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On the Promise and Perils of Democracy in Haiti

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1997 LAWYER OF THE AMERICAS AWARD

ESSAY

On the Promise and Perils of Democracy in Haiti*

IRWIN P. STOTZKY**

I.	INTRODUCTION	2
II.	RESTORING DEMOCRACY	5
III.	POLICE, MILITARY, AND PARAMILITARY FORCES	7
	A. <i>The Police and the Justice System</i>	7

* © 1997 Irwin P. Stotzky. I wish to thank the officers and staff of the Inter-American Law Review for their generosity in honoring me with the 1997 Lawyer of the Americas award. I am particularly grateful to Allyn Danzeisen for her energy and efficiency. I am especially grateful to Ian Hochman for all of his wonderful work in organizing the banquet. David Schiller deserves special thanks for editing the essay. Mistakes, of course, are mine alone.

** Irwin P. Stotzky is the 1997 recipient of the *University of Miami Inter-American Law Review's* Lawyer of the Americas Award. Irwin P. Stotzky is a Professor of Law at the University of Miami School of Law. He has served as an attorney and adviser to Jean-Bertrand Aristide and adviser to the René Preval administration. In these positions, he has been in charge of organizing the investigations and prosecutions of those who committed massive human rights abuses during the military coup period, between 1991 and 1994. This essay reflects the substance of the remarks Professor Stotzky made on April 11, 1997, at the banquet honoring him as the 1997 Lawyer of the Americas. It also reflects the ideas and themes of his recently published book, *SILENCING THE GUNS IN HAITI: THE PROMISE OF DELIBERATIVE DEMOCRACY* (Dec. 1997).

B.	<i>The Army</i>	11
C.	<i>The Paramilitary Forces</i>	12
IV.	UNITED STATES OPPOSITION TO DEMOCRATIC CHANGE	13
V.	CONCLUSION.....	23

I. INTRODUCTION

The history of Haiti is a tragic tale of political corruption and military violence. It is a tale of ceaseless coups, assassinations, massive violations of human rights, and a sharply divided people with starkly opposed visions of state and nation undergirded by a rigid class structure. If the Haitian "mind" is used as a metaphor to signify the political, economic, and social positions of the majority, Haitians have been of one mind only twice in their history. Their first coming together as a people was between 1791 and 1804, when, after a brutal, protracted thirteen-year struggle against slavery and French colonialism, the Haitian people won their independence, thus creating one of the first independent nations and the first black nation of the Americas. The second was in 1990, when the vast majority of Haitians elected Jean-Bertrand Aristide to the presidency in the country's first democratic and free election. The events that have occurred since that election, however, reflect the deep divisions that developed between these two defining moments.

The December 1990 election of Aristide did not lead to peace and prosperity. Even before Aristide took his oath of office, and during the first several months of his term, the military and paramilitary forces, with the outright support of the other corporatist anti-democratic forces, challenged his legitimacy in a series of unsuccessful coup attempts. In September 1991, they finally succeeded in overthrowing him. The coup was not only successful; it also resulted in a three-year reign of terror that left approximately five thousand people dead, thousands more brutalized, and the country in financial ruin.

After almost three years of unsuccessful international efforts to negotiate the restoration of the Aristide government, the Carter delegation, backed by the threat of international military intervention, reached an agreement with the Haitian military leaders that allowed the democratically elected government to return to power. On October 15, 1994, Jean Bertrand-Aristide was returned to power as Haiti's leader, the first time anywhere that a democratically elected president replaced the very de facto military leaders who deposed him. The reinstatement held great promise for the Haitian people, who have long lived in a land of brutal political violence and abject poverty. It opened the possibility that Haiti may begin to create the conditions needed for the blooming of democracy.

But transitions from authoritarian regimes to democratic ones are problematic at best. Serious threats to the formation of a democratic government by former coup leaders and their followers include strong possibilities of renewed violations of human rights on a massive scale and a return to state-sponsored repression. Indeed, authoritarianism cannot be controlled and obliterated merely because many sectors of society approve of implementing democratic methods in the development of a nation. Powerful social, political, and economic forces block the journey from dictatorship to democracy. These underlying forces are an organic conception of society based on a rigid class structure that leads to a dualistic vision of the social order; corporatism; anomie and unlawfulness; and extreme concentrations of institutional, economic, and social power. The same unusual combination of factors had led to massive human rights abuses, including the deaths, tortures, and beatings of thousands of people during the 1991-1994 coup period.

Much remains to be done to bring democracy to Haiti. Economic, political, and social stability must be assured. The corporatist political and social structure has to be fundamentally transformed so that the less privileged classes, which make up over ninety percent of the Haitian people, can enjoy the basic necessities that ensure a dignified life. Institutional structures, such as limitations on the executive branch, an independent, non-corrupt, competent judiciary, and a representative congressional branch, must be developed and stabilized. The rule of law and the guarantees of due process have to be consolidated. They must become basic requirements of social interaction and ac-

cepted as such in both public and private life. This is necessary not only to protect human rights and the democratic process, but also to reach a satisfactory level of economic, political, and social development.

