

PETITION

Inter-American Commission on Human Rights

I. PETITIONERS

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Pat Clark, Executive Director, Fellowship of Reconciliation

Brian Concannon Jr., Esq., Director, Institute for Justice and Democracy in Haiti

Katrina Kasey Corbit, Esq., National Lawyers Guild

Seth Donnelly, US Labor/ Human Rights Delegation to Haiti

Joan Huguenard, St. Leo's Catholic Church & Pax Christi Northern California

Kirsten Moller, co-founder, Global Exchange

Joseph Nevins, Department of Geology and Geography, Vassar College

Dean Royer, Esq., Siegel & Yee, San Francisco Chapter of the National Lawyers Guild

Ben Terrall, freelance journalist, San Francisco, CA

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Standish E. Willis, Esq., Chair, Chicago Conference of Black Lawyers

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**PETITIONERS HEREBY MAKE AN URGENT REQUEST FOR
PROVISIONAL MEASURES BASED ON GRAVE THREATS TO THE
LIVES OF CIVILIANS LIVING IN PORT-AU-PRINCE.**

II. NAME OF THE PERSON OR PERSONS AFFECTED BY THE HUMAN RIGHTS VIOLATIONS

The civilian population of the following Port-au-Prince neighborhoods: Bel Air, Cite Soleil, Delmas 2, Fort National, Grand Ravine, Martissant, and Solino

III. OAS MEMBER STATE AGAINST WHICH THE COMPLAINT IS BROUGHT

2. The United States of America

IV. FACTS DENOUNCED

3. Since the coup d'etat on February 29th, 2004, former members of the Haitian army and of the notorious death squad FRAPH have assumed command positions within the Haitian National Police (PNH). For example, Marcel Maurissant, formerly the third person in command of FRAPH, is now a PNH commissioner, working with the Minister of the Interior.
4. As the PNH command composition has changed, so too has the target and scope of PNH "operations". Increasingly, PNH forces have carried out massive operations in the poor neighborhoods of Port-au-Prince, where large numbers of residents support former President Jean-Bertrand Aristide and the Fanmi Lavalas political party. While PNH officials stated that the purpose of such operations is to neutralize armed "gang" members or "bandits" in these neighborhoods, evidence shows that in many cases, the victims of these operations were unarmed men, women, and children. The evidence also shows the victims were not "collateral damage", accidentally caught in crossfire, but rather were intentionally targeted and killed by PNH. Frequently, these victims were actual or suspected members or sympathizers of Lavalas. These operations have created an environment of terror in which people living in poor neighborhoods continuously fear for their lives due to their political or presumed political affiliation.
5. Some of the worst abuses have been carried out by the specialized PNH unit called "Zero Tolerance", ostensibly an "anti-gang" unit, but, in actuality, a de-facto death squad consistently linked by eyewitness testimony to kidnappings and extrajudicial killings of civilians.
6. The US government played a crucial role in creating an environment that does not respect the rule of law by providing monetary and arms assistance to opponents of the elected government of Jean Bertrand-Aristide. Specifically, the US government financed the Group of 184 through the National Endowment for Democracy (NED) and USAID. Additionally, the US government provided arms (M-16s) and training to the former military and death squad elements then residing in the Dominican Republic such as Guy

Philippe and Louis Jodel Chamblain, who subsequently re-entered Haiti and played a key role in violently destabilizing the elected government.

