

**Latin America Solidarity Coalition**

**International Tribunal on Haiti**

**Second Amended Indictment**

*Against:*

**Brigadier General Mahmoud Al-Husban**

Mario Andresol  
Lieutenant Colonel Carlos Perez Aquino  
Paul Arcelin  
Jean Pierre Baptiste  
Inspector Berthony Bazile  
Superintendent David Charles Beer

**Captain Leonidas Carneiro**

Louis Jodel Chamblain  
Leon Charles  
Brigadier General Ronald Coleman  
Major Mike Collins  
Winter Etienne  
Inspector Yves Gaspard  
Jean-Marie Guihenno

**Gen. Eduardo Aldunate Herman**

Officer Rene LeClerc  
Major General Edgardo Lugani  
Colonel Barry J. MacLeod  
Colonel Jacques Morneau  
Staff Sergeant R. Graham Muir  
Lieutenant-General Augusto Heleno Ribiero Pereira  
Guy Philippe

**General Carvalho de Siqueira**

Juan Gabriel Valdes  
Gregoire Verdon

**I. The Individuals named herein are charged with:**

1. Violating the Penal Code of Haiti, Laws Regulating the Haitian National Police, and the Constitution of the Republic of Haiti;
2. Violating the American Convention on Human Rights, American Declaration of the Rights and Duties of Man, the Inter-American Democratic Charter, the Treaty establishing the Caribbean Community; and the 1949 Geneva Protocols, especially common Article 3 and 1977 Additional Protocol II;
3. Other serious violations of the laws and customs applicable in internal armed conflict and international armed conflict, within the established framework of international law, namely: intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities, intentionally launching an attack with the knowledge that such attack will cause incidental loss of life or injury to civilians, attacking villages dwellings or buildings which are undefended and which are not military objectives;
4. Crimes against humanity committed as part of a widespread or systematic attack directed against the civilian population, with knowledge of the attack, specifically: murder; extermination; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape or any form of sexual violence; persecution any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph; enforced disappearance of persons; and, other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

**II. Criminal Responsibility**

Each of the accused, named and unnamed, is charged individually for the crimes alleged in this indictment and should be held individually responsible and liable for punishment if that person with intent and knowledge:

1. Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
2. Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;
3. For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;
4. In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose.
5. Attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intentions. However, a person who abandons the effort to commit the crime or otherwise prevents the

completion of the crime shall not be liable for punishment under this Statute for the attempt to commit that crime if that person completely and voluntarily gave up the criminal purpose.

6. In as much as any defendant named or unnamed is a military commander, or person effectively acting as a military commander, that person shall be criminally responsible for crimes alleged if committed by forces under his or her effective command and control, or effective authority and control, as the case may be, as a result of his or her failure to exercise control properly over such forces, where:

(a) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and

(b) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

7. With respect to superior and subordinate relationships, a superior shall be criminally responsible for crimes committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

8. The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;

9. The crimes concerned activities that were within the effective responsibility and control of the superior; and

10. The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

### **III. The Defendants**

No distinction has been made based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative, or a government official shall not exempt a person from criminal responsibility.

1. United Nations personnel who are or were directly involved in launching assaults against innocent Haitian civilians and unarmed persons taking no active part in the hostilities, including United Nations personnel causing, condoning or failing to prevent such violence in Haiti before and during occupation, including:

Lieutenant Colonel Carlos Perez Aquino, Battalion Commander of UN forces at Gonaives, Argentina;

Superintendent David Charles Beer, former Commissioner of the UN Civil Police Force, Canada;

Jean-Marie Guihenno, Under-Secretary-General for Peacekeeping Operations;

**Chilean Gen. Eduardo Aldunate Herman, Interim Commander of UN forces, Chili;**

Officer Rene LeClerc, UN Civilian Police, Canada;

Major General Edgardo Lugani, Deputy Commander of UN forces;

Colonel Jacques Morneau, former Commander Task Force Port-au-Prince and Chief of Staff of MINUSTAH, Canada;

Staff Sergeant R. Graham Muir, UN Civilian Police Commissioner, Canada;

Lieutenant General Augusto Heleno Ribiero Pereira, UN Force Commander, Brazil;

**General Carvalho de Siqueira, UN Force Commander, Brazil;**

Juan Gabriel Valdes, Special Representative of the Secretary-General, Chile;

Gregoire Verdon, Chief of the UN Operation Forces;

and others still to be named including those acting as agents for, and under the direction of any United Nations personnel.

2. U.S. military personnel who are or were directly involved in launching assaults against innocent Haitian civilians and unarmed persons taking no active part in the hostilities, including personnel of the U.S. government causing, condoning or failing to prevent such violence in Haiti before and during occupation, including:

Brigadier General Ronald Coleman;

and others still to be named including those acting as agents for, and under the direction of any U.S. personnel.