In the long run, democracy cannot be created in Haiti without the internalization by the Haitian people of the legitimacy of a constitutional system based on the rule of law. They must also internalize universal standards of achievement and competition necessary to the proper functioning of a democracy. A belief structure that celebrates the overpowering significance of status and connections—a mainstay of Haitian society and one which severely cripples the transition to democracy—must be fundamentally altered.

Haitians must create a society based on the establishment of a deliberative democracy—a society that requires equal participation and rational discourse among all segments of the populace. This discourse is essential for the creation of a moral consciousness of humanity that recognizes the value of human rights and abhors any notion that disregards them. The principle of democratic legitimacy requires a continuous order of mutually assured and encouraged autonomy in which political decisions are manifestly based on the judgments of citizens who are perceived as, and are in fact, free and equal persons. It requires that the expression of self-governing capacities operate both within the formal institutions of politics and in the affairs of daily life. The democratic order must also satisfy the conditions of equal freedom and autonomy that give it definition.

This democratic conception suggests several possible avenues to travel in attempting to attack the apparently intractable problems in Haiti. Indeed, the preliminary plan adopted by the Aristide government, with the help of the international community, attempted to implement some of these goals through several specific actions. The plan was to assure security, revitalize the economy, restructure institutions to eliminate corruption and incompetence and thus improve the administration of justice, and change the relationship between the small elite ruling class and the vast majority (everyone else). Predictably, positive changes have been slow in coming. Attempted reforms have not always been successful. Opposition to reforms have come from every sector of Haitian society and from the international community, particularly from the United States. The opposition, of

course, differs depending on the particular reform at issue. Nevertheless, while the problems are daunting, the first steps, however small and halting, have been taken. The problems are no longer fueled by the tyranny of a dictatorship dedicated to murder, torture, and corruption; they are the problems of an inexperienced and incompetent democracy with a people yearning to assume the responsibilities of citizenship and striving to eradicate the violence of the past.

Democratic change requires great sacrifices. The scope of required changes in Haiti, however, is so massive, complex, and interrelated, that each suggested reform has an impact, either positive or negative and sometimes both, on almost every other segment of planned change. The one constant requirement for change is security. In the remainder of this essay, I will thus focus my comments on the issue of security.

II. RESTORING DEMOCRACY

The United States and many other countries, such as Argentina, Canada, France, Tobago, and Trinidad, took leading roles in the Multi-National Force (MNF), which restored the democratically elected government to power. These countries and others in the hemisphere initially worked with the United States through the Organization of American States (OAS) in calling for a trade embargo of Haiti, launching an intense diplomatic initiative in the hope of peacefully resolving Haiti's political crisis, and sending the U.N. International Civilian Mission in Haiti (MICIVIH) and the Inter-American Commission on Human Rights to bear witness to Haiti's appalling human rights situation during the 1991-1994 coup period.

The international community, led by the United States, took these unprecedented measures in Haiti because of a sincere security concern. It was in the self-interest of every democratically elected government in the region to do so. Anyone contemplating the overthrow of a democratically elected government or the commission of massive human rights abuses anywhere in the region, or indeed in the world, can now expect a strong, unified hemispheric and international response. Coups will not be allowed to succeed. The international community's success in helping to reverse the coup in Haiti and creating a secure environment is a success for a policy of supporting democracy and se-

curity in the world at large.

Indeed, the often publicly repeated U.S. security and foreign policy interest in Haiti was to "restore democracy." President Clinton, Secretary of State Warren Christopher, and influential senators and congresspersons continuously made statements to this effect. There was, however, perhaps an even more urgent political concern for the Clinton administration. These officials wished to eliminate the flow of Haitian refugees to the United States and thus diffuse a potential political problem for Clinton's 1996 presidential re-election bid.

The steps toward restoring democracy were slow in coming. After almost three years of frustrating international efforts to negotiate the return of the democratically elected government, President Clinton made a televised address directly threatening the Haitian military that it must relinquish power or be forced out of Haiti. He then sent a delegation consisting of former President Jimmy Carter, Senator Sam Nunn, and General Colin Powell to Haiti to negotiate the departure of the military coup leaders. While the agreement was controversial, it did lead to the departure of these leaders and the arrival of approximately twenty-thousand U.S. troops and a smattering of troops from other nations—the MNF.

The United States continuously claimed that security was a prerequisite to the transition to democracy in Haiti. Its stated goals and policies, however, were often undermined by contradictory actions which seemed to defeat any opportunity to create a secure environment. Moreover, the U.S. defense establishment has been involved in activities in Haiti that intentionally undermined the democratically elected government and supported the military coup leaders and their paramilitary auxiliary forces which, even today, continue to terrorize the Haitian people.