7. Since the February 29 coup, the US government has provided the PNH with significant financial aid, weaponry, and other police equipment, such as vehicles, in violation of the US arms embargo and despite the clear record of PNH extrajudicial killings and massacres of the civilian population. Moreover, the US government has conducted training of the PNH, thereby facilitating the integration of former military and death squad elements into the command structure of the force.
8. This arming and training of the PNH stands in stark contrast to the elimination of weapons, equipment, and training to the PNH during the second term of the Aristide government.
9. For example, the US State Department sanctioned the transfer of 2,636 weapons to the PNH in the summer of 2004. Additionally, the US government sent a weapons shipment worth \$7 million to Haiti in November 2004, and, later, in June 2005, \$2.6 million worth of police equipment. According to Haitian eyewitness testimony, Zero Tolerance has been using vehicles gifted to the PNH by the US embassy to disappear civilians suspected of being Lavalas members. According to former police director Leon Charles, US Ambassador James Foley waived the US arms embargo on the PNH. These grants of weapons and equipment prompted US Congresswoman Barbara Lee to initiate a resolution in the US House of Representatives requiring the US government to provide a full disclosure of its recent arm shipments to the PNH. The US Congress passed this resolution on June 28th, 2005. Undeterred by this growing congressional concern, the US State Department announced on August 9, 2005, that it would send an additional \$1.9 million worth of guns and equipment to the PNH.
10. By arming, financing, training, and diplomatically supporting the PNH after the coup, the US government has directly participated in human rights violations and fostering the climate of impunity that prevails in Haiti today. The list of extrajudicial killings and massacres by the PNH detailed below is indissolubly connected to the intervention by the US government in the affairs of Haiti.
11. This petition is not designed to provide a complete list of the neighborhoods in which PNH killings of civilians have occurred. Moreover, this petition is not designed to provide a complete list of the killings and massacres in the neighborhoods named in section 5. Rather, this petition is designed to identify key massacres and killings in these neighborhoods for which the petitioners have collected solid, reliable evidence. These particular killings and massacres

are a sample of the larger pattern of killings and massacres and should therefore serve as partial indicators to the Commission of the depth and extent of this particular human rights crisis. More investigation is required in order to grasp the full extent and depth of the crisis. What follows is the sample list of the extrajudicial killings and massacres that is emblematic of the larger pattern.

12. In some of these examples, precise numbers of victims are not available due to several reasons: a) PNH forces consistently transport dead bodies away from the scene in ambulances during the operations; b) there appears to be no systematic tracking of civilian deaths and casualties by MINUSTAH nor the PNH; c) family members of the deceased are often afraid to petition the authorities and/or publicize the killings of loved ones; d) family members frequently lack the resources to pay for the bodies to be released from the morgues, to pay a Judge of Peace to issue what amounts to a formal death certificate, and then to pay funeral expenses. Bodies are often left, unclaimed and unknown, in the morgue or on streets where they are eaten by dogs or eventually burned.
13. On 2 October 2004, the PNH killed 13 people in Fort National, according to the affidavit testimony of Haitian journalist (hereinafter, "Journalist") who routinely covers Fort National.
14. On 14 December 2004, the PNH killed at least 18 people, according to Journalist who gathered eyewitness and family testimony about this massacre.
15. On 30 January, the PNH killed 14 people in Corridor Basia, the same neighborhood as Solino, according to the affidavit testimony from Journalist. One victim was a student named Wilkens Bosse who was reportedly killed in front of his parents after police interrogated him. He was in the ninth grade at the time of his murder.
16. On 28 February 2005, during a demonstration convened by Lavalas in Port-au-Prince, the PNH killed 3 demonstrators and took 2 bodies away in an ambulance, according to the affidavit testimony from Journalist. The body of Stanley Bulot was left on the ground, the head blown open by the gunfire. These killings reportedly occurred while MINUSTAH was patrolling. International journalists have photographs of this incident.
17. On 27 April 2005, during another demonstration, the demonstrators were marching towards the MINUSTAH headquarters for a protest against MINUSTAH policies. According to the affidavit testimony of Journalist, PNH officers positioned themselves to attack the demonstrators and then shot directly into the demonstration, killing five people immediately. Seventeen

people were badly injured and four died later. Journalist's affidavit provides a full list of the names of these victims. One man, Jean Andre Joseph, is still missing.

