

IN THE MATTER OF

XX YY

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**AFFIDAVIT OF ..
IN SUPPORT OF XX YY'S APPLICATION FOR
ASYLUM, WITHOLDING OF REMOVAL, AND
PROTECTION UNDER THE CONVENTION AGAINST TORTURE**

I, hereby declare under penalty of perjury that the following statements are true and correct to the best of my knowledge.

1. I have reviewed XX YY's affidavit supplemental to his application for asylum, withholding of removal, and protection under the Convention Against Torture, and I am familiar with the broader context of his claim. I have also reviewed his brother ZZ's affidavit.
2. XX's account of repeated threats by members of the anti-*Lavalas* coalition called *Convergence* and his eventual beating is consistent with my knowledge of the human rights situation in Haiti and attacks against known or perceived *Lavalas* supporters leading up to the February 2004 coup d'état and under the Interim Government of Haiti (IGH, 2004-2006). Based on my knowledge and XX's account, I believe that XX faces a significant risk that he will again be targeted for serious harm, and possibly even killed, should he be made to return to Haiti. I will detail why in this affidavit.
3. XX fits the profile of a person who would have been considered a *Lavalas* supporter, and consequently subject to attacks, because of 1) his open work on behalf of President Aristide and *Lavalas* during the 2000 elections; 2) his leadership in GGG, which would have been considered a pro-*Lavalas* organization; and 3) his general political orientation. XX's fear that he will be identified and targeted in the future for violence by local *Convergence* members and their allies who persecuted him in the past is reasonable.
4. From 1957-1986, Haiti was under the dictatorships of Francois Duvalier, then his son, Jean-Claude Duvalier. They established a militia called the "Volunteers for National Security" (VSN), initially as a counterweight to the Haitian army, and as a tool to brutally and arbitrarily stifle political dissent. Members of the dreaded VSN became known as "*macoutes*," short for "*Tonton Macoute*," originally a bogeyman character in Haitian folklore, who would steal children at night. The VSN dressed in denim pants and red

scarves to imitate the bogeyman's depiction in folklore and increase their ability to strike terror into the hearts of Haitians. They systematically attacked people who questioned their authority, criticized the Duvaliers, or organized for social change.

5. The principle target of the *macoutes* and their successor organizations was suspected supporters of "*Lavalas*." *Lavalas* is a social and political movement that initially brought together a broad spectrum of opponents of the Duvalier regime. Although the movement has narrowed its focus over the last twenty years, the majority of Haitian voters still claim allegiance to *Lavalas*. *Fanmi Lavalas* is a political party that is generally considered to be the centerpost of the *Lavalas* movement. Some people identify with the movement, but decline to support the political party. President Jean-Bertrand Aristide, who was overthrown in coups d'état in September, 1991 and February 2004, is considered the leader of both the political party and the movement.
6. XX's description of the attacks and threats against his father by the *Tonton Macoutes* is consistent with other attacks under the Duvalier dictatorships and successor governments.
7. The group that XX describes having formed with his friends in 2005, the GGGGGGG is similar to many other local grassroots groups in Haiti. XX's account of GGG—a small group of activists working for their community's development and betterment—is consistent with what I know of other community organizations in Haiti. These organizations often focus on providing services to the poor. The poor in Haiti overwhelmingly support *Lavalas*. I am not personally familiar with GGG, but a group like that would not ordinarily be known outside of its neighborhood or municipality, nor would it likely have public documentation of its activities.
8. *Lavalas* opponents would consider GGG a pro-*Lavalas* organization, and XX would be considered a *Lavalas* supporter, regardless of whether the group or the individual had a formal affiliation with the *Fanmi Lavalas* party. GGG and XX openly supported *Fanmi Lavalas* in the 2000 elections, and worked with *Fanmi Lavalas* organizers. In addition, the general political orientation of GGG, and of XX -- advocating for fundamental social change in favor of Haiti's poor -- is consistent with *Lavalas* policies.
9. As a result, I find it likely that XX and his colleagues would be seen as a threat to *Lavalas* opponents in the area. Furthermore, the described actions of XX and his community organization GGG place him squarely within the *Lavalas* social movement. He would be perceived as a *Lavalas* supporter, because he and his group supported democracy and acted in ways that they believed the government should act: they cleaned the streets, cut the grass, negotiated with teachers to lower their rates so more children could attend school, and loaned small amounts of money to people so they could buy food and medicine.
10. A party affiliated with the *Lavalas* movement has won every election in Haiti it has contested since 1990. This electoral success has been met with brutal repression. In

September 1991, a coup d'état overthrew President Aristide, and ushered in a 3-year dictatorship, known as the *de facto* regime. The dictatorship and its paramilitary allies, especially the Front for the Advancement and Progress of Haiti (FRAPH) killed an estimated 5,000 people, beat or raped tens of thousands more, and forced hundreds of thousands into hiding in Haiti or abroad. Students, who were often at the forefront of pro-democracy organizing, were often targeted for repression by the army and FRAPH.

