

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT

-----x

In the Matter of

-----x

**AFFIDAVIT OF _____ IN SUPPORT OF APPLICATION OF XX FOR
ASYLUM**

I, **Brian E. Concannon Jr., Esq.**, hereby declare under penalty of perjury that the following statements are true and correct to the best of my knowledge.

1. I do not recall ever meeting XX or her family, but I have read her affidavit and I am familiar with the broader context of her claim for asylum, including the attacks against *Lavalas* supporters leading up to the February 2004 coup d'etat and under the Interim Government of Haiti (IGH, 2004-2006), as well as the uneven progress in Haiti's democratic transition since the departure of the IGH in May 2006.
2. Haiti does not have a tradition of a civil service independent from elected politicians. Most government jobs are considered "political," in the sense that the person in the job is hired in part because of a connection with an elected official. This is especially true with the staff of a local mayor's office.
3. The lack of an independent civil service means that government employees are widely considered participants in politics. It also raises the election's stakes for a candidate's supporters. Haiti is a desperately poor country, where steady paying jobs are hard to come by. Having one's candidate elected provides the chance for a job, which can make the difference between children going to school or not, or a family member receiving life-saving medical treatment or not. The prospect of government jobs, therefore, gives elections an importance beyond the setting of government policies, and provides supporters and candidates an incentive to take extreme measures to ensure that they prevail.
4. Haiti does have a tradition of mixing politics with family. Elected officials, from the municipal level through the presidency, routinely place trusted family members in key positions, and often give family members preferential treatment in government contracts or patronage. Family members are assumed to be especially loyal to the elected official, but also to the official's party.

5. As early as August 2001, opponents of Haiti's *Lavalas* movement, which governed Haiti from 1994-2004, commenced armed attacks against the government and its supporters. These attacks included coup attempts, attacks against police officers, assassination of government supporters and the destruction, often by arson, of the property of the government and its supporters. Some of these attacks were carried out by isolated civilians, some by a group of insurgents, most of them members of Haiti's demobilized army, which was based across the border in the Dominican Republic.
6. In 2003, tensions in Haiti rose, as members of the opposition openly called for the forced removal of President Aristide. Violence against *Lavalas* supporters increased. In many cases, houses were attacked and their contents burned. In 2003 a prosecutor I worked with had his house burned down, by government opponents. He lost most of his belongings, including his law books, legal papers and a small community radio station. Two of our clients, both poor, had their houses burned because of their support for *Lavalas* in 2003.
7. There were frequent reports, from individuals, human rights groups and the media, of "death lists," names of people who were targeted for assassination. Sometimes, although not always, these death lists targeted *Lavalas* sympathizers. I never saw any such list, nor did I see a conclusive investigation of any of them. Some people reported to be on death lists were in fact killed, which indicates that at least some lists were really "death lists." I assume other lists were intended to intimidate, to force the people on them to flee, go into hiding, or cease their political activity.
8. The opposition to Haiti's government organized increasingly frequent demonstrations, which became increasingly violent as the year 2003 progressed. Demonstrators regularly burned vehicles, often government cars, but sometimes private cars, both to destroy the vehicles and to create a burning roadblock to hinder police. Opposition demonstrators also beat up counter demonstrators or others believed to be *Lavalas* supporters. Some of these people were killed. The largest venue for demonstrations was the capitol, Port-au-Prince, and the second largest venue was Cap Haïtien, Haiti's second largest city.
9. The *Lavalas* movement organized large demonstrations to counter the opposition demonstrations, and sometimes these demonstrations became violent as well. Demonstrations became a way for each side to demonstrate their relative strength and persistence. As the stakes rose in Haiti with the calls for the overthrow of the elected government, the stakes for the demonstrations rose as well. Both sides did everything they could to put supporters in the streets, including encouraging public employees to take a side. Both sides also took measures, sometimes violent, to dissuade the other side's supporters from participating in demonstrations.

