

AMNESTY INTERNATIONAL – HUMAN RIGHTS WATCH FIDH – LAWYERS WITHOUT BORDERS CANADA

PUBLIC STATEMENTS

19 February 2016

AI Index: AMR 36/3478/2016

Haiti: Move Ahead with Ex-Dictator Case ***Don't Let Political Instability Interfere with Justice***

(Mexico City, Washington, DC, Quebec City, and Paris, February 20, 2016) – The current critical political situation in Haiti should not be used as an excuse to deny justice to the victims of human rights violations during the regime of Jean-Claude Duvalier, Amnesty International, Human Rights Watch, FIDH, and Lawyers Without Borders Canada (LWBC) said today. February 20, 2016, is the second anniversary of a judicial decision that re-opened the investigation against Duvalier – who passed away in October 2014 – and his subordinates.

On February 20, 2014, the Port-au-Prince Court of Appeal re-established the accusations of crimes against humanity and crimes related to serious human rights abuses against Duvalier and others by appointing one of its sitting judges to investigate the allegations further. However, no results have been made public so far.

“The victims of the brutal crimes of the Duvalier regime and their families have been waiting three decades for justice,” said Amanda Klasing, women’s rights researcher at Human Rights Watch. “Haitian officials and their international allies should make certain that even in this time of political uncertainty this investigation doesn’t fall off the radar screen.”

For over a year, Haiti has been sinking into a political crisis, which left the country with no functional parliament throughout 2015 and with no elected successor when President Michel Martelly’s term expired on February 7. As a result of the crisis, many judges have had to spend considerable time overseeing electoral disputes and no new judges have been appointed, as there is no functioning body with the authority to appoint them. This has had a direct impact on the capacity of the judicial system to provide proper administration of justice.

The Court of Appeal decision reversed a January 2012 ruling by an investigative judge. That ruling said that Duvalier could not be charged with crimes against humanity or other crimes filed by victims of enforced disappearances and torture during his 1971 – 1986 rule, because the legal time limit for the prosecution of those offenses had passed and that crimes against humanity were not criminal under national legislation when these crimes were perpetrated.

Following Duvalier’s death in October 2014, many national and international organizations, as well as the United Nations Independent Expert on the human rights situation in Haiti and the UN Human Rights Committee, reminded Haitian authorities of their obligation to continue legal proceedings against Duvalier’s subordinates. Several officials in Duvalier’s administration had been named by the victims in their complaints together with Duvalier. Some were quoted in the 2014 Court of Appeal’s decision.

The Court of Appeal’s judge tasked to carry out the additional investigation did continue after Duvalier’s death to interview victims and witnesses. “However, significant steps still need to be taken in order to finalize the investigation, establish individual criminal liability of Duvalier’s subordinates, and ultimately conduct a fair and impartial trial,” said Pascal Paradis, LWBC director general.

“Continued delay in completing the investigation against Duvalier’s named co-defendants demonstrates limited will on behalf of Haitian authorities to prosecute those responsible of human rights violations under Duvalier’s regime,” Pierre Esperance, secretary general of FIDH, said.

The government has not allocated additional resources to the investigating judge of the Court of Appeal to ensure he is equipped to carry out a complex investigation of this kind. Despite his multiple requests to the Supreme Council on Judicial Powers, his duties have not been adjusted to allow him to focus on this case. No special measure is known to have been taken to protect the judge or the victims and witnesses involved in the case.

This lack of political will has been aggravated by the political situation in Haiti, as the authorities have been largely focused on disputes over legislative, presidential and municipal elections, and on negotiating solutions to solve the political crisis. There have been only minimal efforts to address outstanding human rights issues, such as advancing the fight against impunity and, in particular, the investigation of Duvalier’s subordinates.

Following the election by parliament of an interim president on February 14, 2016, the interim authorities should ensure that all victims of human rights violations during the Duvalier era and their families can exercise their right to truth, justice, and reparation, including compensation and other benefits, the four organizations said. The interim authorities should ensure that the judicial investigator has adequate and sufficient resources to continue the investigation and that the investigation and any future proceedings in the case are handled fairly and without political interference.

“A fair and just conclusion to the Duvalier case could go a long way to increase Haitians’ confidence that justice is within their reach,” Erika Guevara Rosas, Americas director at Amnesty International said. “The interim authorities should make certain that the Duvalier investigation and case can promptly move forward.”

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