
Subject: IJDH: Haiti Trial Must Include Vigorous Prosecution

Institute for Justice and Democracy in Haiti

August 13, 2004

Contact Information:
Brian Concannon Jr., Director
BrianHaiti@aol.com
www.ijdh.org
541-432-0597
541-263-0029

IJDH Human Rights Alert: Haiti Assassination Trial Must Include Vigorous Prosecution of Human Rights Abusers

The trial of two notorious Haitian human rights abusers, Jackson Joanis and Jodel Chamblain, both convicted *in absentia* for the 1993 murder of businessman Antoine Izmary, has been announced for the week of August 16-20. The Institute for Justice and Democracy in Haiti (IJDH) is concerned that Haiti's interim government has not adequately prepared the case, and will not vigorously prosecute the defendants.

Antoine Izmary, a prominent supporter of President Aristide, was murdered on September 11, 1993, during Haiti's *de facto* military dictatorship (1991-1994). Mr. Izmary had organized a mass at Port-au-Prince's Sacre Coeur church, to commemorate the anniversary of the 1988 St. Jean Bosco Massacre. Soldiers and paramilitaries dragged Izmary out of the packed church, in full view of the Haitian and international media, the diplomatic community in Haiti, and UN/OAS Human Rights Observers, and shot him on the sidewalk outside.

Jodel Chamblain was the co-founder and chief of operations of FRAPH (*Front Révolutionnaire pour l'Avancement et le Progrès Haitiens*), Haiti's most notorious death squad. He was also convicted *in absentia* for murder in the 2000 Raboteau Massacre trial. After the 1994 return of Haiti's Constitutional government, Chamblain fled to the Dominican Republic, where he trained with other paramilitaries in exile. He returned to Haiti in February, as a leader of the insurgency that attacked towns in Haiti's north, killing police officers, destroying prisons and terrorizing the civilian population. Under international pressure, he turned himself into the police on April 22, 2004.

Jackson Joanis was a Captain in the Haitian Army, and head of the Anti-Gang police, the *de facto* period's most feared army unit. Joanis fled to the United States, but was deported back to Haiti in 2001, because of his record of political persecution. He has also been formally charged in the 1994 assassination of Fr. Jean-Marie Vincent.

In July, 1994, Chamblain and Joanis were convicted *in absentia* for Izmary's murder. Under Haitian law, those convicted *in absentia* have the right to a new trial. Haiti's justice system must respect that right, but in doing so it has a legal and moral obligation to vigorously pursue the prosecution. IJDH is concerned that the prosecution of Chamblain and Joanis is not being seriously pursued, because:

cases. The murder charges against them would require a jury, and five days is not nearly adequate for a trial of this complexity. In contrast, the Raboteau Massacre trial took six weeks.

2) the authorities have demonstrated a consistent reluctance to prosecute human rights abusers from the *de facto* regime, including Chamblain and Joanis. Chamblain turned himself in after an international outcry, and only after negotiations with the government, when the law required his arrest as soon as he stepped on Haitian soil. Following the negotiations, Minister of Justice Bernard Gousse admitted that the surrender had been negotiated, and declared that Chamblain "had nothing to hide." This sent a signal, especially to prosecutors who are appointed by the Minister, that Mr. Gousse had already decided on the outcome. On March 20, Prime Minister Gerard Latortue praised Chamblain and his colleagues as "Freedom Fighters." Joanis escaped from jail on February 29, and was not re-arrested until August 9, when he voluntarily turned himself in.

Joanis and Chamblain are the only two human rights abusers from the *de facto* regime who have been pursued by the justice system, even though many others had been convicted, or escaped. These include a dozen people convicted in person at the Raboteau Massacre trial, including FRAPH leader Jean Pierre, alias Tatoune and Army Captain Cenafils Castera, and three members of the *de facto* High Command convicted *in absentia* for Raboteau and deported from the U.S. Other prominent fugitives from justice include former dictator Prosper Avril, found civilly responsible for torture by a Miami court, and Henri-Robert Marc-Charles, a top advisor in the Ministry of the Interior, both ordered imprisoned pending trial for the 1990 Piatre peasant massacre;

3) there is no indication that the authorities have conducted an adequate pre-trial investigation of the Izmerly case. Under Haitian law, the investigating magistrate in the case was required to look at all relevant evidence, and interview all potential witnesses. The trial was announced only three days after Joanis turned himself in. Haitian and international human rights groups that are known to possess information relevant to the case or to have access to victims were never contacted for the investigation. In contrast, the Raboteau trial was built on three years of pre-trial investigation, including international expertise and eyewitness testimony from scores of Haitian and international eyewitnesses, and hundreds of documents.

4) it is unlikely that a judge who did want to conduct a fair trial of Chamblain and Joanis would feel safe doing so. In March, the judge who tried the Raboteau case was beaten by men claiming to be retaliating for Chamblain's Raboteau conviction. On July 1, ANAMAH the Haitian national judges' association, issued a press release deploring the increase in the politicization of justice and illegal arrests over the previous four months. Later that month, when a judge in Les Cayes ordered the release of political prisoner Jacques Mathelier, the authorities transferred Mathelier to Port-au-Prince, where he remains in prison.

Chamblain's colleagues in the insurgency continue to control large parts of Haitian territory. Rampant insecurity, including a wave of kidnappings, afflicts the capitol. Most judges do not have a security detail, many have no car, so they are highly exposed;

5) the systematic persecution and massive internal displacement of Lavalas supporters makes it unlikely that witnesses, even if asked, would feel safe testifying at trial. Prospective jurors, especially those who voted for Haiti's democratic government (a majority of voters) will be afraid to serve on the jury, leaving a pool biased in favor of the defendants;

6) the lack of advance notice of the trial prevents effective monitoring by journalists and national and international human rights organizations. The Raboteau trial was announced well in advance, and special arrangements were made for Haitian human rights organizations, international organizations such as Amnesty International and the United Nations, and journalists to observe and report on the trial.

The family of Antoine Izmerly, the victims of human rights violations under the *de facto* regime and since, and Haitian society at large all deserve a serious investigation, aggressive prosecution and a quality, transparent trial of the Izmerly case. Anything less is a disservice to these victims and an encouragement to future atrocities.

For more information:

WWW.IJDH.ORG (reports on current human rights conditions in Haiti, legal analyses)

WWW.AMNESTY.ORG (reports on current human rights conditions in Haiti, including a press release following Chamblain's March arrest)

WWW.NCHP.ORG (press releases from Haiti (8/12/04) and New York (8/13/04) regarding the trial)