To begin with, the assertion of power by the United States during the transition period—between September 19 and October 15, 1994—was uncertain and incremental. One of the major goals of this invasion was to disarm the Haitian military and paramilitary forces. Even before the reinstatement of Aristide, the democratically elected government sought assistance for disarmament from the United States and the United Nations. The U.N. Secretary General's Report of July 15, 1994, which details the original mandate of the United Nations Mission in Haiti

(UNMIH), the successor to the MNF, states in Point 9 that one of the tasks of the United Nations forces is to “assist the legitimate authorities of Haiti in ...[a]ssuring public order, including the disarmament of paramilitary groups.” Neither the United Nations nor the United States has attempted to fulfill this mandate. Under the Carter agreement, the United States had pledged to cooperate closely with the Haitian military, but, by doing so, failed to take effective action to bring the army and its allies under control. In several instances during the September 19 to October 15, 1994, transition period, for example, U.S. forces passively observed as attachés murdered pro-Aristide demonstrators. The United States did take some steps to disarm the military, particularly of its heavy weaponry, but it never seriously attempted to disarm the paramilitary forces. The reasons appeared to be the fear that possible American casualties would produce a political backlash in the United States, as they had in Somalia, and the U.S. commitment under the September 18, 1994, agreement with the coup leaders that the United States would cooperate with but not supersede the Haitian military and police. Moreover, the U.S. defense establishment feared that an Aristide government, without opposition from these corporative forces, would not be a government it could control. But the failure to search for the estimated 250,000 automatic weapons, hidden in caches all over the country, has led to violence against the democratic government and poses a continuing threat to its very survival. Indeed, for Haiti to achieve significant and sustainable demilitarization of the public order, decisive steps have to be taken to reform the police, and to confront the former military forces and the paramilitary forces—rural affiliates of section chiefs or urban attachés—that remain underground. The Aristide government had developed a plan to do so and the Preval government, improvising as circumstances change, continues to execute the plan.

III. POLICE, MILITARY, AND PARAMILITARY FORCES

A. *The Police and the Justice System*

Until Aristide’s reinstatement, Haiti lacked even the pretense of having a professional police force. Moreover, until sometime in 1995, and certainly during the coup period, the po-

lice had been members of the armed forces, and received no police training. Members were rotated in and out of the police and army. In some cases, an officer literally had two uniforms hanging in a closet and would pick out the appropriate one—police blue or military khaki—depending on the month or the assignment. Haiti's police did not "walk the beat", investigate crimes, or perform any other police functions. Instead, they murdered and beat people, rode in trucks with high caliber weapons, and shot first and asked questions later—and then only to interrogate the innocent person who fell into their hands about his or her political opinions and activities. The police were not only for hire to the rich, but would arrest someone on the mere unsubstantiated complaint of some favored person—on flimsy evidence provided by a jealous neighbor, jilted lover, or ambitious farmer who wanted more water from the irrigation canal or a piece of particularly fertile land. Law enforcement was intensively political, not neutral or objective.

In addition, the entire justice system was corrupt and extortion thrived at every level. People paid the police to arrest a rival; prosecutors and judges demanded payment before opening an investigation or issuing an order. Section chiefs arbitrarily imposed taxes that were not found in any law and then threatened those who refused to pay with prison or a beating. Jailers often demanded payment before a family was allowed to bring food to a detainee, and also extorted money from desperate prisoners aiming to avoid beatings or death.

There was no difference between an arrest and an abduction. Without a "paper trail," the person slipped into a black hole of Haitian detention centers, official and unofficial. These centers uniformly failed to keep registers as they are required to do under both Haitian and international law. Unofficial detention centers, of course, are illegal, so access to family, lawyers, and medical care and to the outside world was impossible. It was precisely during these extensive periods of incommunicado detention that the detainee was most at risk of being tortured, beaten, or killed.

Conditions in Haitian prisons and detention centers were inhumane and cruel. These prisons—most often remnants of garrisons built by the U.S. occupying forces between 1915 and 1934—lacked all basic services: electricity, potable water, toilets, and medical supplies. Even in a country as desperate as Haiti,

the prisons were materially worse than the normal, appalling living conditions of the desperately poor masses. Detainees were kept in close, overcrowded quarters, and prisoners were forced to sleep on the floor. Men and women were not segregated. Sexual abuse was common, and diseases were easily transmitted. Children, who, of course, are particularly vulnerable, were imprisoned with adults.

The armed forces, including the army, the police, rural sections chiefs, attachés, members of the armed paramilitary group Front for the Advancement and Progress in Haiti (FRAPH), threatened, beat, and killed thousands of people, including judges, prosecutors, and lawyers. Indeed, on December 14, 1993, these forces executed Justice Minister Guy Malary in broad daylight because he was investigating the execution of a prominent Aristide supporter, and because he attempted to enforce the rule of law. A Haitian proverb summarizes well the Haitian people's attitude toward the law, and its representatives, particularly the police: "law is paper, bayonets are steel."

