ceux qui auront frauduleusement obtenu et utilisé la carte d'identité de journaliste seront poursuivis pour usage de fausse qualité et punis d'une amende de deux cents à cinq cents gourdes.

## TITRE VII DES POURSUITES ET DE LA PROCEDURE

Article 32.— Selon le cas, seront poursuivis, comme auteurs principaux des délits de presse :

- 1) les auteurs ou gérants responsables;
- 2) les éditeurs ou imprimeurs.

Article 33.— Le propriétaire d'un organe de presse est responsable des réparations pécuniaires au profit de la partie civile.

Article 34.— Toute personne qui se prétendra lésée par un délit de presse pourra s'adresser directement au Tribunal Correctionnel ou en recourir plus tard, dans les formes prévues par le Code d'Instruction Criminelle (C.I.C.)

Article 35.— L'action publique en matière de délit de presse se prescrit par trois mois à compter du jour du délit ou du jour d'un acte interruptif de la prescription.

Article 36.— L'action pénale, en matière de délit de presse, sera portée devant le Tribunal du lieu du délit ou de celui de la résidence du prévenu ou de celui où le prévenu aura été trouvé.

La cause sera jugée toutes affaires cessantes, sans remise, ni jour, de rôle, et le jugement rendu dans les trois jours de la décision ordonnant le délibéré.

Article 37.— La provocation est une cause d'excuse légale du délit d'infamie et rend ce délit non punissable.

Article 38.— L'arrestation préventive, en matière de délit de presse, n'est pas de droit, excepté dans les cas prévus aux articles 22 (paragraphes 4 et 5), 28 de la présente Loi et où la liberté provisoire ne sera pas accordée.

Article 39.— La police judiciaire confisquera les exemplaires de l'écrit ou les documents tombant sous le coup de la présente Loi et détiendra les responsables par-devant les Tribunaux chargés de les punir.

Article 40.— En matière de délit de presse, le jugement est susceptible d'opposition, de pourvoi en Cassation.

Ces recours seront exercés dans les formes prescrites par le Code d'Instructions Criminelle.

## TITRE VIII DISPOSITIONS SPECIALES

Article 41.— Une commission, formée à la diligence de la Secrétairerie d'Etat de l'Information et de la Coordination, assistera les cinéastes étrangers à l'occasion de tournage de films.

Article 42.— En vertu de l'article 21 de la présente Loi, aucune censure préalable ne peut frapper une représentation théâtrale, cinématographique, chorégraphique, sous réserve des dispositions du Décret du 9 janvier 1968 sur les Droits d'auteur, d'œuvres littéraires, scientifiques et artistiques.

Article 43.— Les étrangers ou les sociétés commerciales étrangères ne pourront, en aucun cas, être détenteurs en Haïti, dans une entreprise de presse quelconque, de plus de 40% des actions ou du Capital Social.

Article 44.— L'exercice de l'activité d'agent de publicité commerciale dans les journaux, la radio, la télévision ou autres est strictement réservé aux nationaux.

La violation de cette disposition entraînera pour le gérant responsable ou le propriétaire de l'agence une amende de 500 à 1.000 gourdes à prononcer par le Tribunal compétent. De plus, la carte d'identité professionnelle de l'étranger sera annulée et sa licence renouvelée.

## TITRE IX DISPOSITION D'ABROGATION

Article 45.— Le présent Décret abroge toutes Lois ou dispositions de Lois, tous Décrets ou dispositions de Décrets, tous Décrets-lois ou dispositions de Décrets-lois qui lui sont contraires et sera publié et exécuté à la diligence des Secrétaires d'Etat de l'Intérieur et de la Défense Nationale, de la Coordination et de l'Information, de la Justice, chacun en ce qui le concerne.

Donné au Palais National, à Port-au-Prince, 21 mars 1963, 21<sup>ème</sup> de l'Indépendance.