3. Canadian military personnel who are or were directly involved in launching assaults against innocent Haitian civilians and unarmed persons taking no active part in the hostilities, including Canadian personnel causing, condoning or failing to prevent such violence in Haiti before and during occupation, including:

Major Mike Collins, Chief of Staff of the UN mission;

Colonel Barry J. MacLeod, former Chief of Staff of the UN mission;

and others still to be named including those acting as agents for, and under the direction of any Canadian personnel.

4. French personnel still to be named who are or were directly involved in launching assaults against innocent Haitian civilians and unarmed persons taking no active part in the hostilities, including French personnel causing, condoning or failing to prevent such violence in Haiti before and during occupation, including those acting as agents for, and under the direction of any French personnel.

5. Members and former members of the Police Nationale d'Haiti (PNH) who are or were directly involved in launching assaults against innocent Haitian civilians, and unarmed persons taking no active part in the hostilities, as well as ordering and carrying out violent attacks against peaceful assemblies, causing, condoning, or failing to prevent violence in Haiti before and during occupation, including:

Mario Andresol, Director General, Police Nationale d'Haiti;

Leon Charles, former Director General, Police Nationale d'Haiti;

Inspector Yves Gaspard, Police Nationale d'Haiti

and others still to be named including those acting as agents for, and under the direction of any PNH personnel.

6. Members and former members of the former "rebel" force who are or were directly involved in launching assaults against Haitian police officers, against innocent Haitian civilians, and against unarmed persons taking no active part in the hostilities, as well as disposing of bodies in mass graves on land and at sea, and causing or condoning violence in Haiti, including:

Paul Arcelin, political lieutenant to Guy Philippe and fundraiser for the Group of 184;

Jean Pierre Baptiste, also known as Jean Tatoune, FRAPH leader;

Inspector Berthony Bazile, former Delmas Police Deputy;

Louis Jodel Chamblain, Front for the Advancement and Progress of Haiti (FRAPH);

Winter Etienne, "Cannibal Army" street gang;

Guy Philippe, rebel leader and former police chief;

and others still to be named including those acting as agents for, and under the direction, supervision or control of any "rebel" force personnel.

7. Brazilian military personnel who are or were directly involved in launching assaults against innocent Haitian civilians and unarmed persons taking no active part in the hostilities, including Brazilian personnel causing, condoning or failing to prevent such violence in Haiti before and during occupation, including:

**Captain Leonidas Carneiro:**

and others still to be named including those acting as agents for, and under the direction of any Brazilian.

8. Jordanian military personnel who are or were directly involved in launching assaults against innocent Haitian civilians and unarmed persons taking no active part in the hostilities, including Jordanian personnel causing, condoning or failing to prevent such violence in Haiti before and during occupation, including:

**Brigadier General Mahmoud Al-Husban:**

and others still to be named including those acting as agents for, and under the direction of any Jordanian.

**IV. Killing and Injuring a Defenseless Population throughout Haiti**

Beginning in February 2001 and continuing until the date of this indictment, forces of the United Nations, United States, Canada, France current and former members of the PNH and members of the

former rebel force have launched attacks against the innocent civilian population of Haiti and many unarmed persons taking no active part in any hostility. Attacks have occurred in a widespread and systematic manner throughout the capital and elsewhere in the country. These attacks have resulted in the deaths of numerous men, women, children and infants. Included among the incidents of mass killings are the following:

1. On or about March 12, 2004 U.S. Marines admittedly fired upon and killed at least two Haitian civilians in a night time raid in Bel-Air. As many as 70 people were slain during the events that evening, which have been described as the "Bel-Air Massacre."
2. Five young men of La Saline ranging in age from 17 to 24 were arrested by the police on March 20, 2004, their bodies found dead the next day discarded in different areas of the capital after having been brutally executed.
3. On Haitian Flag Day May 18, 2004 nine unarmed civilians, both demonstrators and bystanders, were killed by members of the PNH following a peaceful demonstration for the return of the constitutional government.
4. On September 30, 2004 PNH officers shot at unarmed demonstrators who were marching for the return of constitutional government. On the same, day there demonstrators from Cite Soliel were who were trying to meet up with the larger group, were shot at by armed gangs.
5. On the afternoon of October 26, 2004 masked men traveling in vehicles bearing police license plates and dressed in the black uniforms of the PNH riot police executed 13 people from the Rue Estimé quarter of Fort National near Bel-Air. Some of the victims were killed in the slum while others were driven to, and executed at Titanyen, a desolate dumping ground just north of the capital. Three of the victims were young women.
6. Four youths were found executed on Rue Péan in the Bel-Air neighborhood on October 27, 2004. Two of the victims had their hands tied. One of the victims was shirtless. One witness told a New York Times reporter that six police cars with about 15 officers took the victims out of cars and put them on the ground, before shooting them in the head.
7. At least 10 prisoners at the National Penitentiary were killed on December 1, 2004 by PNH officers and prison guards.
8. On January 14, 2005, the PNH carried out an operation in Village de Dieu, killing at least 7 persons, including a 16-year old student, and a journalist, Abdias Jean.
9. During street demonstrations on February 28, 2005 and April 27, 2005 PNH officers, along with civilian attaches acting under their supervision and control, shot and killed at least 7 unarmed demonstrators as UN troops were observing. Police officers and attaches, wearing riot gear and ski masks, opened fire against peaceful demonstrators near the United Nations mission headquarters in Bourdon, Port-au-Prince.
9. On April 5, 2005 PNH Officers shot at a car in Nazon killing the driver and wounding 2 others.
10. The PNH moved against Bel-Air residents on June 17, 2005, killing at least 10 people including a teenager and an infant.
11. UN forces carried out a large military operation in Bel-Air on June 29, 2005. Residents witnessed UN forces shoot and kill unarmed bystanders.