Aristide understood that a democracy must first have a system of justice that adhered to the rule of law. The police had to be reformed if there was any hope for democracy. The Aristide government attempted to deal with the police force by first creating an interim police force (IPSF), purging it of human rights violators, and then attempting to create a new and professional National Police Force. From the first day of Aristide's reinstatement, Haitians strongly voiced their objections to the continued involvement of former members of the Haitian Armed Forces (FAD'H) in IPSF and their possible involvement in the new National Police Force. Nevertheless, recycled FAD'H personnel made up three quarters of IPSF. The unstated reasons for this continued involvement were the concerns of the United States about the need to maintain established institutions and ensure political and ideological counterbalance. The stated reasons, voiced by some Haitian officials and by the international community, were that these individuals would bring a degree of experience to the job and that their involvement would discourage violent activities of a major group of disaffected and potentially destabilizing individuals in the society at large.

In response to these stated reasons for employing FAD'H members, the United States Agency for International Development (U.S.AID) created a series of programs for the training and

reinsertion into society of these members who were not selected for public security programs. Unfortunately, the programs were budgeted to absorb many, but not all, of the former FAD'H members who were not integrated into IPSF. Moreover, many of the FAD'H members who were integrated into IPSF were not allowed to be members of the National Police Force. On December 5, 1994, President Aristide issued a presidential decree formally dissolving the IPSF. Over the years, as classes of the newly trained National Police Force have graduated, members of the IPSF, particularly former FAD'H members, have been demobilized. The plan is that when all of the purging and training is completed, Haiti will have a professional, well-trained force of between five thousand and six thousand people.

Both the stated and unstated reasons for using former FAD'H members in the police force proved to be seriously flawed. FAD'H members proved to have no professional competence and little interest in obtaining such skills. In addition, the former members of FAD'H have been involved in a long series of serious, destabilizing, violent acts, including attacks on the main Haitian National Police headquarters and Parliament, assassinations of police officers, murders of two pro-Aristide congressmen, and conspiracies to assassinate Aristide and Preval. They have also formed criminal gangs, kidnapped several wealthy people and held them for ransom, and committed armed robberies. Until the Haitian National Police Force is professionalized, the only hope for restraining these killers is the continued presence of United Nations peacekeeping forces. But these forces, originally scheduled to leave Haiti by November 31, 1997, actually left in December 1997. The United Nations, however, did leave a small number of police officials to continue the training of the National Police Force. Presently, former FAD'H members represent a potentially disaffected, destabilizing group, and the National Police Force still lacks the professional skills to create and maintain a secure environment. These harsh, unpleasant realities have led President Clinton to leave several hundred U.S. troops in Haiti for an indefinite period, even though there is strong opposition to this action from politicians in both countries.

B. The Army

The 1987 Haitian Constitution mandates that the country maintain an army. Thus, some form of army must exist until the Constitution is legally amended. Since Aristide's return to power in October 1994, public opinion in Haiti urging the abolition of the army has been almost universal. Consistent with this strong sentiment, the Aristide government enacted a series of reforms that virtually dissolved the Haitian army by February 1995. By June 1995, the army had been reduced to a fifty-man presidential band.

The problem remains, however, as to what to do with the purged members of FAD'H. Indeed, during President Preval's term, these disaffected former army members have continued to wage a campaign of violence. In addition to the crimes discussed above, the former FAD'H members have murdered elected officials, systematically assassinated at least a dozen police officers between April 27 and August 31, 1996, and organized gangs that terrorize ghetto neighborhoods, sometimes murdering pro-government civic leaders, and selling and disbursing narcotics among the poor masses.

The National Police Force is itself in need of substantially more and better training and experience if it is to eradicate a nearly two-hundred year tradition of arbitrary behavior and repression. Indeed, the approximately fifty-three hundred member force has been widely accused of resorting to some of the harsh practices of its predecessors. According to a report by a coalition of human rights groups issued on January 22, 1997, and a separate report issued by MICIVIH on August 2, 1996, in the approximately eighteen months since its deployment, the Haitian National Police Force has committed serious abuses, including torture and summary executions. These reports claim that the police have killed anywhere from twenty-six to forty-six civilians and have wounded many others while engaged in policing functions. Simultaneously, these reports claim that, despite these problems, as well as serious deficiencies in experience and a dire lack of equipment, the police were generally adhering to the rule of law and doing an effective job. Moreover, the phenomenon of massive and systematic violations of human rights that typified the *de facto* rule has disappeared.

C. The Paramilitary Forces

In order for Haiti to achieve significant and sustainable demilitarization of public order, decisive steps must be taken to confront the paramilitary forces—rural affiliates of section chiefs or urban attachés—that remain underground. Disarmament has not occurred because the United States, the MNF, and the United Nations peacekeeping force have refused to alter their position against disarmament. They have continuously refused to hunt for weapon caches. Haitian authorities, of course, simply do not have the power or skills to disarm these forces by themselves. Moreover, complete disarmament may be impractical, if not almost impossible, because Haiti shares a porous border with the Dominican Republic and because huge weapon caches are hidden throughout Haiti.

