

Open letter to the Minister of Justice and Public Safety
Me René MAGLOIRE demanding the release of the political prisoners among which
The former parliamentary Amanus MAETTE

Me René MAGLOIRE
Minister of Justice
& Public Safety

Minister Magloire,

We just heard the latest statements of the President of Gonaïves Appeals Court, Me Hugues SAINT-PIERRE, regarding the *Arrêt-ordonnance* on *La Scierie* case set at the latest for next mid-November.

After hearing those words, it is necessary and urgent to make our thoughts known in this open letter written on the occasion of the 930 days of illegal and arbitrary detention of one of the hundreds of political prisoners, the former parliamentarian Amanus MAETTE.

If today we take the responsibility to address you, Minister Magloire, it is because we believe that the situation is extremely serious.

The approach used in the *La Scierie* case showed the dangerousness of the ALEXANDRE/LATORTUE interim administration. Its tenacious program of vengeance caused considerable harm to the political prisoners, particularly the former parliamentarian MAETTE who has been illegally and arbitrarily detained for 930 days. But once the interim authorities tried to give a legal cover to their maneuvers, the actual facts grabbed them by the throat.

We draw to your attention, Minister Magloire, the fact that those illegal arrests and arbitrary detentions were irregular and made in total absence of evidence. The details of these proceedings are not easy to understand, since the interim government tried to make the political prisoners look like common criminals or offenders. The government was implying they were criminals, but none has been convicted.

In fact, it was on the basis of a mere press release dated March 2, 2004 by the National Coalition for Human Rights (NCHR, now called RNDDH), that the former parliamentarian Amanus MAETTE was arrested on March 19, 2004 and then interrogated on the same day at DCPJ by one of the executives of NCHR, Marie Yolène GILLES; and also that Prime Minister Yvon NEPTUNE was imprisoned on June 27, 2004.

But the point here is that MAETTE's illegal arrest was not examined independently by the Juge d'Instruction of the Trial Court of Saint-Marc before which he had not been called before his incarceration. This why it is important, Minister Magloire, to remind you the comments made by this organization that instigated the arrest of former Parliamentarian MAETTE and of many other prisoners :

“The NCHR takes this opportunity to congratulate the members of the “Front Résistance pour la Libération Nationale” for these highly symbolic arrests.” (NCHR Press release, March 2, 2004)

We see these prolonged and preventive detentions as a major violation of the exercise of civil and political rights, without which democracy would not exist.

Therefore, it is worth reporting to your attention, Mr. Kofi Annan's request, in his report to the Security Council to the interim government, demanding the release of Fanmi Lavalas members arbitrarily detained:

“The UN Secretary General has urgently demanded the release the members of Fanmi Lavalas of former president Jean-Bertrand Aristide detained with no charge and in violation of their human rights.

« I should like to remind the Transitional Government that all the arbitrary detention of people solely for their political affiliation is in contravention of fundamental human rights. », said the Secretary General”(United Nations, November 22, 2004)

“Un Appareil de justice au service du politique (A system of Justice at the service of politics)” (OAS Special Mission in Haiti)

Minister Magloire, in any democratic nation, one only needs to prove that the judicial proceeding have been biased to the point of constituting a denial of justice to stop all prosecutions.

The judicial authority who, in principle, is in charge of ensuring that the legal rules are respected, has one more time modified the rules governing the criminal procedure. This approach facilitated a media lynching well before the « accused » could plead their defense, as Ms. Chantal THÉRIAULT, chief of Justice Program of the OAS Special Mission in Haiti, analyzed so in a report dated September 23, 2005 :

“Unfortunately it is of interest to note the violation of the defendants’ fundamental individual rights in this case in the September 14, 2006 Ordonnance and in the long judicial process from the arrest procedure.

It is confusing to note, for example, that some defendants have been in custody since now more than 17 months!” (This is MAETTE’s case, now 31 months, NDLR). » (Preliminary Legal analysis on the Closing Ordonnance of the Juge d’Instruction in «*The Scierie case*»)

Therefore, instead of determining an impartial justice and transcending old ghosts of Haitian politics, the interim authorities transformed the judicial apparatus, with the help of some of the press, into a weapon used against political enemies, according to the analysis:

“Ultimately, it is important to note that the Ordinance of September 14 in the “la Scierie case”, as it is usually called, by failing to follow the law’s restrictions,, leads us to think that the judiciary represents, once again, an instrument to the service of politics.” (Ibid.)

She concludes by saying:

“(…)From a legal point of view, we still do not see on what proof or on what legal provision the Magistrate has based his assertions and conclusions, which involves a lack of rigor.”(Ibid.)

