



AMERICAS WATCH

- REPLY TO: 36 WEST 44TH STREET, NEW YORK, NEW YORK 10036 (212) 840-9460 TELEX 910240100 FFFEXPRS NY
 REPLY TO: 739 EIGHTH STREET, S.E., WASHINGTON, D.C. 20003 (202) 546-9336 TELEX 910240100 FFFEXPRS NY
 REPLY TO: 234 HOTEL CAMINO REAL, SAN SALVADOR, EL SALVADOR, C.A. (503) 24-5966

★

Adrian DeWind
CHAIRMAN

Stephen Kass
VICE CHAIRMAN

Aryeh Neier
VICE CHAIRMAN

★

COMMITTEE

Peter Bell
Robert L. Bernstein
Roland Betts
Albert Bildner
Abraham Brumberg
Paul Chevigny
Dorothy Cullinan
Lori Damrosch
Patricia Derian
Stanley Engelstein
Tom J. Farer
Wendy Gimbel
Robert Goldman
Jack Greenberg
Wade J. Henderson
Alice Henkin
Anne Johnson
Russell Karp
Marina Kaufman
Jeri Laber
Margaret Lang
Theodor Meron
Marshall Meyer
John B. Oakes
Michael Posner
Bruce Rabb
Jeanne Richman
Sanford Solender
Giorgio Solimano, M.D.
George Soros
Alfred Stepan
Svetlana Stone
Rose Styron
Hector Timerman
Jorge Valls
Lois Whitman

★

Juan E. Mendez
DIRECTOR
WASHINGTON OFFICE

Holly J. Burkhalter
WASHINGTON
REPRESENTATIVE

★

Cynthia Brown
ASSOCIATE
DIRECTOR

Susan Osnos
PRESS
DIRECTOR

★

Jemera Rone
COUNSEL

★

Orville H. Schell
Founding Chairman
1981-1987

HUMAN RIGHTS IN HAITI

TESTIMONY OF KENNETH ROTH, HUMAN RIGHTS WATCH

Subcommittee on Western Hemisphere Affairs

Tuesday, March 14, 1989

Thank you for holding this important hearing, Chairman Crockett, and for inviting us to testify. The staff and board of Human Rights Watch and Americas Watch appreciate the attention paid to human rights and democracy in Haiti by yourself, Rep. Lagomarsino and other members of the Subcommittee. My name is Kenneth Roth, and I am Deputy Director of Human Rights Watch. Human Rights Watch is a private human rights monitoring organization which includes Americas Watch, Helsinki Watch, Asia Watch, and Africa Watch. We welcome your inquiry into human rights in Haiti in the context of your consideration of foreign assistance for the coming fiscal year. The Chairman's excellent opening statement of concern about Haitian

human rights is a strong message of support for Haitian democrats and human rights advocates.

As you know, the prospects for democratic elections in Haiti are inextricably linked to respect for human rights, including freedom of speech and assembly, and most important, freedom from fear of violence. Since the coup of September 17, 1988 which brought Lt. Gen. Prosper Avril to power, there have been a number of positive developments relating to the possibility of elections, but, paradoxically, they have taken place in the context of increasing repression of political dissent.

In late November 1988, the Avril government, under pressure from all sides to show some movement towards democracy, proposed the creation of an Electoral College of Haiti, which was to have been under the jurisdiction of the Ministry of Justice. The proposed body would not have been independent, and its members would have been subject to military influence. Political parties and human rights groups were highly critical of the proposal, particularly the lack of independence of the proposed college. They also underscored the need for urgent measures to improve security before elections could be considered.

