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Haiti: Obliterating justice, overturning of sentences for Raboteau massacre by Supreme Court is a huge step backwards

On 3 May 2005, the Supreme Court of Haiti (Cour de Cassation) quashed the sentences of 15 former militaries and members of the paramilitary organization FRAPH (Front for the Advancement and Progress of Haiti) for their involvement in the 1994 Raboteau massacre.

Amnesty International believes that the arguments the Supreme Court presented to overturn these sentences are contrary to the Haitian Constitution and that the Supreme Court, by basing its ruling on the law of 29 March 1928, denies the primacy of the Constitution.

None of the fifteen men were in prison when their sentences were quashed, since one was deceased and the others had reportedly escaped from prison. They had been convicted on 9 November 2000 following a six week trial by jury at the Criminal Tribunal of Gonaïves. They were sentenced to terms ranging from four years to life imprisonment in a trial that was observed by national and international monitors, including officials from the United Nations International Civilian Support Mission in Haiti (MICAH). The UN Special Rapporteur and Independent Expert on Haiti in 2000, Mr. Adama Dieng, qualified the trial as a "landmark for justice in Haiti" and welcomed the fairness and transparency of the trial. The jury's verdict was confirmed by the Supreme Court on 17 November 2000.

A further thirty-seven defendants who had left the country failed to appear for trial and were convicted in absentia by the trial judge on 16 November 2000 and sentenced to life imprisonment.

The Supreme Court ruling of 3 May 2005 argues that the Criminal Tribunal of Gonaïves, having been established with the assistance of a jury, was not competent to rule the case and therefore quashed the verdict of the Tribunal. To reach this decision, the Supreme Court used article 3 of the 29 March 1928 law (1).

Amnesty International is concerned that the Supreme Court's ruling of 3 May 2005 is politically motivated since the use of the 29 March 1928 law to quash the trial sentence appears to be in contradiction of the Constitution (2). The organization believes that this constitutes a major setback in the fight against impunity in Haiti and a major obstacle for the victims' families to obtain redress. Given the current political situation in Haiti and the high degree of insecurity, it is most unlikely that witnesses would come forward to testify again if there is another trial for the Raboteau massacre.

Amnesty International is further concerned that another high ranking military officer implicated in

the Raboteau massacre could soon be released. On 16 November 2000, 37 high-ranking members of the military were convicted in absentia and sentenced to life in prison for their involvement in the massacre. Among them was former paramilitary FRAPH second-in-command, Louis-Jodel Chamblain, who was re-tried on 16 May 2005 and is currently in custody awaiting verdict. The Supreme Court ruling of 3 May 2005 did not apply to those tried in absentia because they were judged without the assistance of a jury.

Background Information

Raboteau is a heavily-populated shanty town in Gonaïves, Artibonite department. Throughout the period of the de facto military government, from 1991 to 1994, it was particularly targeted for repression by the army and paramilitary because of its activist past and the strong support of its inhabitants for ousted president Jean-Bertrand Aristide. As a result of a joint military and paramilitary operation an estimated 20 people lost their lives between 18 and 22 April 1994 after they were surrounded and attacked. Homes were sacked and burned, and men, women and children beaten.

Regarding the 37 who were tried in absentia, the US Government deported to Haiti two former colonels, Carl Dorélien and Hébert Valmond, and Jean-Claude Duperval, a former deputy commander in chief of the army, but they escaped from the National Penitentiary on 29 February 2004. Jean Pierre, alias Jean Tatoune, also escaped in August 2002. The previous government and the current interim government have not made any apparent effort to apprehend the escapees.

1. Article 3 of the law of 29 March 1928: "In the case of related offences, as stipulated in article 113 of the Code of Criminal Instruction, as well as in cases when the offences have been committed by the same individual, if one of the offences is qualified a crime, the Investigating Judge who rules on the matter, will refer the case by a single decision to a criminal court, which will try and rule without assistance of a jury."

2. Constitution of Haiti, Article 296: "All Codes of Law or Handbooks of Justice, all laws, all decree laws and all decrees and orders (Arrêtés) currently in force shall be maintained in all matters not contrary to this Constitution." [The English translation of the 1987 Constitution is taken from Gisbert H. Flantz, *Constitutions of the countries of the world. Haiti, 1987 Constitution.*]