We think it is a real threat to law, a violation of international conventions to which our country is a signatory, as the OAS Special Mission in Haiti noted in its report on the Ordonnance dated September 14, 2005:

“The presumption of innocence guaranteed by the international treaties that Haiti incorporated in its national legislation (article 14-2 of the International Pact relating to the civil and political rights, article 11-1 of the Universal Declaration of the Humans right, article 8-2 of the American Convention relating to the humans rights) is violated many times in this Ordinance” (ibid.)

You will remember that in a press briefing on October 14, 2005, Mr. Thierry FAGART, representative of the High Commission on Human Rights and chief of the MINUSTAH Human Rights Department, when asked:

“Are you satisfied with the Ordonnance ?” he replied:

“No, I am not, but I won’t comment on that. I already sent my comments to the UN High Commissioner of Human Rights.”

Moreover, in a press release dated July 28, 2006, the Minister of Foreign Affairs of Canada, Peter MACKAY, following the release of the former Primer Minister Yvon Neptune, underlined:

“Canada was concerned by the prolonged detention of former Haitian Prime minister and other prisoners, violating the Haitian laws and the international obligation of this country.”

According to analysts following tightly the evolution of this case, the reaction of the new Canadian government marks turning points when, under the former government of Paul Martin, funds transited by the Canadian International Development Agency (CIDA) and amounted US\$80,000 were distributed to a non-

governmental human rights organization (NCHR, called after RNDDH) invent this injustice machine, right after February 29, 2004.

On its part, Amnesty International, in a press release released on August 1, 2006, estimated that people known as supporters of former President Jean Bertrand ARISTIDE, should be brought before a court or simply released, while considering them as political prisoners. The accusations against them are political. Furthermore, more than a hundred Fanmi Lavalas grassroots activists are involved, as they were also arrested and detained with no charge, and no trial.

“The prolonged detention of former president Jean-Bertrand Aristide’s partisans under Gerard Latortue’s transitional government was politically motivated and made a mockery of Haitian law and the international standards on human rights.”

Ministre Magloire, it is important to note that, in the «La Scierie case», at least two (2) prisoners have been freed to date : Former Minister of Interior, Jocelerme PRIVERT, then former Prime Minister, Yvon NEPTUNE; while the former parliamentary Amanus MAETTE as well as two other accused, Hora JEAN-BAPTISTE and Wantalès LORMEJUSTE, are still detained, in spite of a pre-trial release request presented by their lawyer, to the judges Gonaïves Appeal Court dated May 23, 2006, at the same time and under same circumstances as the former Minister PRIVERT’s request.

Please not that in the context of the Appeal, on October 8, 2005 against the notorious September 2005 ordonnance and under Article 15 of July 26, 1979 Law setting a time limit of 30 days from the date of appeal for the Appeals Court judges to decide the appeal, the judicial authorities have once again violated the detainee’s rights by throwing the law aside. After approximately 400 days, no decision has been issued.

Minister Magloire, given this lamentable fact, the judicial authorities of Gonaïves did nothing, other than pronounce a lot of good words. This is why, we ask you to intervene urgently so that the above-cited law does not continue to be of good intent without effect, so that this intolerable ostracism stops against the political prisoners, their parents and friends, and so that those political prisoners, particularly, the former parliamentarian, find their freedom.

We cannot understand how your democratically-elected government, which, by the voice of the president, His Excellency René Garcia PREVAL, during his trip to Europe, publicly recognized and admitted the existence of political prisoners in Haiti, and declared its intention to promote democracy, could allow such an aberration committed by the precedent government, notwithstanding Mr. Preval’s popular legitimacy issued from the free and democratic elections of February 7, 2006.

We look forward to receiving your prompt reply.

With the expression of our most profound respect for the defense of democratic liberties in the context of a true state of law in our country.

Issued in Port-au-Prince, on October 19, 2006, on the occasion of the nine hundred thirty (930) days of illegal and arbitrary detention of former Parliamentarian Amanus MAETTE.

PETITIONERS :

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Kolektif Fanmi Prizonye
Kemly ARNE

Fondation 30 Septembre
Lovinsky PIERRE ANTOINE

cc. Mr... René Garcia PREVAL, President of the Republic of Haiti
Mr. Jacques Edouard ALEXIS, Prime Minister
Mr. Edmond MULET, UN Secretary General Representative in Haiti
Mr. Denneth MODESTE, OAS Secretary General Representative in Haiti
Ms. Louise ARBOUR, UN High Commissioner for Human Rights
Mr. Joseph LAMBERT, President, Sénat and National Assembly
Mr. Pierre Eric JEAN-JACQUES, President, Chambre des Députés
Mr. Necker DESSABLES, Protecteur du Citoyen
Mr. Thierry FAGART, Human Rights Department, MINUSTAH
Mr. Clare K. ROBERTS, President, Inter-American Commission on Human Rights
Mr. Louis JOINET, UN Independent Expert on the Situation of Human Rights in Haiti
Mr. Gerardo DUCOS, Amnesty International