In mid February 1989, General Avril's proposal for an electoral commission was debated in a forum with representatives of some 28 political, labor, and professional groups. A number of democratic groups boycotted the forum, principally because of their view that the current government, given the level of ongoing abuses, could not be trusted to usher in free elections;

the boycotting groups included KONAKOM (the National Committee of the Congress of Democratic Unions), CATH, and the Papaye Peasant Movement (the largest and most politically active union federation and peasant organization, respectively.) The forum recommended the establishment of an independent electoral council to run the elections which closely paralleled the original electoral council established under Article 289 of the Constitution. The proposed council would be composed of nine representatives from nine different sectors of Haitian society, e.g. human rights groups, the journalists' association, the labor unions, the Catholic Church, and one seat for the military government. On February 23, the Avril government accepted this proposal, although the body has yet to meet and no date for elections has been set. Nor have crucial issues been addressed such as the manner in which the independence of the council would be guaranteed, and the extent to which the military government will provide logistical support and security assistance to the council -- areas where the lack of government commitment seriously undermined the work of the independent electoral council in November 1987.

Two other positive developments are worth mentioning. In December 1988, on the eve of a visit by a representative of the UN Commission on Human Rights, the Avril government announced the ratification of several international human rights conventions -- an important commitment to uphold basic rights. Then, yesterday, on the eve of these hearings, and during a visit by

Mme. Danielle Mitterand, Gen. Avril announced that he was reinstating portions of the popularly enacted Constitution of March 1987, which Lt. Gen. Henri Namphy, his predecessor, had suspended. (Unfortunately, some 37 constitutional articles remain suspended, ostensibly those that are incompatible with a military government, but including, for example, the article that makes soldiers subject to the jurisdiction of civilian courts for human rights abuses.)

The positive aspects of these developments are welcome and important steps toward underscoring a stated commitment by the Avril government to hold elections and respect human rights. They must, however, be considered in the context of contradictory actions by the military government, including ongoing gross abuses of human rights.

In this light, we recall the violently aborted elections of November 1987. An independent electoral council operating under a fully intact Constitution and verbally supported by an interim military government was unable to avoid the violent crushing of those elections by military and paramilitary forces. The reason for this, in our view, is that the military government contradicted its verbal commitment to hold elections by consistently employing and tolerating violence against outspoken government critics and other participants in the electoral process.

Americas Watch is deeply concerned that this bloody chapter in Haiti's history not be repeated. Our concerns are raised

because, despite the Avril government's verbal commitments, its military forces have continued to employ violence and intimidation against outspoken opponents of military rule and allied popular organizations. We are anxious to ensure that the United States not align itself as a financial backer of the Avril government until Gen. Avril and his military followers have brought their actions in line with their stated commitments.

What follows is a summary of our concerns. These are set forth in greater detail in a report published last month by Americas Watch in conjunction with the National Coalition for Haitian Refugees and Caribbean Rights, entitled "The More Things Change...." The information set forth below is the product of eight fact-finding missions to Haiti taken by representatives of these organizations since the failed elections of November 1987.

1. Repression of Opposition Political Activity: Repeatedly since General Avril assumed power the army and its paramilitary allies have employed violence to discourage and at times prevent demonstrations and other forms of collective political activity. The most common targets of military repression have been the popular organizations of the sort that precipitated the ouster of the Duvalier dictatorship and have since led the opposition to the various military-dominated governments: peasant organizations, trade unions, and the progressive church. For example:

- o On March 4, 1989, soldiers from Fort Dimanche broke up an anti-government demonstration of about 40 people organized by the Committee of Revolutionary Unemployed Workers opposite St. Jean Bosco church (sight of a bloody massacre

by paramilitary troops with army support in the waning days of the Namphy government in September) in the La Saline section of Port-au-Prince. As the demonstration was about to begin, the soldiers, in uniform, arrested two organizers, Ernst Charles and a man known as Abellard, and brought them to Fort Dimanche, where they were brutally beaten in the head and back, at times in the presence of the commanding officer, and then released. No military official has been charged for this brutality.