11. René Préval was elected President in 1994, and served until February 2001. Although President Préval served his entire time in office -- the first elected President to do so-- Haiti's society became increasingly divided between *Lavalas* supporters and opponents. This divide led to one cancelled election, and an increase in politically-motivated violence.
12. In 2000, Haiti held two series of elections. The first series, which started in May, was for all local elected officials, and most of Parliament. The second series, held in November, was for President and 1/3 of the Senate. These elections were bitterly contested.
13. Leading up to the 2000 elections, most of the anti-*Lavalas* political parties banded together in the *Convergence Democratique* (Democratic Convergence) coalition. Although the formal coalition engaged in mostly legal opposition to *Lavalas*, many of its supporters engaged in violent and provocative attacks on *Lavalas* supporters.
14. Although democracy was restored to Haiti in 1994, a group of insurgents opposed to the *Lavalas* movement, comprised mostly of former soldiers and of paramilitaries from disbanded death squads, commenced armed attacks against Haiti's elected government and its civilian supporters in 2001. 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.
15. One of the top leaders of the insurgency was Guy Phillippe, a former soldier and police officer trained in Ecuador. Mr. Phillippe had been accused by the UN peacekeeping mission of complicity in summary executions while he was a police chief. Mr. Phillippe fled Haiti in 2000 after it was revealed that he was plotting the overthrow of the government and accused of drug trafficking by the U.S. Drug Enforcement Agency and the U.S. Embassy in Haiti. Mr. Phillippe, along with other former soldiers and *Police Nationale d'Haiti* (PNH) officers, began training in the Dominican Republic.
16. In 2001, our office (the BAI) received several reports that Mr. Phillippe remained in contact with current PNH officers, and was collaborating with them to plan attacks against Haiti's civilian government. In fact, Mr. Phillippe's group attacked the police academy and several police stations on July 28, 2001, killing several officers who resisted. That December 17, Mr. Phillippe's group organized an attack against the National Palace. The

group seized the Palace police communications, and told all officers to support them or be shot. Loyal officers eventually repulsed the attack, but one was killed. Both attacks benefitted from significant help from inside the police force, and in both cases disloyal officers impeded the investigations.

17. 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. Members of the opposition openly called for the forced removal of President Aristide. Violence against *Lavalas* supporters increased. Many of the political opponents of *Lavalas* began resorting to violent provocations of the police, or violent attacks against the government and its supporters. In many cases, houses were attacked and their contents ransacked and even burned. In 2003 a prosecutor I worked with had his house burned down, by government opponents. Two of our clients, both poor, had their houses burned because of their support for *Lavalas* in 2003.
18. In February 2004, the insurgency began a major campaign, attacking and taking cities and towns in the north of Haiti. Each time the insurgency attacked a city, it released all the prisoners held in jail, some of whom joined the insurgency. Often the insurgents executed police and other officials, and prominent supporters of the elected government or *Lavalas* party. The insurgents publicly declared that they would kill *Lavalas* supporters and officials and police who would not join them, and they have made good on that promise.
19. Eventually, the insurgents took over all of Haiti, culminating in the ousting of Aristide, who was again forced into exile on February 29, 2004. The elected government was replaced by an unconstitutional interim government, which unleashed another wave of repression against the democracy supporters, especially the *Lavalas* movement. Although the arrival of international forces eventually limited their activities, they were never systematically disarmed, demobilized or prosecuted.
20. Many of the insurgency’s leaders were previously 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* death squad. Jean Pierre, alias Tatoune, was a local *FRAPH* leader in Gonaives. Both had been convicted for murder in the Raboteau trial in 2000.
21. 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, which often provided informants to show the insurgents the homes of suspected *Lavalas* and Aristide sympathizers. Sometimes political groups carried out their own attacks, under the insurgents’ protection.
22. Violence in Haiti during the two years 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. All of the reports identify perceived engagement

in political activity as a significant risk factor for being targeted. The targeting of XX and his GGG colleagues, particularly his account of the *Convergence* attack on himself and his brother and the ransacking of the home, is consistent with these reports. XX's engagement in political activity, in the form of strong past support for the *Fanmi Lavalas* political party in getting out the vote and helping them win the election in 2000, as well as community organizing made him a clear target for persecution because he would have been viewed as pro-Aristide and pro-*Fanmi Lavalas*.