18. On 4 June 2005, the PNH and CIVPOL carried out a joint operation in Bel Air, killing 25 men, women, and children, as well as burning down 13 houses, according to the affidavit testimony of Journalist.
19. On 29 June, MINUSTAH forces killed approximately seven people in Bel Air, according to the affidavit testimony of Journalist who has video footage of six corpses from this operation. Brazilian troops shot and killed a middle-aged invalid named William St. Merci who was sitting, unarmed, in his wheelchair in the tiny courtyard of his residence. According to separate affidavit testimony from family and a neighbor of the victim, the troops were not under fire from any residents of the complex. The troops ran into the courtyard and shot the victim in the head, blowing off the top half of his skull.
20. On 6 August 2005, the PNH carried out a major massacre in Solino, covering and occupying the neighborhood in the morning. According to affidavit testimony from multiple eyewitnesses, the PNH officers worked with death squad attachés armed with machetes. Together, the PNH officers and these attachés proceeded to attack unarmed community residents, killing more than twenty. Some were hacked to death and left in the street. Video footage of several bodies was recorded by Journalist. According to eyewitness testimony, the machetes used by the attaches had the PNH sign painted in blue on the blades.
21. On 10 August 2005, the PNH joined by machete-wielding thugs, carried out a massacre in Bel Air in which approximately 10 people were killed. According to affidavits from multiple eyewitnesses, the operation started in the adjacent neighborhood of Delmas 2 where the PNH arrived and publicly distributed machetes to "civilians" who arrived with the PNH. They then started to kill people in full view of the public, including one man who was hacked to death and one pregnant woman who was beaten to death in the police truck. MINUSTAH forces were reportedly on patrol, but did not intervene. The PNH and the attaches armed with machetes then left Delmas 2 and entered Bel Air where they killed more unarmed people. Witnesses identified the PNH sign on the blades of the machetes.
22. On 20 August 2005, the PNH interrupted a highly publicized soccer match funded by US AID in the St. Jean Bernadette Stadium in the Martissant neighborhood. There were approximately 5,000 people in attendance. According to affidavits provided by multiple eyewitnesses, including several victims who survived this massacre, the PNH took over the microphone system and ordered everyone to lie down in the field. Death squad attachés

armed with machetes accompanied the PNH into the field, attacking and hacking to death people accused of being “bandits”. Many of those who attempted to flee were shot and killed by the PNH inside of the stadium or by the PNH or attaches surrounding the stadium on the outside. MINUSTAH forces were stationed nearby the stadium, but did not intervene to investigate the shootings and commotion. Witnesses identified the leader of the attaches working with the PNH as being a criminal who they had chased out of their neighborhood in the past.

23. On 21 August, the PNH joined by the attaches armed with machetes entered Grand Ravin, the neighboring community to Martissant, and proceed to assault a church and people’s homes, ransacking, looting, and burning down homes, according to affidavits provided by two eyewitnesses to this assault.
24. The pattern of extrajudicial killings and massacres perpetrated by the PNH, attaches linked to the PNH, and MINUSTAH forces is clear and incontrovertible. The fact that this pattern has continued for over a year now with little if any concern voiced by the international human rights community, only contributes to the dangerous atmosphere of impunity prevailing on the streets of Haiti today. The US government has played a key role in setting this pattern in motion and in tangibly supporting the abuses, thereby violating the US government’s commitments under the American Declaration on the Rights and Duties of Man to which the United States is a party.

Available Evidence

25. Videotape evidence of killings and massacres gathered by Haitian journalists and by *the US Labor/ Human Rights Delegation to Haiti* during the summer of 2005.
26. Eyewitness affidavits collected by *the US Legal and Human Rights Delegation to Haiti* between September 1st and September 10th, 2005.¹

¹ Note that the names of the witnesses who signed these affidavits have been altered for their protection given the threat to their lives by security forces if their identities were publicly disclosed in conjunction with the testimony they provided. However, the investigators who collected these affidavits are available to provide testimony, under oath, concerning the manner in which the affidavits were collected and their contents as well as to the real danger to which the witnesses would expose themselves were they to step forward at this time..