Given this reality, the most effective strategy may be to pursue individuals rather than weapons. The theory is that, once their impunity to sponsor or undertake terrorist and criminal acts is challenged by the aggressive and systematic application of legal prosecutions, Haiti's paramilitary forces will recede into the background. Indeed, there have been some positive developments along those lines. For example, for the first time in Haitian history, a government agent has been convicted for committing a political murder. Gerard Gustove ("Zimbabwe"), an attaché, and prominent member of FRAPH, has been convicted of murder for the political assassination of Antoine Izméry, committed during the coup period. Emmanuel Constant, a former FRAPH leader, has been arrested in the United States and found to be deportable. Unfortunately, it is highly unlikely that he will be deported, because the United States made a deal with him that allows him to stay here. If he is ever returned to Haiti, however, he will stand trial for committing human rights violations, including murder. Finally, the Special Investigative Units created during Aristide's term, and consisting of highly trained police investigators and prosecutors, continue into Preval's administration to concentrate on investigations of serious human rights violations committed during the coup period.

This strategy of prosecuting individuals depends, of course, on the existence of a functioning police force and justice system, as well as secure prisons. It also requires a strong linkage among police, judicial officers, and community-based civic-society

organizations. The latter groups, which are among the most developed elements of Haitian society, could be called on to help create accountability, partnerships, and oversight.

The National Police Force, judiciary, and prison system remain insufficiently developed to perform their tasks. The help of the international community, therefore, is crucial. It must help Haitian officials find, obtain evidence against, and prosecute the most notorious human rights violators. The United States must play a central role in this crucial task. But the United States has done the opposite; it has actively protected human rights violators in an attempt to hide its past connections to the dictatorship.

IV. UNITED STATES OPPOSITION TO DEMOCRATIC CHANGE

While the United States publicly professes its full support for the creation of a democracy in Haiti, particularly in creating a secure environment and bringing to justice the perpetrators of massive human rights violations, several actions taken by the U.S. government work directly against its stated goal. The U.S. defense establishment, led by the Central Intelligence Agency (CIA), used and continues to engage in practices in Haiti that are certain to harm the chances for democracy to develop and are simply unacceptable in the intelligence services of a democratic nation. For example, it maintained foreign agents, or assets, on the payroll even after CIA officials had credible information that they were involved in assassinations, torture, and drug smuggling. In addition, CIA officials hid information from relevant U.S. officials and Congress, and directed a misinformation campaign against Aristide.

This campaign to sully the reputation of Aristide and thus limit his power to make fundamental changes in Haiti has been particularly destructive to the creation of democracy. Certain factions of the U.S. government have always had serious reservations about Aristide. From the outset, President Clinton's goal of restoring Aristide to power was undermined by officials in the defense establishment—the CIA, Pentagon, and State Department. Early in Aristide's exile, for example, the CIA distributed a report that branded him as mentally unstable, claiming that he had, for an extended period, been a patient in a mental hospital in Canada. Senator Jesse Helms, basing his conclusion on

this CIA report, referred to Aristide as a "psychopath" and a "demonstrable killer." The report turned out to be a complete sham. The media, after extensive investigations undertaken by the Miami Herald and the Cable News Network (CNN), found no record of Aristide being treated for mental depression in Canada. The report was revealed to be based on unconfirmed information supplied by the very coup leaders who overthrew him. Sometime after this discovery, the CIA even admitted that it had been paying individuals in the Haitian military leadership for this kind of information since the early 1980's.

Unfortunately, these revelations did not end the campaign against Aristide. These very same U.S. government agencies and officials continued to spread false and unsubstantiated information about Aristide and his government even after he had been reinstated to power. For example, throughout Aristide's term and into President Preval's term, certain journalists, obtaining their information from these suspect U.S. sources, claimed that Aristide's people were involved in approximately eighty murders. Even officials of the U.S. Embassy in Port-au-Prince have stated that there is no evidence to support these allegations or to link Aristide to any of the murders. Moreover, they have estimated the number of politically motivated deaths to be ten, not eighty. Furthermore, the U.S. Embassy officials believe that those who were murdered were most likely victims of supporters and members of the former *de facto* government.

More recently, certain U.S. officials have portrayed Aristide as being anti-democratic and a serious impediment to the Preval government's attempt to improve the lot of Haiti's masses, simply because he is opposed to the total privatization of Haiti's state-owned industries. These officials claim that Aristide is opposed to this plan merely for political purposes, so that he can strengthen his position and thus regain the presidency in the next presidential election scheduled for 2000. While it is correct to claim that Aristide is opposed to many aspects of the privatization plan, he is not opposed to all parts of it. He is certainly not attempting to harm Haiti's starving masses. Indeed, quite the contrary; he is representing a large peasant movement that is strongly opposed to the current privatization plan. Nevertheless, allegations that his position simply reflects political expediency continue to flow from U.S. officials.

These attacks on Aristide, however, are only a single part of

the activities that are harming the opportunities for democracy in Haiti. The U.S. defense establishment, in a variety of other ways, continues to oppose the democratization of Haiti. These agencies are protecting the very military coup leaders and their supporting cadre that terrorized the Haitian people for decades. For example, the U.S. military forces have consistently refused to return 160,000 pages of documents, photographs, and video and audio-cassettes they seized from FAD'H and FRAPH headquarters during the initial intervention in September 1994. The documents contain information about murders, tortures, beatings, and the relationships between FAD'H, FRAPH, and the CIA. They would, of course, be crucial evidence in criminal prosecutions.

Moreover, the United States allowed the leader of FRAPH, Emmanuel Constant, who had been a paid employee of the CIA from at least 1991 to 1994, to enter the United States surreptitiously, knowing full well that he is wanted on murder charges in Haiti. Almost immediately upon discovering that Constant was in the United States, the Haitian government formerly requested that he be arrested and extradited to Haiti. But it took the U.S. government almost two years to respond to the Haitian government's continuing extradition request. Although he was finally arrested and found to be deportable, the U.S. government, led by the CIA, has cut a deal with him. The arrangement allows Constant to stay in the United States indefinitely in exchange for his promise not to talk about his relationship with the CIA. Indeed, he is free to leave and return to the United States at his own discretion.

Besides training many of the FAD'H and police leaders who have terrorized Haiti during this century, when Aristide returned to power in 1994, U.S. forces helped FAD'H and FRAPH members escape Haiti, break down their weapons, and hide them in caches all over the country. The United Nations estimates that some 250,000 automatic weapons are hidden in caches all over Haiti. FAD'H and FRAPH are still using these weapons to commit murders and robberies and to terrorize the Haitian people.

This is not all, however. Despite the U.S. government's assistance in reforming the Haitian judicial system through training programs for judges and lawyers, certain agencies of the U.S. government have sometimes interfered in the prosecutions of

human rights violators. These actions, of course, undermine the effort to create a secure environment which will allow democracy to flourish.

The most infamous example of this interference in Haiti, but certainly not the only one, is the Marcel Morissaint case. Mr. Morissaint had been arrested by U.S. troops when they first entered Haiti in September 1994 for storing automatic weapons in his home. Soon thereafter, a warrant was issued for his arrest on charges of murder in the Guy Malary and Antoine Izméry cases. As part of my investigation into the murders, I interviewed Morissaint several times and later verified that his allegations about the U.S. involvement with the Haitian military coup leaders were accurate.

I first interviewed Mr. Morissaint at the Haitian National Penitentiary in July 1995. At that time, he promised to tell me about the U.S. involvement in Haiti and the murders of several prominent Haitians if I could get him transferred to the Petionville Prison. He feared for his life if he had to remain in the National Penitentiary because security was lax and because he was marked for death if he gave us any information or indeed even if he was seen speaking to us. In the Petionville Prison, he would be locked up by himself and have better security. After several days of attempting to see and convince Haitian officials to transfer Morissaint to the Petionville Prison, I was unable to get him transferred. But, having providence on my side, the Haitian government randomly selected Mr. Morissaint to be transferred to that prison because the National Penitentiary was so overcrowded. Morissaint believed that I had secured his transfer, and thus agreed to speak with me. It was in the Petionville Prison that he began to reveal his secrets. He decided to help us because, he claimed, the Drug Enforcement Agency (DEA) and the CIA—the agencies he worked for—had abandoned him. He feared that agents of these agencies would assassinate him. The interview I describe below took place on August 12, 1995.

Having evaluated conditions at the Petionville Prison we told Ms. Uranie, the Haitian government official who accompanied me and my partner—my translator and fellow investigator, Jean-Jean Pierre—that these areas were not suitable for interviewing Mr. Morissaint. We asked that he be brought next door to the police station where the duty officer vacated his room to enable us to interview Mr. Morissaint on his own. Ms. Uranie

sat outside the door, just out of earshot. Mr. Morissaint asked if his handcuffs could be removed and we agreed; he remained seated throughout the interview, only pausing in his replies on the few occasions when one of the police had to pass through the room to go next door.

We began the interview by asking if he was content with the security arrangements and he said: "Yes, there is plenty of security here." We informed him that we had discussed his security needs with the Minister of Justice and even the President and he seemed pleased. We pointed out that on this occasion we had secured privacy and protection for him to be able to talk with us without being overseen or overheard and he seemed duly impressed, as were we.

We then explained that in order for us to be of any further help to him, we had to have a sense of what his cooperation would mean to us. We told him that we needed witnesses to the Izméry, Malary, and Vincent killings; who planned them, who ordered them, who participated in them. He then said: "The problem is, if I am going to cooperate, what about security for my family and my children as well as for me? I am ready to give you my full cooperation." He claimed that his present detention had nothing to do with his crimes as an attaché but that: "There are people who paid to put me in prison because of my work for the DEA and CIA."

Asked about the size of his family, he said he had a wife, four children, a little sister and a father. All of them would need protection if he were to cooperate.

We asked him a series of questions of which the following is close to a verbatim transcription. In any event, it represents the substance of what was said.

IS: What was your role as an attaché; to which units were you attached and with whom did you work?

MM: I was an Anti-Gang attaché. I was recruited by the United States Embassy to be a spy, an informant for them on Anti-Gang activities. They told me to infiltrate the Anti-Gang unit so I could pass on the information about drug deals. One day I heard the discussion about Izméry [sic] and about how the operation was conducted.

IS: What did you hear?

MM: I heard the discussion about using the car that would be [was?] used to crash into his car. I had seen his car parked in the lot in front of the Anti-Gang headquarters.

IS: You mean Izméry or Malary?

MM: Malary, not Izméry.

IS: Were you present at the killing or at its planning?

MM: I only knew about it afterwards, not before. I heard about it in the Anti-Gang headquarters parking lot. I came and I stood next to the car and saw the guys who had been participants talking. Eric Avril said: "The only regret that I have was one of us was wounded." I said, "Where did this happen?"

IS: Who killed Malary?

MM: Eric Avril actually shot Malary. Lionel Cadet, Lieutenant Cesar Abellard, and Salem all participated in the murder. (I do not know any other name for Salem).

IS: What was the Zel Sekey?

MM: That was our team. Major Renault was the commander of this group. He was under Jackson Joanis and Michel Francois. Joanis was the one to whom they reported back. The other guys were in it, Eric Arvil, Lionel Cadet, Lieutenant Cesar Abellard, Salem. Francois was the boss.

IS: What about La Belle Equipe du Champ de Mars?

MM: I do not know anything about that.

IS: Do you know the true names of [and I led him through all the pseudonyms in the Izméry indictment without explaining the source of the connection]?

MM: Gros Fanfan is Lucien Alexandre. I have met Zimbabwe and Ernest Ravix in jail but I did not know them before. I do not know any of the others.

IS: As an attaché, did you have an identification card and were you paid?

MM: I had an identification card. But I never received a penny. Attachés are not paid at all.

IS: You mentioned involvement in drugs, who was involved?

MM: These guys [meaning all the Anti-Gang people] were heavily involved in drugs. Michel Francois was the leader. He worked with the Colombians to smuggle drugs through Haiti into the United States.

IS: Who did you report to in the United States Embassy—in the DEA and the CIA?

MM: Ben Butcher (Potutchere?) at the United States Embassy was the head of the DEA and he and another guy, Bill, who was a CIA man. They were both black, both spoke Creole. I always reported to them. I was paid different amounts at different times, sometimes \$500 and sometimes \$300.

IS: What about Marc Kernizan, was he involved in Anti-Gang drug activity?

MM: He was with the thirtieth company, not the Anti-Gang. [Mr. Morissaint seems to have nothing on him.]

IS: Where were the drugs coming from and where were they going?

MM: Joanis and Francois, particularly Francois, who was the leader, were involved with drugs. The drugs were exported to the United States and imported from Columbia.

IS: What kind of drugs?

MM: Cocaine and sometimes heroin. [Mr. Morissaint stared at me as if I were an idiot.]

IS: If Joanis and Francois were extradited, would you be willing to testify against them in drug cases?

MM: Yes. But I would prefer not to have to testify. I would prefer if I could give you the information so you could get these guys without me having to appear in court.

IS: We have all the information we need. We have information about all of these people and we have information about you. We do not want sources of information, we want witnesses.

MM: The way things work, if you testify in a drug case, you and your family are dead.

At this point his face remained expressionless, but two small tears balanced on his lower eyelids. He pinched his eyes between a wide fat finger and his thumb and appeared annoyed that his emotions had betrayed his macho self-image. The man was clearly an operator and certainly did not lack in guile and ruthlessness. If the performance was an act, however, it was an understated and remarkably well-played piece of drama, without

the hysterical excesses of other suspects I had interviewed, who had fallen to their knees and put their hands to the sky, looking up to the heavens to swear their innocence. I watched without sympathy for a minute and then went to my briefcase for a handwipe which he took and dabbed at his eyes. His composure thus restored, the rest of our interview continued as unemotionally as it had been before the breakdown.

IS: What kind of records did the Anti-Gang Unit keep on what its people did?

MM: There are records kept of arms that are issued, and some other things. I am not sure what those things are.

IS: We have witnesses who put you at the scene of the Malary killing. Where were you on that day? What were you doing?

MM: The day Malary was killed I was at the beach. I was with my wife and kids. When I came back, the next day people from the United States Embassy called me to get information. It was a Monday. The DEA and CIA people asked me where I was, what was going on. They said they were in the neighborhood and heard a lot of shooting, [initially he used the word explosion]. They asked me what had happened.

IS: I do not believe you, you are obviously not telling the truth. [His version makes no sense since Malary was killed on a Thursday. However, we obviously did not correct him. We just told him we knew he was lying]. Ministers of Justice do not get killed everyday, you must remember where you were when you found out about it.