12. In the pre-dawn hours of July 6, 2005 about 1,400 heavily armed United Nations peacekeepers marched into a Haitian slum to raid the home of Emmanuel "Dread" Wilme, a popular organization leader, who had been demanding the return to power of President Jean-Bertrand Aristide. At least eight civilians were killed and 26 others were wounded by United Nations military forces. UN forces did not treat any of the injured, or even investigate whether civilians had been caught in the crossfire.

13. On July 14, 2005 an unarmed 17-year-old in Nazon shot six times in the head by PNH officers.

14. On August 10, 2005, masked PNH officers accompanied by police attaches, shot and stabbed to death at least five people, including a 17-year-old-girl, in the Bel-Air neighborhood of Port-au-Prince.

15. During a USAID sponsored "Play for Peace" soccer match on August 20, 2005 at l'Eglise Ste. Bernadette/l'Ecole Rose Mère, a church/school complex in the Port-au-Prince neighborhood of Martissant, several PNH officers led by the PNH's Judicial Police Unit, and accompanied by civilians armed with machetes, encircled the stadium perimeter and entered the field area ordering people to lie down on the ground. Police then fired wantonly into the crowd of over 5,000, killing several individuals in the main area. Others were shot attempting to escape over the walls of the stadium. Outside the stadium more police officers and civilians armed with machetes hacked to death or hacked and then shot other spectators.

16. On August 21, 2005 police trucks with several officers in black and camouflage uniforms wearing hoods, arrived in Grande Ravine accompanied by approximately seven civilians armed with machetes. The machete-wielding civilians, some of whom were recognized by witnesses as participants in the August 20 soccer match massacre, went from home to home identifying individuals and houses of suspected Lavalas supporters. These homes were then ignited. As occupants fled or were dragged from their burning homes, some were shot; others were hacked to death or severely wounded with machetes. At least 5-6 young men are believed to have been killed.

**17. On February 13, 2006 Jordanian UN peacekeepers opened fire on Haitians protesting election results, killing at least 1 and injuring 4.**

The grave crimes described above threaten the peace, security and well-being of the entire world. Political and social turmoil have allowed the perpetrators of these crimes to go unpunished. The International Tribunal on Haiti seeks to move Haiti away from her current despair by breaking the cycle of impunity which has gripped her past. Putting an end to impunity will promote lasting respect for the enforcement of international justice. Putting an end to impunity will also contribute to the prevention of such crimes. Justice for those responsible for the horrific tragedies outlined above is necessary to create the peaceful future, grounded on the strength of the rule of law, the supremacy of human rights, and the belief in the sacredness of humanity, that the Haitian people deserve.

**V. Scope of the Inquiry**

1. The Prosecutor requests that, to the extent additional evidence is required, the Presiding Judges constitute a formal Commission of Inquiry directed to investigate the allegations presented here.

2. The Commission of Inquiry will focus on criminal conduct and other wrongful acts committed against Haitians in Haiti. Because International Law must be applied uniformly, the Commission of Inquiry should seek and accept evidence of criminal acts by any person or government related to the conflict.

3. Comprehensive efforts to gather and evaluate evidence, objectively judge all the conduct that constitutes crimes against peace and crimes against humanity, and to present these facts for judgment to

the court of world opinion, requires that the Commission of Inquiry be directed to focus on those individuals who have committed and are actually committing crimes. The Commission of Inquiry's focus on individual criminal acts and actors is important, proper, and the only way to bring the whole truth, a balanced perspective, and impartiality in application of legal process to this great human tragedy.

Dated this 23rd day of September, 2005

By: \_\_\_\_\_

Desiree Welborn Wayne  
Prosecutor