27. Reports and documentation regarding the massacres in Haiti over the summer provided by *the Institute for Justice and Democracy in Haiti*.
28. “Haiti: Disarmament Delayed, Justice Denied” by *Amnesty International*, July 27, 2005
29. “Growing Evidence of a Massacre by UN Occupation Forces in Port-au-Prince Neighborhood of Cite Soleil: a Summary of Findings by the US Labor/ Human Rights Delegation to Haiti” by the *US Labor/ Human Rights Delegation*, July 12, 2005.
30. “Keeping the Peace in Haiti? An Assessment of the UN Stabilization Mission in Haiti Using Compliance with its Prescribed Mandate as a Barometer for Success” by *the Harvard Law Student Advocates for Human Rights and the Centro de Justicia Global, Rio de Janeiro and Sao Paulo, Brazil*, March, 2005.
31. “Haiti: Human Rights Investigation: November 11-21, 2004” by Thomas M. Griffin, Esq., *Center for the Study of Human Rights, University of Miami School of Law*, February 9th, 2005.

Witnesses to Violations Denounced:

32. Seth Donnelly, US Labor/ Human Rights Delegation to Haiti, June 30th—July 10th, 2005.
33. Seth Donnelly, Benjamin Terrall, and Joan Huguenard, US Legal and Human Rights Delegation to Haiti, August 30—September 10th, 2005.
34. Haitian journalists who provided some of the video footage submitted with this petition.
35. Haitian eyewitnesses who gave the testimony in the affidavits submitted with this petition.
36. Thomas M. Griffin, Esq., author of “Haiti: Human Rights Investigation: November 11-21, 2004”, *Center for the Study of Human Rights, University of Miami School of Law*, February 9th, 2005.
37. James Cavallaro, Associate Director, *Human Rights Program, Harvard School of Law*, and the coordinator of the research project for “Keeping the Peace in Haiti? An Assessment of the UN Stabilization Mission in Haiti Using Compliance with its prescribed Mandate as a Barometer for Success”, March 2005.

Authorities Responsible for the Facts Denounced

38. The Government of the United States of America

V. HUMAN RIGHTS VIOLATED

39. The United States violated Articles I, VI, IX, XXI, XXII, XXIII and XXVI of the American Declaration of the Rights and Duties of Man.

A. Article I of the American Declaration of the Rights and Duties of Man guarantees the Right to Life and the Security of Person

40. **Article I** states that “Every human being has the right to life, liberty and the security of his person.”

41. The United States has violated the right to life and security of person. The United States armed, financed, trained, and diplomatically supported the PNH which carried out extrajudicial killings and massacres.

B. Article VI of the American Declaration of the Rights and Duties of Man guarantees the Right to Protection of the Family

42 **Article VI** states that “Every person has the right to establish a family, the basic element of society, and to receive protection therefor.”

43. The United States has violated the right to protection of the family. The United States armed, financed, trained, and diplomatically supported the PNH which carried out extrajudicial killings and massacres. Victims of these extrajudicial killings and massacres were members of families. For example, Wilkens Bosse was reportedly killed in front of his parents after police interrogated him on 30 January 2005.

C. Article IX of American Declaration of the Rights and Duties of Man guarantees the Right of the Inviolability of the Home

44. **Article IX** states that “Every person has the right to the inviolability of his home.”

45. The United States has violated the right of the inviolability of the home. The United States armed, financed, trained, and diplomatically supported the PNH which burned down 13 houses in Bel Air on 4 June 2005; and ransacked, looted and burned down the homes of Grande Ravin civilians on 21 August 2005.

D. Article XXI of the American Declaration of the Rights and Duties of Man guarantees the Right of Assembly

46. **Article XXI** states that “Every person has the right to assemble peaceably with others in a formal public meeting or an informal gathering, in connection with matters of common interest of any nature.”
47. The United States has violated the right of assembly. The United States armed, financed, trained, and diplomatically supported the PNH which killed participants in the 28 February 2005 and 27 April 2005 demonstrations, and 20 August 2005 soccer match.