- o Similarly, on February 15, 1989, as the above-mentioned electoral forum was in progress, troops attacked a peaceful demonstration in Port-au-Prince organized by the National Organization for the Defense of Youth, which was protesting the arrest of two outspoken opponents of the forum (see below). The troops attacked with tear gas and beat a number of demonstrators. Reporters covering the event were also assaulted, including Thony Belizair of Agence France-Presse and correspondents for Radio Cacique and Radio Arc-en-Ciel. Other journalists had their cameras smashed and film confiscated.

2. Violence and Intimidation Against Outspoken Opponents of the Government: Although leading political figures in Haiti, protected by their international visibility, have been relatively free to criticize the government, lesser known critics have met with violence, particularly those connected with popular organizations. For example:

- o During the night of November 26-27, 1988, Michelet Dubreus and Jean Felix, members of a community organization known as "Verité" in the Cité Soleil section of Port-au-Prince, were murdered by armed men led by a uniformed soldier, shortly after they had issued a public letter identifying participants in the St. Jean Bosco massacre. The third signatory of the letter, Rock Mondesir, was arrested and held in army custody until the end of January 1989. Although the military must know who delivered Mondesir into its custody, it has taken no action to pursue the murderers of Dubreus and Felix.
- o On January 16, 1989, soldiers arrested two members of the National Assembly of Popular Organizations (ANOP) who were writing anti-government slogans on walls and distributing anti-government pamphlets in Cité Soleil. The two, Vesnel Jean-Francois and Roland Pierre, were taken to the National Palace, beaten, and forced to spend the night on their knees

holding rocks on their heads. The next day they were taken to the Anti-Gang Investigations Unit of the Port-au-Prince Police Department and beaten again while being interrogated. Three days later, on January 19, three other members of ANOP went to the Anti-Gang Unit to inquire about Jean-Francois and Pierre. The three, Yves Sanon, Roland Paul and Alain Zéphyr, were themselves detained overnight. Jean-Francois and Pierre were released. The Avril government has taken no action against those responsible for this mistreatment.

- o On February 6, 1989, three days before the scheduled electoral forum, two leading opponents of the forum were arrested by the Port-au-Prince police: Rockefeller Guerre, head of the Union of Patriotic Democrats, and Dr. Sylvain Jolibois, an outspoken Avril critic. The two were charged with complicity in the purported discovery of a small explosive device under grandstands erected in downtown Port-au-Prince as part of the Carnival celebrations. No evidence of their alleged role in this episode was ever disclosed, and they were released at the conclusion of the electoral forum.

3. General Avril's Reprisals against Progressive Officers:

General Avril was brought to power by a group of noncommissioned officers who took umbrage at the ascendancy and increasingly brazen violence of paramilitary forces operating under the protection of Lt. Gen. Henri Namphy and his allies. These soldiers continue to press for reforms and would be natural allies of a government that acted to promote democracy and human rights. Instead, Gen. Avril imprisoned fifteen of their leaders, holding them for over two months without charge or trial, on unsubstantiated allegations of plotting a coup. He has reinstated corrupt and violent commanders who had been ousted by their troops. He has halted, at least until this month, significant efforts to disband the paramilitary forces that have played a major role in the most violent episodes in Haiti's recent past. And most recently, as he announced the acceptance

of the forum's proposal of an electoral council, he reshuffled his cabinet, removing the moderate Col. Carl Dorsainvil from the crucial post of Defense and Interior Minister and replacing him with Col. Acédius Saint-Louis, an officer with a long established and apparently cultivated image of brutality.

4. Torture and Killing in Police Custody: Torture and killing in police custody continues, particularly in the Criminal Investigations Unit of the Port-au-Prince Department. At least through September 1988, inmates in the Criminal Investigations Unit regularly died from torture or starvation, and severe beatings were routinely practiced. Although the Avril government renamed the facility the Anti-Gang Investigations Unit and claims to have stopped detaining prisoners there, approximately 40 were being held there as recently as January 1989, and reports have emerged of beatings and at least one killing, that of Phael Joseph sometime between his arrest on November 15 and the discovery of his body in a morgue on November 24, 1988.