JEAN-CLAUDE DUVALIER

Par le Président

Secrétaire d'Etat de l'Intérieur et de la Défense Nationale  
Claude RAYMOND

— Le Secrétaire d'Etat de la Coordination et de l'Information :  
Jean NARCISSE

Le Secrétaire d'Etat de la Justice : M. Eusèbe ALEXIS

Secrétaire d'Etat des Finances et des Affaires Economiques

Dr. Horas BUYEK

Le Secrétaire d'Etat du Commerce et de l'Industrie :

Andre DUMESLE

Le Secrétaire d'Etat de la Santé Publique et de la Population :

Dr. Willy VERRILLI

Le Secrétaire d'Etat des Affaires Etrangères et des Cultes :

Georges SALOMON

Le Secrétaire d'Etat des Travaux Publics, des Transports

Communications : Ing. Alix CINEAS

Le Secrétaire d'Etat de l'Agriculture, des Ressources Naturelles

et du Développement Rural : Agronome Paul St. CLAIR

— Le Secrétaire d'Etat du Plan : Raoul BERRET

Le Secrétaire d'Etat des Mines et des Ressources Energétiques :

Fris PIERRE LOUIS

Le Secrétaire d'Etat du Travail et des Affaires Sociales :

Hubert de BONCERAY

Le Secrétaire d'Etat de l'Education Nationale

Joseph C. BERNARD

Le Secrétaire d'Etat de la Jeunesse et des Sports :

Théodore E. ACHILLE

APPENDIX IV

LOIS PENALES

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Article 3.- La présente Loi sera publiée et exécutée à la diligence des Secrétaires d'Etat des Relations Extérieures, de l'Economie Nationale, du Commerce et des Finances, chacun en ce qui le concerne.

Donné à la chambre des Députés à Port-au-Prince, le 24 août 1951, An 148ème de l'Indépendance.

Le Président :  
Adelphin TELSON

Les Secrétaires :  
Price BRIZARD  
Franck LANOIX

Donné à la Maison Nationale, à Port-au-Prince, le 3 septembre 1951, An 148ème de l'Indépendance.

Le Président:  
Charles FOMBRUN

Les Secrétaires:  
E. JONASSAINT,  
P. PEREIRA

AU NOM DE LA RÉPUBLIQUE

Le Président de la République ordonne que la Loi ci-dessus soit revêtue du Sceau de la République, imprimée, publiée et exécutée.

Donné au Palais National, à Port-au-Prince, le 7 Septembre 1951, An 148ème de l'Indépendance.

Par le Président:

PAUL E. MAGLOIRE.

MONITEUR No 44

30AVRIL 1969

LOI DU 29 AVRIL 1969 CONDAMNANT TOUTES DOCTRINES  
D'IMPORTATION NOTAMMENT LE MARXISME-LÉNINISME.

LOI

LA CHAMBRE LÉGISLATIVE

Vu les articles 18, 29, 68 et 84 de la Constitution.

Vu le Décret-Loi du 19 Novembre 1936,

Vu la Loi du 20 février 1948, relative aux activités communistes ou à caractère subversif de l'ordre public,

Vu l'Arrêté Présidentiel du 12 Août 1959,

Vu la Loi sur l'Etat de Sièges en vigueur.

Considérant que l'Etat a pour obligation primordiale de sauvegarder la paix publique.

Considérant l'incompatibilité des doctrines d'importation, notamment le marxisme-léninisme avec l'ordre social, politique et économique haïtien qui ne peut puiser ses facteurs de progrès que dans son ethnique et sa culture propre,

Considérant que la République d'Haiti, de par sa position géographique, ses besoins économiques et sociaux, se doit de contribuer efficacement et



effectivement à la préservation de l'ordre public International et Panaméricain.

Considérant que la solidarité panaméricaine est le lien indispensable de cohésion continentale et que toute doctrine, délétère, narcotique, tendant à s'introduire dans notre hémisphère, constitue un brandon de désagregation de l'idéal traditionnel de liberté, si cher au peuple haïtien.

Considérant les dangers que les doctrines communistes généralement quelconques représentent pour l'ordre social haïtien tel qu'il s'est constitué et tel qu'il est consacré par les lois en vigueur.

Considérant les moyens violents, anarchistes, et terroristes préconisés par les dites doctrines aux fins de leur application.

Considérant que les tenants et propagateurs de ces doctrines sont affiliés à des groupements politiques internationaux et qu'en conséquence leur action ne peut tendre qu'à la mise en oeuvre d'agitations essentiellement subversives de l'ordre public.