E. Article XXII of the American Declaration of the Rights and Duties of Man guarantees the Right of Association

48. **Article XXII** states that “Every person has the right to associate with others to promote, exercise and protect his legitimate interests of a political, economic, religious, social, cultural, professional, labor union or other nature.”
49. The United States has violated the freedom of association. The United States armed, financed, trained, and diplomatically supported the PNH which carried out extrajudicial killings and massacres of actual or suspected members or sympathizers of Fanmi Lavalas political party. The killings and massacres occurred during PNH and/or MINUSTAH “operations” in neighborhoods where large numbers of residents support the Lavalas party and the restoration of the elected government of Jean-Bertrand Aristide.

F. Article XXIII of the American Declaration of the Rights and Duties of Man guarantees the Right to Property

50. **Article XXIII** states that “Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.”
51. The United States has violated the right to property. The United States armed,

financed, trained, and diplomatically supported the PNH which burned down 13 houses in Bel Air on 4 June 2005; and ransacked, looted and burned down the homes of Grande Ravin civilians on 21 August 2005.

G. Article XXVI of the American Declaration of the Rights and Duties of Man guarantees the Right to Due Process of Law

52. **Article XXVI** states that “Every accused person is presumed to be innocent until proved guilty. Every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.”
53. The United States has violated the right to due process of law. The United States armed, financed, trained, and diplomatically supported the PNH which carried out extrajudicial killings and massacres. PNH and MINUSTAH spokespersons claimed that the aim of their operations was to neutralize armed, “gang” or “bandit” elements. Those accused of being “gang” or “bandit” elements had the right to be presumed innocent until proved guilty. Said accused also had the right to be given an impartial and public hearing to determine if any criminal accusations were substantiated. Instead, the PNH intentionally targeted and killed the accused.

VI. LEGAL REMEDIES TO REDRESS THE CONSEQUENCES OF THE FACTS DENOUNCED

A. Urgent Request for Provisional Measures.

54. Petitioners request that the Commission request the Inter-American Court of Human Rights to take provisional measures to prevent irreparable injury to any additional civilians in the above-referenced neighborhoods of Port-au-Prince, as provided in Article 19 of the Statute of the Inter-American Commission on Human Rights, and Article 63 of the American Convention on Human Rights. These civilians are in grave danger as a result of the continued violations of rights under the Convention. Petitioners are seeking immediate action on the part of the Commission and the Court to prevent further endangerment of civilian life and physical integrity, including, but not limited to immediate intervention in PNH and MINUSTAH neighborhood operations and protection of civilian populations regardless of their political affiliations.

B. There is No Remedy Available Through the United Nations Security Council.

55. The United Nations Security Council sent a mission to evaluate the effectiveness of MINUSTAH troops and the Haitian National Police, and to

provide insight on the current human rights situation in Haiti. The mission does not appear to have critically analyzed the role of MINUSTAH or its interaction with PNH. Instead, the mission appears to have summarily concluded that MINUSTAH is currently successful, despite initial setbacks in getting deployed. Instead, the mission seems to have summarily concluded that, despite initial setbacks in deployment, overall MINUSTAH is a success. Additionally, the mission seems to have unquestioningly accepted information provided to them by PNH. This approach to the current situation in Haiti does not instill faith in the civilian population that the United Nations Security Council is critically analyzing its role in Haiti or that it is open to evaluating evidence of atrocities committed by its own troops. Therefore, there does not appear to be a remedy available through the UN Security Council, the body responsible for the enforcement of the mandate given to MINUSTAH troops under Resolution 1608.

