



# NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE U.S.A.

## DIVISION OF CHURCH AND SOCIETY

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## HAITIANS IN EXILE—A CASE FOR ASYLUM

“I was a member of the group ‘Les Jeunes Revolutionnaires.’ We organized in Sept. 1974. Our purpose was to write and distribute literature against the Duvalier Government. There were 17 members in our group. In March of 1975 two members of our group Rosante Metelus and Euler Alexandre were shot while putting up signs against the government. Before they died, they were forced to give the names of the other members of the group. That same day the Tonton Macoutes came to my house and arrested me. They also arrested my Mother and Father. While searching the house the Macoute threw things around and my sister’s baby was knocked out of his crib and died. I don’t know what happened to my parents. I was taken to jail at Fort Dimanche, beaten and stabbed with a bayonet in my chest. I was bleeding so badly they decided to take me to the hospital. On the way I broke loose and ran. They shot me in the right arm but I escaped. I went to Leogane and my friend Michel Benoit took care of me for 3 weeks. Then we arranged to leave for the U.S. in a boat. There were 21 people in the boat. We stayed in Cuba one day. They gave me medicine for my wounds. We came to the U.S. for life, not for food. I am on hunger strike because I came for political reasons. I have been in jail 6 month and have had plenty of food but this is not enough. If I’m sent back I go back with arms.” (Michel, Jean; #A20-211-404; asylum denied; currently in detentin, Ft. Isabell, Texas, \$500 bond; awaiting determination of challenge to order of deportation in Federal court.)

*The U.N. Protocol Relating to the Status of Refugees, adopted by Congress in 1968, states that a refugee is any person who [Article I, A, [2] ‘owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country.’*

Jean Michel is one of the 1500 Haitians who have arrived illegally in the U.S. in the last three years and who have had their request for political asylum denied. This statement or affidavit was taken by a volunteer on

October 4, 1975, six months after his arrival. Affidavits taken from hundreds of others vary only in the specific details of names and places — the theme of systematic political persecution, murder, torture, and incarcerations without charge or trial remains the same. Sometimes they are active members of opposition groups, other times they simply complained too loudly about their poverty, or sometimes they were too prosperous and a Macoute or government official wanted their property and they refused. For the most part, they are young (17-35 years), male, more literate than the average Haitian (over 50% literacy, as opposed to 10% in Haiti), and have left behind families, jobs, or promising student careers.

Upon arrival in this country, they are rushed through 15-minute interviews with translators they do not trust, refused the right to prior legal consultation and appeal to the Board of Immigrant Appeals. Lawyers have taken the Immigration Service into the Federal Courts, where the cases have remained tied up on technicalities for the past two and one-half years. Requests for temporary work authorization while their cases are pending have been repeatedly denied, forcing them into a life in limbo, subject to deportation and dependant on handouts from limited church resources. Almost 100 remain in Florida and Texas prisons on \$500 bond apiece. This is treatment usually accorded criminals, not victims of persecution.

*The lead paragraph of the General Policy for Dealing with Requests for Asylum by Foreign Nationals of the Department of State, up-dated on January 10, 1973, states: ‘Both within the United States and abroad, foreign nationals who request asylum of the United States Government owing to persecution or fear of persecution should be given a full opportunity to have their requests considered on their merits. The request of a person for asylum or temporary refuge shall not be arbitrarily or summarily refused by U.S. personnel. Because of the wide variety of circumstances which may be involved, each request must be dealt with on an individual basis, taking into account humanitarian principles, applicable laws and other factors.’*

# CLAIMS AND COUNTER-CLAIMS—THE MAJOR ISSUES

## 1. Does Political Oppression Exist In Haiti Today?

(Quotes from the testimony of William H. Luers, Deputy Assistant Secretary, Inter-American Affairs Bureau, Department of State, on the subject of Human Rights in Haiti, November 18, 1975, Subcommittee on International Organizations and Movements, followed by statements from Haitians' affidavits, resident Haitians, and recognized church, organizational, and business/labor officials with Haitian experience.)

"A. The number of political prisoners in Haiti, that is, persons detained and punished solely for their belief: The latest estimate from our Embassy in Port-au-Prince is that few, if any, individuals are being held solely for their beliefs."

[LATIN AMERICA, 16 August 1974] "several hundred have been rounded up in the capital and the provinces in recent months for supposed subversion...." [Andre Tassy, member of the Boucoussou, nephew of the infamous Macoute/Army leader, Jean Tassy, and now in detention in Texas] "Then in August/1972/ I was put in an underground cell for two years and five months /until January 23, 1975/ and lived on one piece of bread and coffee daily...." [Theodore Cardet, member of Ralliment des Opposition] "the night of June 13, 1975...we were suddenly surrounded by approximately 30 Macoutes and Army men, who came in with guns and arrested us....We did not see the others after that first night, but we heard that at least 15 of the 17 had died of torture and beatings by the last week in October."

"B. Conditions of detention, access to attorneys, and family: Again secrecy is the determining factor. We are not sure that any political prisoners...are at present being held. If such is the case, however, we must assume that they are being denied access to legal counsel and are being held for an indefinite period."

[Amnesty International, 1975/76 Annual Report] "Prisoners are not allowed lawyers, nor contact with their families after arrest nor — with few exceptions — are they ever charged or brought to trial. Such conditions of isolation and the general fear of arbitrary arrest make it difficult to obtain personal data on the prisoners and to establish their status as prisoners of conscience....The prisoners, who are peasant farmers, workers, teachers, students and other intellectuals, have been detained for between 2 and 12 years. It is possible that some of these prisoners are no longer alive, but, as the prison authorities do not inform even families of a prisoner's death, such facts cannot be established."

"C. Torture: Torture and brutality were employed by the previous regime. Since 1971 there have been unsubstantiated allegations that such practices have continued."

[Amnesty International, 1973] "Although the death of a prisoner is not announced even to his family, it is known that the death rate in Haitian prisons is high, due to maltreatment and prison conditions that can be described as a daily torture. Prisoners are reported to have been kept naked in underground dungeons for years, in complete darkness. Mutilation, castration, starvation, introduction of a hot iron in the anus, are methods of torture denounced by prisoners who have recently been released and exiled....Torture is practised in an attempt to identify any sign of political dissent and to deter any active opposition. Personal enmity and revenge may also be factors behind maltreatment."

"D. Due process procedures: I have already noted that procedural safeguards as we know them are notably lacking...As I said, there are signs of some overall improvement in this situation."

[Amnesty International, 1975/76] "Shortly after adverse publicity on conditions of detention in Haiti in the Canadian news media early in 1975...the Haitian government declared an amnesty for 26 prisoners. The most prominent of this group was A.I. adoptee, Jean Bernardel, ex-director of the Royal Bank of Canada in Haiti....However, with the exception of Mr. Bernardel, it has not been possible to establish whether, in fact, the others were released and whether some of the names correspond to prisoners at all."

"E. Freedom of expression: I would once again cite Senator Brook's 1974 report on Haiti. He found that, while there was no freedom of the press, there was also no evidence of strict or absolute censorship."

[Father Raymond Gagnon, missionary to Haiti from 1958-1975] "Freedom of expression [press and radio] does not exist in Haiti....Censorship and repression are today often more subtle and sophisticated, but nonetheless real...." [Kenol Luxama, pen name "George," now in detention in Immokalee, Florida] "August of 1975. At that time, 'Le Petit Samedi Soir' published an article supporting the theory that the stamp scandal... had originated with the government...my friend, — , informed me that others on the newspaper staff, Amanuel Bloise, Dieudonne Fardin, and Frank Etienne, had been imprisoned and that the government was looking for the rest of the group. He also told me that friends who were subscribers to the paper were burning that particular issue where the article appeared so as not to be incriminated."

"F. Rights of trade unions: There are a few individual unions organized in specific industries but they are effectively powerless."

“G. Freedom of assembly and association: In the final analysis, what Haitians can do in this area is governed by what the Haitian Government will tolerate.”

[*Amnesty International*] “Despite concerted efforts to improve Haiti’s image abroad after Dr. Duvalier’s death, the only significant change has been a more open conflict between contestants within the old power

structure....” [Howard McGuigan, *AFL-CIO*, 1974] “midnight arrests, secret police and ‘absolute suppression of all freedoms’ still are the tools of Haiti’s rulers....” [WALL STREET JOURNAL, March 25, 1975] “‘IF THE GOVERNMENT SEES ANY OPPOSITION, IT WILL ACT SWIFTLY AND HARSHLY,’ one diplomat says.”

## 2. What Role Does Jean-Claude Duvalier’s “Economic Revolution” Play?

According to Mr. Luers on November 18, 1975, “In part, the improvement in the political situation is due to greater self-confidence on the part of the government and a new emphasis on economic development. The President is committed to ‘economic revolution’ as his chief goal. Significantly the GOH development budget for fiscal year 1976 shows an 80 percent increase over the amount budgeted for the previous year.”

A close examination of that development budget demonstrates that the 80% increase is actually based on: (1) a 300% increase in “Contribution of Other Haitian autonomous agencies” (eg., Port Authority, Water Service, Electric Company, etc. Interestingly, the Telecommunications Authority “donated” 68,200,000 gourdes, the exact amount spent on telecommunications services.)

(2) a 65% increase in foreign aid (U.S., Canada, France, Germany, Republic of China, and various international agencies).\*

The amount from the Haitian Operating Budget and special taxes actually dropped approximately 4 million gourdes.

\*The Agency for International Development has approved economic assistance for Haiti in the form of

“the largest grant technical assistance program in Latin America in FY 1976.” Over half of this is for road development, which though promoted for much-needed agricultural marketing, is essential as well for the additional and unmentioned purpose of marketing the mineral resources which have recently made the Dominican Republic (the other half of the island) the largest producer of gold in Latin America, third in the Hemisphere, after the U.S. and Canada.

“James Byers, president of the Miami firm of Aero-trade, which has been rearming and training the Haitian forces, complained that the Duvaliers owed him one million dollars for arms delivered and had refused entry into Haiti to one of his employees who had gone to try and collect it.” (LATIN AMERICA, 16 August 1974)

“All this pales, however, before what must be one of the most colossal examples of institutionalized graft anywhere: the Haitian government’s failure, year after year, to include in its budgets \$10 million to \$20 million of the revenue it takes in, by the estimate of U.S. government sources. As far as anybody can tell, the money is deposited in the private accounts of the Duvalier family. It amounts to between 20% and 40% of the government’s total expenditures.” (WALL STREET JOURNAL, March 25, 1975)

## 3. Have The Haitians Been Given “Full Opportunity To Have Their Requests Considered On Their Merits?”

All would-be refugees must carry “the statutory burden of establishing the validity of their claims to persecution,” stated the Honorable Leonard F. Chapman, Jr., Commissioner, immigration and Naturalization Service (INS), on November 18, 1975.

Despite U.N. Protocol (Article 31), which states that illegal entry should not reflect on their treatment, it would appear that Haitians entering illegally have a heavier burden than do refugees from other countries, in that, unlike Vietnamese and Cubans, when they are picked up off-shore, as almost all have been, they are denied the following rights:

1. The right to a prior written statement of the procedures to be followed.
2. The right to be represented by a counsel at all hearings, interviews, etc.
3. The right to have present an interpreter of one’s own choosing.
4. The right to present evidence and to call witnesses.

5. The right to a complete transcript of all proceedings.
6. The right to be confronted with adverse evidence and present rebuttal.
7. The right to copies of all communications between INS, the Immigration Judge, and State Dep’t.
8. The right to appeal to the Board of Immigration Appeals.
9. The right to work while their cases are pending.

Many have stated later that, out of confusion, fear of being returned, distrust of the translators, or general caution with administrative and law enforcement personnel, they gave superficial or misleading information in their initial — and last — official interview, in order to minimize the extent of “trouble” they had with their own government. It is on the basis of this lack of proof presented under adverse circumstances that INS has classified all 1500 — whether they were among those who detailed their persecution or not — as “economic” refugees, hence, ineligible for political asylum.

The one exception has been the case of Ulrich Fenelon. On February 12, 1976, INS "reconsidered" his case and granted him asylum, after originally denying his claim when he arrived November 6, 1975, and incarcerated him for the next three months. It is significant that since his boatload of 55 persons managed to land prior to detection, they are the first large group of Haitians since 1972 to be entitled to individual hearings

and appeal. The immigration Judge in Miami had accepted new affidavits (Mr. Fenelon's corresponded in almost every detail with his official one) and had agreed to set the date for the hearings when, approximately February 1, 1976, INS requested a postponement to "reconsider" the cases. Mr. Fenelon's is the only one to receive action. No hearings have been held.

## THE IMPLICATIONS ON FOREIGN POLICY

1. They are fleeing from a right-wing dictatorship which, though thoroughly corrupt and repressive, as well as totally insensitive to the needs of its five million starving people, is supportive of U.S. foreign policy and economic investments.

2. Haiti has the nearest military base to Cuba.

3. Although currently lacking the support services,

Haiti promises to be a literal "gold mine" of mineral resources, as well as cheap labor base. (American firms employ 10,000-15,000 Haitians in light-industry in Port-au-Prince alone at an average daily wage of \$1.60).

4. The would-be refugees are too poor, too black, and have too few advocates to withstand the power of today's "realpolitik."

## WHAT IS NEEDED?

An official Congressional Inquiry and Hearing by the appropriate legislative oversight committee — Representative Joshua Eilberg's Judiciary Subcommittee on Immigration, Citizenship, and International Law.

The purpose of the inquiry and hearing would be to ascertain whether the actions of Immigration and Naturalization Service and the Department of State in denying asylum to these 1500 Haitian claimants in the last three years were in full compliance with U.S. and international law.

If the evidence shows their actions to be prejudicial — for whatever reasons — appropriate administrative action is needed to:

1. Ensure that procedures are in compliance for any further Haitian claims for asylum.

2. Arrange for individual hearings before an Immigration Judge to reconsider the merits of the 1500 cases which have been denied thus far.

3. Release those currently under detention.

4. Grant temporary work authorization for those awaiting hearings and determination of their cases.

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