We took four photographs of him to show witnesses, who had identified him at the different killings. He cooperated thoroughly in posing for the camera. When we told Ms. Uranie the interview was over, the guard came in to put the handcuffs on him. Mr. Morissaint shrugged and said there was no need. He walked uncuffed and uncomplaining back to the jail where he apparently felt safer than on the streets. It was also apparent that, if he did start feeling that he would be safer on the streets,

he could walk out of there at almost any time as long as the price was right and the U.S. guards were not looking.

In twenty-three years of lawyering, particularly doing criminal defense work, I can think of few clients who more accurately look the central casting part of a murderous thug. However, he sat quietly and responded in a low key manner with apparent directness to all the questions we asked. Toward the end of the interview I told him not only did I believe he was lying about his participation in the murders, but that I would not expect him to do otherwise at this stage of our investigation. "But why would I lie to you," he asked, as if it were truly beyond his comprehension that he could be disbelieved. When I pointed out that if he admitted to us his participation in any of the killings, that admission might be used against him, he just shrugged his shoulders.

While Mr. Morissaint suggested that we contact the DEA and CIA to confirm his role, and while it would be useful to be able to confirm at least one bit of information he told us, we had to consider the impact of making such contact. If we did so, it would reveal to these agencies that Morissaint had broken cover and suggest to them that we may be investigating people and activities that could embarrass some of their own. Lives could be at stake.

This is not the end of the story. On September 13, 1995, I learned from Jean-Joseph Exumé, at that time the Haitian Minister of Justice, that during the week of either August 31 or September 7, 1995, Morissaint had been forcibly taken by U.S. troops and officials from the Petionville Prison, allegedly to be tried in another city in Haiti for a robbery. This abduction was done without notice to, or permission from, the Haitian government. They had taken Morissaint to a hotel, and the next day released him. According to Exumé, U.S. officials had told him Morissaint had escaped. Exumé claimed to have reliable information that Morissaint was surreptitiously allowed into the United States. Much of Morissaint's claims were later verified. According to Allan Nairn, an investigative reporter for the Nation, U.S. Embassy officials confirmed that Morissaint collaborated with the CIA while working as an attaché with the police. Morissaint was a suspect in the Malary assassination and was receiving money from the U.S. Embassy at the time of the assassination.

On March 7, 1997, other allegations made by Morissaint were confirmed when Joseph Michel Francois was indicted in Miami on charges that he helped smuggle thirty-three tons of cocaine and heroin into the United States. According to the indictment, as one of the de facto coup leaders of Haiti, Francois placed the political and military structure of Haiti under his control to ship the drugs from Columbia through Haiti into the United States.

V. CONCLUSION

Almost three years after American troops intervened to end a murderous dictatorship in Haiti, the country continues to face daunting problems. Its ministries are inept, its Parliament somewhat paralyzed, its police too quick on the trigger, and its justice system corrupt and incompetent. Yet this represents progress of a sort. In less than three years, Haiti has gone from a dictatorship dedicated to brutality and corruption to an inexperienced and incompetent but democratically elected government that is striving to adhere to the rule of law. That is a strong signal that the international community can best help by staying involved, particularly by helping to create a secure environment. The United States only does damage to the hope for democracy by working against the attempt to bring de facto rulers to justice.

Preval is not a seasoned, accomplished leader, but he is a responsible one. He has pushed through a fractious Parliament a privatization program to sell inefficient public enterprises and modernize Haiti's economy. The reforms are intended to qualify Haiti for international funds that have been blocked; they are also intended to improve the economy and help lift the Haitian masses out of poverty. Whether they will do so, of course, is uncertain.

The reforms have been opposed by former President Aristide, who is leading a grass-roots peasant movement against the privatization plan. The United States has complained about Aristide's opposition, calling him a negative, anti-democratic influence in Haiti. This criticism misses the point of democracy. Mr. Aristide's opposition shows that Haiti is in no danger of becoming a one-party dictatorship. A political split over economic policy is an entirely appropriate disagreement in a democracy.

The abuses committed by the Haitian National Police Force are serious. The police must be held accountable for these crimes. The government is doing just that. The police's Inspector General is investigating the killings. Most of the accused have been fired and some are in jail. On a positive note, the violence has not been the result of a deliberate policy, as were the thousands of murders committed by the most recent dictatorship. Nevertheless, the police are in dire need of better training, more resources, and stronger leadership.

The murders and other acts of violence recently committed by the former military and paramilitary forces are extremely dangerous to the Haitian people. They must be disarmed, prosecuted, and punished. They represent a real threat to the development of a democracy. A related problem is Haiti's virtually non-existent justice system. The building of such a system is a top priority. The United States must stop throwing roadblocks in the way of such development while mouthing pieties about the importance of building such a system of justice.

If Haiti is to be able to feed itself, break the habits that come from almost two-hundred years of occupation, dictatorship, and mismanagement, and develop a mature democracy, it will likely need economic, technical, and security help for years to come. It deserves such help, not only because the United States has been instrumental in creating and perpetuating these conditions, but also because the Haitian people have started down the difficult path to democracy. Haiti still faces extremely serious problems. But it deserves the help of the international community because it is now a fledgling democracy with a government and people dedicated to solving them.