C. The Haitian Legal System is Ineffective.

56. The most powerful sectors of Haitian society -- the wealthiest families, government officials, and most of all the entire military apparatus -- have enjoyed virtual impunity. Except for a few exceptions under Haiti's Democratic governments, soldiers have rarely been prosecuted in civilian courts for abuses committed against civilians despite the constitutional requirement that these cases be heard in civil courts.
57. Although Haitian law creates elaborate procedures governing arrests, detention, and prison inspections and monitoring, all these procedures and protections are systematically breached. Previous targets of politically motivated arrests, such as Yvon Neptune and Annette "So Ann" Auguste have been incarcerated for over a year without the possibility of a fair or open trial in the near future. Many other political prisoners and prisoners of conscience like Fr. Gerard Jean-Juste have also been denied the opportunity to for a fair and open trial. Therefore, victims of neighborhood atrocities who were targeted due to their presumed political affiliation with Fanmi Lavalas legitimately fear retribution if they seek assistance in domestic courts.
58. The UN Security Council mission to Haiti found that state institutions in Haiti "at all levels remained weak and in urgent need of reform and capacity-building." (April 2005 Security Council mission report, p. 12.) Additionally, state institutions, including courts, face "continuing problems of corruption. . . [and] absence of transparency and accountability." (Id.) Ultimately, the mission concluded that "modern public administration" does not yet exist in Haiti. (Id.) In light of Haiti's judicial system's lack of transparency and accountability, victims of crimes of the government cannot reasonably be expected to receive justice from such an institution.

D. Any Further Attempts to pursue Legal Remedies in Domestic Courts are Futile and Endanger Innumerable Civilian Lives.

59. The jurisprudence of the Inter-American Court of Human Rights provides that the Commission may review the exhaustion issues and the merits of a case simultaneously. In cases where the available domestic remedies may be ineffective, the Commission may consider the exhaustion of said remedies as related to their effectiveness and decide to review them jointly. Here, the victims argue that the Haitian legal system is ineffective, especially with regard to cases of extrajudicial killings and other serious human rights abuses. Therefore, any exhaustion issues should be considered simultaneously with the merits of the case.

60. Moreover, the Commission has stated that the exhaustion requirement should not be evoked to the detriment of a defenseless victim where considerations of timeliness and delay may advise consideration of the exhaustion requirement simultaneously with the merits of the case. Here, the victims argue that the Haitian legal system is unduly slow in responding to cases of people targeted by authorities due to their political affiliations. In combination with the life-threatening conditions encountered in their own neighborhoods, this undue delay supports the victims' request for immediate action on his case notwithstanding any unresolved exhaustion issues.

VII. PLEASE INDICATE WHETHER THE VICTIM'S LIFE, INTEGRITY OR HEALTH IS IN JEOPARDY. WAS THE ASSISTANCE OF THE AUTHORITIES REQUESTED, AND IF SO, WHAT WAS THE RESPONSE?

61. Immediate action is required to protect the civilians living in the above-referenced Port-au-Prince neighborhoods. Eyewitnesses to events who provided affidavits to investigators did so only on the condition of anonymity due to their well-founded fears that revealing their identities as witnesses to the atrocities described above would place them in grave danger.

62. Since PNH has played a prominent role in committing massacres against civilians, eyewitnesses to these events are understandably fearful of reporting what they have seen to the police. Such witnesses are too afraid in many circumstances to seek medical attention in hospitals for fear they will be recognized and assassinated by PNH or related attaches. Additionally, since MINUSTAH forces have either participated in or ignored the neighborhood massacres, witnesses do not feel safe contacting MINUSTAH for assistance.

VIII. PLEASE INDICATE WHETHER THE CLAIM CONTAINED IN THE PETITION HAS BEEN FILED WITH THE UNITED NATIONS HUMAN RIGHTS COMMITTEE OR ANY OTHER INTERNATIONAL ORGANIZATION

Signatures:

/s/ Lionel Jean-Baptiste

/s/ Medea Benjamin

/s/ Pat Clark

/s/ Brian Concannon Jr., Esq.

/s/ Katrina Kasey Corbit, Esq.

/s/ Seth Donnelly

/s/ Joan Huguenard

/s/ Kirsten Moller

/s/ Joseph Nevins

/s/ Dean Royer, Esq.

/s/ Ben Terrall

/s/ Desiree Welborn Wayne, Esq.

/s/ Standish E. Willis, Esq.

Date: November, 2005