Considérant que les actes de ganstérisme et de terrorisme perpétrés à Port-au-Prince, à l'Aéroport International François Duvalier, à Cazale, à Boutilliers, à Bizoton, à Delmas, à la Rue Férou et sur d'autres points du territoire national sont la preuve tangible que les éléments sus-désignés sont passés de la "phase d'endoctrinement" à la "phase d'exécution" selon la terminologie tactique du marxisme-léninisme.

Considérant que ces actes criminels n'ont pour but essentiel que la remise en discussion des idéaux démocratiques et constitutionnels préconisés par le Gouvernement de la République et le peuple haïtien tout entier.

Considérant qu'il importe de prévenir et d'empêcher l'infiltration et la propagation pernicieuse de l'idéologie communiste au sein de l'Université et du Corps enseignant.

Considérant d'autre part l'appui soit moral soit culturel, soit matériel qu'une forte partie de la réaction traditionnelle jointe à des éléments étrangers ou antinationaux accorde aux anarchistes sus-désignés.

Considérant que cette assistance est révélatrice d'une complicité volontaire contre laquelle l'autorité responsable de la vie et de la survie de la nation a pour obligation de réagir avec toute la célérité et toute la rigueur nécessaires, qu'en conséquence il importe de renforcer les mesures édictées par les lois antérieures en vue de permettre au Gouvernement de faire face au danger actuel qui menace le pays:

#### A VOTÉ LA LOI SUIVANTE:

Article 1er.- Sont déclarés crimes contre la sûreté de l'Etat les activités communistes sous quelque forme que ce soit: toute profession de foi communiste, verbale ou écrite, publique ou privée, toute propagation des doctrines communistes ou anarchistes, par conférences, discours, causeries, lectures, réunions publiques ou privées, par tracts, placards, périodiques, revues, journaux, brochures, livres, images, toutes correspondances écrites ou verbales avec des associations, soit locales, soit étrangères, ou avec des personnes qui s'adonnent à la diffusion des idées communistes ou

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anarchistes, de même que le fait de recevoir, de recueillir ou de fournir des fonds destinés directement ou indirectement à la propagation des dites idées.

Article 2.- Seront déclarés coupables des mêmes crimes tous ceux qui, à un titre quelconque: libraire, propriétaire ou gérant d'imprimerie, propriétaire, gérant ou locataire de salles de spectacles publiques ou privées, propriétaire, locateur ou locataire de maison d'habitation, ministre de culte, missionnaire, prédicateur, professeur, instituteur, etc. qui auront suggéré ou facilité leur exécution, hébergé ou prêté assistance à leurs auteurs.

Article 3.- Les individus poursuivis conformément aux articles 1 et 2 de la présente loi seront jugés par une Cour Martiale Militaire permanente.

Article 4.- Seront punis de la peine de mort les auteurs et complices des crimes ci-dessus prévus, leurs biens meubles et immeubles seront confisqués et vendus au profit de l'Etat.

Article 5.- Tout individu surpris en flagrant délit d'activités anarchistes ou terroristes est déclaré hors-la-loi.

Article 6.- La présente Loi abroge toutes lois ou dispositions de lois, tous Décrets ou dispositions de Décrets, tous Décrets-Lois ou dispositions de Décrets-Lois qui lui sont contraires et sera exécutée à la diligence des Secrétaires d'Etat de l'intérieur et de la Défense Nationale et de la Justice, chacun en ce qui le concerne.

Donné à la Chambre Législative le 28 Avril 1969.

Donné au Palais National le 29 Avril 1969.

Dr. FRANÇOIS DUVALIER

MONITEUR No 10

LUNDI 4 FÉVRIER 1924

LOI DU 28 JANVIER 1929 SUR LA COMPARUTION PERSONNELLE  
AU CORRECTIONNEL, EN MODIFIANT LES ARTICLES 161 et 162  
C.I.C., DEVENUS 158 ET 159.

## LOI

BORNO

PRÉSIDENT DE LA RÉPUBLIQUE

Vu l'article 55 de la Constitution;

Vu la loi du 12 juillet 1920 modificative du Code d'Instruction Criminelle;

Considérant qu'il est conforme à la sécurité des justiciables de laisser au Juge saisi d'une poursuite correctionnelle la faculté d'ordonner la comparution du prévenu;

Sur le rapport du Secrétaire d'Etat de la Justice;

Et de l'avis du Conseil des Secrétaires d'Etat,

A PROPOSÉ:

Et le Conseil d'Etat a voté la Loi suivante: