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Victims Rejoice at Haitian Judges’ Decision to Allow Charges of Human Rights Violations Against Former Dictator Jean-Claude Duvalier

by George Rodríguez
Category/Department: Haiti
Published: 2014-09-18

Rejoicing victims of former Haitian dictator Jean-Claude "Bébé Doc" Duvalier (1971-1986) enthusiastically welcomed the decision announced by a three-judge panel on Feb. 20 that the Caribbean island nation’s former ruler could be charged with crimes against humanity.

The Appellate Court’s magistrates thus reversed a judge’s 2012 ruling that Duvalier could not be charged with such crimes—including disappearance and torture—perpetrated during his 15-year rule by police, military, and paramilitary forces because a statute of limitations prevented victims from filing allegations.

A statute of limitations is a legal instrument setting a deadline for a lawsuit or legal claim to be filed. These instruments vary depending, among other elements, on the circumstances surrounding each case. While dismissing the human rights charges in the 2012 ruling, the judge upheld accusations of financial crimes also lodged against Duvalier (NotiCen, Jan. 16, 2014).

The three-judge panel stated that the victims’ accusations were valid and that, under international law, a statute of limitations does not apply in cases of crimes against humanity.

"Right has triumphed"

In Haitian human rights lawyer Pierre Esperance’s view, the Appellate Court’s decision is "monumental" and with it "right has triumphed."

One victim present in the courtroom, a 75-year-old woman who, as part of the opposition student movement, was jailed in 1980, told reporters that the Appellate Court’s ruling encourages victims "to continue the resistance we started."

And in victims’ attorney Mario Joseph’s opinion, since "everyone knows what happened" during Duvalier’s 15-year dictatorship, the court’s ruling "is a good decision."

Duvalier’s legal team objects

In the Duvalier camp, lawyer Reynold Georges, the former dictator’s defense counsel, reacted immediately by alleging that the court had no jurisdiction in this case since "there’s a statute of limitations," international law does not apply, and "you can’t condemn someone using a law that doesn’t exist."

Fritzo Canton, another defense attorney, went further and, after announcing an appeal, said the three-judge panel acted under the influence of what he termed extreme leftist human rights organizations.
Two months later, after Duvalier’s defense appealed the three judges’ decision, Georges stated that "no court, no judge has the legal authority to prosecute or try President Duvalier for crimes against humanity for the evident reason that there are no provisions in Haitian law for such action."

"If they try to prosecute Duvalier, when the law does not allow it, there could be frustrations that could lead to civil war," Georges warned. "The risk is there."

But Joseph Exumé, a lawyer for the victims of Duvalier’s régime, called the statement into question, explaining that Haiti is a signatory of the American Convention on Human Rights, which the French-speaking nation ratified in 1979, and that in 1998 Haiti recognized the authority of the Inter-American Court of Human Rights (IACHR).

"Duvalier can be, and should be, tried for crimes against humanity because in 1979 Haiti ratified the American Convention, which automatically became part of our national legislation," Exumé told reporters in Port-au-Prince, the Haitian capital. "So, there’s enough legal grounds to prosecute and try Duvalier for crimes against humanity."

"Bébé Doc" Duvalier’s dictatorship followed that of his father, François "Papa Doc" Duvalier (1957-1971), both régimes being based on state terror as well as corruption. The Duvaliers’ repression apparatus was a network of police, military, and paramilitary forces as well as installations where human rights violations—such as torture and illegal confinement—took place.

The former included the country’s armed forces—including the Military Police—several police forces, plus the Corps des Léopards—created in 1973 by "Bébé Doc" as his personal security service—the Presidential Guard—that reported directly to him.

An essential part of the dictators’ terror mechanism was the dreaded armed group officially called Volontaires de la Sécurité Nationale (VSN), widely known as the Tonton Macoutes. "Papa Doc" created the Tonton Macoutes (kreyol ayisien, Haitian Creole for "uncle bogeyman") in 1959 because he feared that, after an attempted coup the previous year, the military could eventually succeed in overthrowing him. The name was taken from the Haitian mythological character—Tonton Macoute—who kidnapes children he catches in a burlap bag and later eats (NotiCen, Aug. 30, 2012).

The Macoutes are held responsible for having captured, disappeared, tortured, or killed thousands of Haitians and for having massacred hundreds of people in 1964 in the city of Jérémie, the capital of the southern Grand’Anse department.

Among the installations used by the Duvalier dictatorships for detention and torture of political prisoners was Fort Dimanche, an Army base on the northern outskirts of the capital where detainees were held incommunicado and in inhumane and degrading conditions under which the majority died.

The Pénitencier National, Haiti’s main civil prison, was used by the "Bébé Doc" régime for holding political prisoners without charge or trial for lengthy periods—up to years—with common criminals under extreme conditions that included harsh treatment as well as severe overcrowding and lack of medical treatment.

**Amnesty International weighs in**

In a report issued in September 2011, Amnesty International (AI) pointed out that the return of the former dictator to Haiti in January 2011 (NotiCen, Jan. 27, 2011), after 25 years in exile in France.
following his toppling by a popular uprising, "confronted the Haitian state with its obligations under international law to investigate the crimes committed under his government and prosecute those responsible."

"The systematic or widespread use of torture and enforced disappearance in Haiti between 1971 and 1986 constitute crimes against humanity," AI added in the introduction to its report "'You Cannot Kill the Truth': The Case Against Jean-Claude Duvalier."

"Neither the passage of time nor immunity from prosecution can be used as excuses for not investigating or prosecuting those responsible for such crimes, including Jean-Claude Duvalier himself," the AI report said. "Justice is a human right. For the past 25 years, truth, justice and reparation were unavailable to the survivors of Jean-Claude Duvalier’s repressive regime. His return to Haiti stirred memories of suffering among many Haitians, not least the survivors of his infamous prisons at Casernes Dessalines, Fort Dimanche, and the National Penitentiary."

Immediately after the Feb. 20 announcement, Gilles Rivard, Canadian chargé d’affaires in Haiti, warned that, however groundbreaking, the ruling was "only one step, and we need the judicial process to take its course in a transparent and credible way."

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