5. Use of Deadly Force Against the Population: Troops continue to use deadly force against the population-at-large with seeming impunity. The problem is most pronounced among rural section chiefs, particularly in the Artibonite region in central Haiti. Even within Port-au-Prince, killings and robberies increasingly are committed by uniformed soldiers.

6. Random Violence: This disregard for the law has encouraged a resurgence of what Haitians call "insecurity," the

killings of seemingly random citizens by unidentified gunmen. Reflecting an apparent attempt to terrorize the population, bodies continue to appear periodically on the streets of Port-au-Prince. The number of such killings has increased noticeably since the Avril government's announcement that it would agree to the forum's proposal for an electoral council.

7. Failure to prosecute violators: Neither the Avril government nor its predecessors have made any headway in bringing to justice the perpetrators of the many political killings and other abuses that have continued to plague Haiti since the fall of Duvalier. No prosecutions have been brought and no convictions have been obtained for a single act of political violence. To the contrary, at the end of December 1988, the Avril government issued a safe conduct out of the country to former Col. Franck Romain, a close associate of ousted Gen. Namphy, who is widely believed to have engineered the St. Jean Bosco massacre. Although the Avril government claimed to have been compelled to grant the safe conduct of Romain under the terms of the Inter-American Convention on Diplomatic Asylum, a reservation to that Convention entered by the government of the Dominican Republic, in whose embassy Romain had taken refuge, negated that obligation.

8. Government Whitewash of Massacres: The few announced investigations into political murders have ended in whitewash. In November 1988, the Avril government issued a report on the August 1987 murder of presidential candidate Louis Eugene Athis

and his two aides which said that the victims should have known better than to campaign in the area where they were killed. The widely acknowledged mastermind of the killings, section chief David Philogene, was released from protective custody and allowed to flee to the Dominican Republic. Also in November 1988, the Avril government issued a report on the November 1987 election day massacre which failed to identify a single participant in the killings. Popular outrage at the report led the government to propose a new investigative commission, but procedural constraints imposed by the government on the proposed commission led Haitian human rights groups to reject the proposal. No new investigation has taken place.

9. Attacks on the Press: The Haitian press, particularly the all-important radio stations, such as the Catholic Church's Radio Soleil and the private Radio Haiti-Inter, are particularly courageous in their willingness to report on politically sensitive topics, but self-censorship is prevalent in light of periodic military and paramilitary assaults. For example:

- o On December 21, 1988, in Port-au-Prince, Huggens Voltaire, a journalist for the weekly Libération, was brutally beaten by soldiers and armed plainclothesmen in front of the National Penitentiary as he was covering the release of 12 imprisoned soldiers.
- o On February 7, 1989, the commander of the military garrison in Hinche, Col. Ulysse Alcena, demanded that the Hinche correspondent of Radio Lumiere, Delil Lexil, turn over a copy of a letter signed by 30 people criticizing the Avril government which had been read over the air.

Several steps are necessary to break Haiti's endless cycle of repression and dictatorship, and guarantee reasonably fair and

free elections in Haiti. Members and staff of this Committee, as well as members of the Congressional Black Caucus, have monitored political and human rights developments in Haiti closely, and strongly support conditions on aid which would assure respect for human rights and a decent electoral process. Unfortunately, your activism has not been mirrored by the executive branch. The U.S. Ambassador to Haiti, Ambassador Brunson McKinley, has been remarkably silent about violent abuses. During an interview with an international delegation led by Americas Watch and the National Coalition for Haitian Refugees in August 1988, Ambassador McKinley seemed to excuse government involvement in abuses by noting that "Human rights violations are endemic to the Haitian tradition. It's part of the culture. The way Haitians deal with robbers is stoning them to death. We may not like it but its their tradition." When asked about a pattern suggesting a policy of official tolerance or complicity in violent abuses, particularly in the countryside, Ambassador McKinley responded: "Most things that are done by the Haitian government are done by gosh and by golly, and often by hazard. I don't see any evidence of a policy against human rights, any more than they have a policy about anything else. The countryside is out of control of the Haitian government. It's pretty primitive out there."