10. Haitian society in general became increasingly polarized. People who had tried to remain neutral were increasingly forced to choose a side- both camps adopted a “you are with us or you are against us” attitude.
11. In February 2004, armed hostilities broke out. An armed group in the city of Gonaïves attacked the police station, and forced the police to flee the city. The insurgents based in the Dominican Republic then crossed the border and started taking towns in the north of Haiti. The insurgents were led by Guy Philippe, a former army officer, and Jodel Chamblain, a death squad leader. Each time the insurgency attacked a city, it released all the prisoners held in jail, some of whom joined the fight. Often the insurgents executed police and other officials, and prominent supporters of the elected government or *Lavalas* party.
12. Many of the insurgency’s leaders were implicated in human rights violations against the *Lavalas* movement during the 1991-1994 *de facto* dictatorship. For example, Jodel Chamblain was the second in command of the *FRAPH* (Revolutionary Front for the Advancement and Progress of Haiti) death squad. Jean Pierre, alias Tatoune, was a local *FRAPH* leader in Gonaïves. Both were convicted for murder in the Raboteau trial. Guy Philippe, was a former police officer forced to flee in 2000 when the U.S. Embassy reported to the Haitian government that he was involved in planning a coup. The UN Human Rights Mission in Haiti had accused Mr. Philippe of tolerating executions by officers under his command, and the U.S. reported that he was involved in drug trafficking.
13. The insurgents worked closely with less organized groups. They found some allies in the prisoners they released from jail. They also worked with local political groups, some of which provided informants to show the insurgents the homes of *Lavalas* sympathizers. Sometimes political groups carried out their own attacks, under the insurgents’ protection.
14. The insurgents took over Cap Haïtien, Haiti’s second largest city, on February 22, in what was probably the biggest single battle of the insurgency. Guy Philippe personally directed the attack; Jodel Chamblain led one of two teams on the ground. Although I have seen no reliable definitive casualty totals, reports indicate that the insurgents killed at least dozens, and perhaps hundreds of people. The insurgents burned the main police station in the city to the ground. The insurgents also set up a “court” system, where *Lavalas* supporters were “tried” and according to some reports, executed.
15. Eventually, the insurgents took over all of Haiti. Although the arrival of international forces eventually limited their activities, they have never been systematically disarmed, demobilized or prosecuted.

16. Violence in Haiti following February 2004 has been well-documented, by Amnesty International, teams from Harvard and the University of Miami Law Schools, Refugees International, the Committee to Protect Journalists and the International Crisis Group, among others. Although some of the violence in Haiti is non-political, all of the reports identify perceived engagement in political activity as a significant risk factor for becoming a victim of violence.
17. In April 2004, a human rights delegation from the U.S. National Lawyers Guild (NLG) visited Cap Haïtien. They observed an insurgent's garrison with 120 soldiers. The soldiers claimed to be and appeared to be controlling the city. The delegation spoke with *Lavalas* supporters, many of them in hiding, who reported widespread attacks against suspected *Lavalas* supporters. The NLG also reported seeing that several houses had been burned to the ground, including the house of the Cap Haïtien mayor.
18. The mayor of Milot, a town near Cap Haïtien, Moïse Jean Charles, told the NLG delegation that seven police officers had been killed in the attack on Cap Haïtien, and that a number of persons in the area with government jobs had been killed or held for ransom.
19. Although I have seen no definitive accounts of casualties in Cap Haïtien during the IGH's reign, a mortality study for Port-au-Prince published in *The Lancet* indicates the overall scale of the violence. The study calculated that over 8,000 people were killed in the first 22 months of the IGH (March 2004-December 2005), almost half of them for political reasons, and that there were high levels of assault, especially sexual assault, and destruction of property. Members of opposition parties were reported to be responsible for 8.5% of physical assaults, and 12.5% of crimes against property.
20. The institutions that should have protected Haiti's citizens from political violence were actually major contributors to the problem. *The Lancet* study calculated that police officers were responsible for 27% of the killings, and 20% of the assaults during the study period. Human rights groups like Amnesty International documented a pattern of illegal, politically-motivated arrests by the police.
21. The Haitian police force was sharply reduced after February 2004, because many officers considered loyal to the ousted constitutional government were killed or purged. The purged officers were replaced with an influx of former soldiers, many of whom had participated in the rebellion. This replacement violated police regulations for recruitment and promotion. It also swelled the force with a large number of officers with no civilian police experience or training, who are not accountable to the official police hierarchy or rules.