23. The persecution of *Lavalas* supporters included mass killings. The Port-au-Prince morgue reported disposing of over 1,000 bodies in March 2004 alone, many bearing signs of summary execution. 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 Interim Government of Haiti (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. Human rights groups like Amnesty International documented a pattern of illegal, politically-motivated arrests and detention of activists, especially *Lavalas* supporters. Dissidents were routinely arrested without a warrant and kept in jail without a hearing and without access to the courts.
24. The institutions that should have protected Haiti's citizens from political violence were actually major contributors to the problem. The persecution included torture by both the insurgents, who often mutilated their victim's bodies before killing them, and the police, who used torture as an interrogation technique. The persecution was carried out by a wide spectrum of *Lavalas* opponents, including the insurgents in areas they control, Haitian police, and even top government officials such as the Minister of Justice. *The Lancet* study calculated that police officers were responsible for 27% of the killings, and 20% of the assaults during the study period.
25. 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 were not accountable to the official police hierarchy or rules.
26. XX's account of being unable to obtain help from the police on a number of occasions, and the lack of meaningful police or judicial action after the attack on him and his brother is consistent with the reported situation in Haiti. In fact, it could have been dangerous to report politically-motivated attacks to a judge or police officer, because police and judicial officials themselves regularly participated in persecution of *Lavalas* supporters.
27. Neither the police nor the judiciary effectively investigate or prosecute political killings and other politically-motivated crimes in Haiti. 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.

28. 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.
29. In 2006 Haiti held elections and inaugurated an elected President and legislature. This democratic transition arrived without widespread violence, and the human rights and security conditions in Haiti did subsequently improve. But several dangers for those who, like XX, are believed to be *Lavalas* supporters have survived the democratic transition.
30. **The first remaining danger** for those believed to be *Lavalas* supporters is the fact that the perpetrators of past anti-*Lavalas* persecution remain at large. The IGH or the rebels freed every person imprisoned under the democratic governments in connection with human rights violations in February and March 2004. The insurgency's leaders—including those who were implicated in human rights violations against the *Lavalas* movement during the 1991-1994 *de facto* dictatorship—are at large. This includes Jodel Chamblain, the second in command of the *FRAPH* death squad, and Jean Pierre, alias Tatoune, a local *FRAPH* leader in Gonaïves before 1994. Both were convicted for murder in the Raboteau massacre trial in 2000. Mr. Chamblain even ran for the House of Deputies in 2006.
31. Guy Philippe, the rebel leader and former soldier, 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 are believed to retain significant weapons. The U.S. Drug Enforcement Administration attempted to arrest Mr. Philippe in Haiti in July 2007, and again on March 25, 2008. Mr. Philippe's ability to elude two DEA arrest operations indicates that he has extremely good allies within the Haitian National Police. In an interview published in March 2007, Mr. Philippe admitted that some of his former soldiers are still in the police force. Mr. Philippe ran as a candidate in the 2006 Presidential elections.
32. Franck Romain, a Duvalierist and former mayor of Port-au-Prince, spent 16 years in exile fleeing formal charges that he masterminded the 1988 "St. Jean Bosco Massacre." St. Jean Bosco was the church of Jean-Bertrand Aristide at the time, and the focal point for organizing what subsequently became the *Lavalas* movement. On September 11, 1988, thugs reportedly under the control of Mr. Romain attacked the church during a mass

celebrated by Fr. Aristide, killing many of his supporters and destroying the church. Mr. Romain ran for President in 2006, and is expected to run again in 2010.