Ambassador McKinley went on to note that U.S. influence was limited: "Our ability to affect events in the countryside ended in 1934 [the year that U.S. Marines left Haiti]. Since then, its been the law of the jungle out there." The Ambassador's notion

that only American Marines can affect human rights in the Haitian "jungle" insults Haitian democrats and squanders U.S. opportunities to hold the authorities accountable for human rights in that country. Finally, when asked why he rarely protested human rights abuses, Ambassador McKinley responded that "repetition becomes boring." Because of his attitude, and that of other executive branch officials, it is particularly important that the Congress' conditions for a resumption of aid to Haiti be articulated in law.

We would appreciate it if the following conditions could be included in foreign aid legislation, and considered a prerequisite for the resumption of U.S. assistance to Haiti.

1. The electoral process must be made free of violence and the fear of violence. The acting government must exercise control over the army, disarm paramilitary forces, and assure that voter registration, voter education, campaigning and voting take place in a secure atmosphere in which people can vote without fear of reprisal. The armed forces must act swiftly and within the law against brutality or intimidation from any quarter, including its own ranks. The government must make its opposition to rule by terror public, firm and unyielding.

2. The rule of law must be established. That means that all sectors of society, including the military, must be subject to the law as applied by independent judicial tribunals. An important starting point would be ensuring that the authors of past violent crimes -- such as the killings of November 1987 and

the September 1988 massacre in St. Jean Bosco church, as well as the terror of the Duvalier decades -- be sought out, prosecuted and tried openly by an independent judiciary.

3. Basic freedoms of speech, association and assembly must be assured. A fair election can take place only when candidates and the electorate are free to speak and organize without endangering themselves or their families. The media, including radio and television, must be permitted freely to cover the campaign and the issues, presenting the candidates and their views to a wide public. Haitians everywhere must feel free to form political parties, labor unions and other civic organizations, which in turn must be free to take part in the election.

4. An independent authority, such as the CEP, must be in charge of organizing, carrying out, and tallying the vote. The democratic forum has proposed this condition, and the Avril government has apparently accepted this concept of an independent electoral commission. This group must be free to carry out its mandate without threats or intimidations, and with adequate funding and active assistance from the acting government on both logistical and security matters.

It is our understanding that this fiscal year the executive branch is pressing Congress to provide "Food For Peace" (PL480) commodities in the form of Title I and Title III grants which involve concessional sales of commodities to the government which in turn generates revenues by reselling them within the country.

Americas Watch strongly opposes this form of economic assistance to the Avril government, given the human rights violations we have described, and we respectfully urge the Committee to continue to insist that food aid be granted through private voluntary organizations. (As you know, Section 112 of the Agricultural Trade Development and Assistance Act of 1954, as amended, states that "No agreement may be entered into under this title to finance the sale of agricultural commodities to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, causing the disappearance of persons by the abduction and clandestine detention of those persons, or other flagrant denial of the right to life, liberty, and the security of the person, unless such agreement will directly benefit the needy people in such country.")

We would urge the Committee not to authorize foreign aid -- including PL480 sales and commodity credits -- to the Avril Government as a reward for certain political developments, unless the human rights situation warrants it. The one instance in which the Avril government has been rewarded for small positive steps short of full respect for human rights -- the approval this past fall by the Commodity Credit Corporation of the US Department of Agriculture of a \$10 million loan guarantee to US exporters to Haiti, which allowed the Haitian government to

generate revenues by purchasing commodities and selling them at a profit -- was followed by an intensification of the use of political violence by military forces. As the electoral tragedy of November 1987 illustrated, there can be no real political change in Haiti unless human rights are protected, and people are free from fear. In this regard, we would urge that assistance aimed at the electoral process, which we understand is under consideration, be directed exclusively to an independent electoral council (as defined by Article 289 of the Constitution) and only when that body has been created and itself has requested such assistance.