22. Under the IGH, the police opened fire at several demonstrations, especially in the first six months of 2005. Bel-Air, a crowded poor neighborhood that is considered one of the *Lavalas* movement's strongest bastions, was the most frequent site of both major demonstrations and violent police response to those demonstrations. Several police attacks on demonstrations led to deaths among the protestors. As far as I know not a single police officer has been disciplined or prosecuted for any of these killings.
23. Neither the police nor the judiciary effectively investigate or prosecute political killings. Although the government has made arrests in some high profile incidents, in most cases these arrests were illegal, and no evidence has been presented against the accused. In the one case where an adequate investigation was done- the August 2005 football game massacre- the police implicated in the killings were released. As a result, the justice system provides almost no deterrence to would-be political killers.
24. The court system has often been an instrument of repression instead of a protection against it. The IGH forced out many judges, and replaced them with hand-picked successors, willing to obey the government's whims rather than the rule of law. The most notorious example happened in December, 2005, when the Prime Minister fired five Supreme Court judges who had issued an unfavorable ruling, and replaced them with his own candidates. Such interference with judicial independence is as unconstitutional in Haiti as it would be in the U.S.
25. An unprecedented level of violent non-political crime has accompanied Haiti's political violence over the last three years. There has been a wave of kidnappings, murders, theft and violence, which the police have proven powerless to combat.
26. The common crime has two connections with the political violence. First, in some cases it is conducted by groups that originally armed themselves for political reasons. Second, the common crime can be a convenient cover for political crime. It would be easy to arrange for a political opponent to be killed, and disguise it as an ordinary murder.
27. Political violence in Haiti subsided somewhat following the return of democracy in May of 2006, but it continues. On September 21, 2006, human rights activist Esterne Bruner was assassinated near his home in the Grande Ravine section of Port-au-Prince, in what is widely considered a political killing.
28. The 2006 elections and the inauguration of an elected President last May were held without widespread violence, and hold out some hope that human rights and security conditions in Haiti will eventually improve. The new government has ended the practice of systematically arresting political opponents. But several dangers for *Lavalas* activists have survived the democratic transition.

29. First, the people involved in the past persecution remain at large. The Interim Government or the rebels freed every person imprisoned under the democratic governments in connection with human rights violations. I am not aware of a single person in jail or under investigation for anti-*Lavalas* violence committed between 2001 and 2006. The only major arrest for human rights violations committed under the Interim Government was for the August 2005 soccer massacre, and those defendants were freed on March 9, 2006. Although re-democratizing the police and justice systems will eventually create a deterrent to political persecution, the police are not making serious efforts to protect *Lavalas* supporters from political violence in the near term.
30. Guy Philippe, the rebel leader and former soldier, moved to Cap Haïtien in 2004, and set up a military base that he later converted to a political party, the FRN (National Reconstruction Front). Although he apparently provided a few token weapons to a UN disarmament program, he and his soldiers retain significant weapons. Mr. Philippe ran as a candidate in the 2006 Presidential elections.
31. Franck Romain, a Duvalierist and former mayor of Port-au-Prince, who spent 16 years in exile fleeing formal charges that he masterminded the 1987 massacre at the St. Jean Bosco Church, returned to Haiti under the IGH and also ran as a Presidential candidate.
32. Jodel Chamblain, the convicted death squad leader who helped lead the attack on Cap Haïtien, is still at large, and ran for Parliament in the 2006 elections.
33. Second, although the police technically answer to constitutional authorities, the government has not been able to purge the former soldiers that the IGH illegally integrated into police ranks. The police force is sharply reduced already while common crime is very high, so the government is reluctant to take more police, even brutal or crooked ones, off the streets. The integrated officers' supporters in the force, and in influential sectors of society at large, would fight any purge, and the government would be reminded that the same people played a key role in removing Haiti's last constitutional government. Guy Philippe, in an interview published in March 2007, admitted that some of his former soldiers are still in the police force.
34. Third, the justice system has not made its own democratic transition, and still contains the judges that the IGH illegally placed on the bench, including the 5 illegal supreme court members. These judges have demonstrated a willingness to continue persecuting *Lavalas* activists. Although dozens of *Lavalas* political prisoners have been released since the return of democracy, dozens, and by some estimates a hundred or more, remain in prison. So the judiciary does not provide deterrence to political violence.

35. Fourth, the precedent of 2004- where political violence overthrew an elected government- will encourage those left out of the government to seek power through violence. If they do, they will likely start by attacking people perceived as *Lavalas* supporters. Haiti's most recent elections, for local seats held in December 2006, were highly controversial, with wide-ranging accusations of fraud. Three months later, the winners of several of the races have not been determined. It is expected that the next elections, for parliament, expected this fall, will be even more hotly contested. I monitor a right-wing Haitian email list-serve, which has posted several calls for the overthrow of the current government.
36. I believe that several factors elevate Ms. X's continuing risk above that of the ordinary *Lavalas* supporter or official....
37. Given the risk factors, especially:.....; and 4) the severity and repetitions of the attacks against her family and their house, it is my professional opinion that XX has a continuing and well-founded fear of persecution on account of her political opinions and membership in a particular social group.

I declare under penalty of perjury that the foregoing is true and correct. Executed on ____ 2007 at Joseph, Oregon.

Brian Concannon Jr., Esq.