33. The former insurgents and their allies were never systematically disarmed, so they retain their ability to strike at their enemies. Although the UN Peacekeeping Mission proposed several disarmament programs, none of them led to significant disarmament of the former insurgents. Those who persecuted *Lavalas* supporters during the IGH's reign have not been disarmed or pursued by the police for their crimes. In many cases, they continue to intimidate, threaten, attack, and even kill *Lavalas* supporters and activists.
34. **The second remaining danger** for those believed to be *Lavalas* supporters is the unreliability of the police force, because of former insurgents illegally integrated into the force under the IGH, and a high level of criminality within the force. The constitutional authorities have struggled to purge the former soldiers that the IGH illegally integrated into police ranks. The police force is sharply reduced already, so the government is reluctant to take more police, even brutal or crooked ones, off the streets.
35. The police are unable to stop politically-motivated violence at the local level, especially against *Lavalas* supporters. Police often do not investigate reports of persecution, and there is little deterrence against politically motivated attacks and killings by these groups.
36. **The third remaining danger** for those believed to be *Lavalas* supporters is the justice system, which still contains prosecutors and judges placed there by the IGH, including the illegal Supreme Court justices. These judges have demonstrated a willingness to continue persecuting *Lavalas* activists. Although some *Lavalas* political prisoners have been released since the return of democracy, many remain in prison. Although the judiciary has kept political prisoners in jail, it has made no effort to recapture any of the people convicted of persecuting *Lavalas* supporters during the *de facto* dictatorship or other period.
37. **The fourth remaining danger** for those believed to be *Lavalas* supporters is Haiti's politics, which continue to be hotly contested, unpredictable, and potentially dangerous. Haiti's current government is a weak one. No party won a majority of seats in Parliament in the 2006 elections, which forced the construction of two coalition governments. The Ministers in the coalition governments have come from a variety of ideological perspectives, which has made the government inefficient at best, and often ineffective and contentious.
38. The first coalition government fell on April 13, 2008 and the prime minister resigned. The government was not replaced until five months later in September, when the Senate finally approved President Préval's third nominee for Prime Minister, Michele Pierre-Louis.
39. Another source of political instability in Haiti is the elections that the Constitution required for 1/3 of the Senate by the end of 2007. The delays in setting an official date resulted

from fundamental disagreements within the Provisional Electoral Council and within Haitian politics (the electoral council is “provisional” because, twenty-one years after ratification of Haiti’s 1987 Constitution, the steps to choose a Permanent Electoral Council have not been taken). These disagreements are similar to the disagreements that led to aborted elections in 1997, contested elections in 2000, and spiraling polarization that ultimately caused the 2004 coup d’état and massive political violence.

40. The Senate is now missing 12 of its 30 members, and it struggles to obtain a quorum. Any four Senators can deprive the body of a quorum by leaving the building, which makes it difficult for the chamber to pass legislation. This will create a significant backlog of legislation, which will in turn increase political unrest and raise the stakes for the next elections. Other than the recent protracted consideration of the nominated Prime Minister, the Senate does not effectively handle controversial matters. Senate elections are scheduled for April 19, 2009, but problems have already arisen as all candidates from the *Fanmi Lavalas* party have been excluded from the ballot.
41. Political strife has been violent in the past in Haiti, and it continues to be so. For example, on August 12, 2007, Lovinsky Pierre-Antoine, a prominent *Lavalas* activist and announced Senate candidate in the upcoming elections, disappeared. He remains missing. Wilson Mesilien, who has replaced Mr. Pierre-Antoine at the head of their grassroots organization, has been receiving threats that have forced him into hiding. On October 28, 2007, Maryse Narcisse, one of the top *Lavalas* officials in Haiti, was kidnapped on her way home from a political meeting (she was freed after a few days).
42. It is likely that politics in Haiti will become even more hotly contested in the coming months and years, due to the anticipated return of former President Jean-Bertrand Aristide, currently in exile in South Africa. President Aristide is a polarizing figure: his supporters will go to great lengths to support him, while his opponents will go to great lengths to oppose him. He has announced a general intention to return to Haiti when the conditions are right, and he has the constitutional right to return at will. To date, President Aristide has not announced a date for his return, in deference to President Préval’s wishes. But as President Aristide’s supporters become increasingly discontent with current government policies, there is an increasing mobilization for his return. If he returns, or if it appears likely that he will return, opponents of *Lavalas* may try to block his return through violence and intimidation of *Lavalas* supporters.
43. On April 11, 2008, the U.S. State Department issued a travel warning recommending that Americans defer all unnecessary travel to Haiti. Travel to Haiti by U.S. officials has been restricted.
44. **The fifth remaining danger** for those believed to be *Lavalas* supporters is the precedent of 2004—where political violence overthrew an elected government. This precedent 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.

45. **In sum**, based on my experience and knowledge of country conditions in Haiti, I believe that the events related in XX's affidavit would lead to a reasonable fear of persecution if he was to return to Haiti. The attacks described in XX's affidavit are consistent with other documented attacks and abuses committed by members of the *Convergence* and other *Lavalas* opponents. I believe that XX will be at great risk of future harm and persecution because of a) his perceived and real political opinions, b) his past political activities, and c) the expectation that he would engage in political activities in the future.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.