

## **DECLARATION OF BRIAN CONCANNON JR., ESQ.**

I, Brian Concannon Jr., Esq., hereby declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following statements are true and correct to the best of my knowledge:

### **Introduction**

1. My name is Brian Concannon, Jr. and I am a member of the Massachusetts Bar, and Executive Director of the Institute for Justice & Democracy in Haiti (“IJDH”).

2. Several historical factors discussed in detail in this declaration have led to uncertain land tenure in Haiti, which has resulted in violent disputes that have led to killings and other persecution, especially against poor people. As I describe in this declaration, the Haitian government has utterly failed to control these killings for decades.

3. Since 2000, I have testified as an expert on country conditions in Haiti in at least 25 asylum or deportation cases in the United States, both on behalf of applicants and the United States Government.

### **Experience and Expertise**

4. IJDH documents human rights violations in Haiti, and pursues human rights cases in Haitian and international courts. I have worked full-time on issues related to human rights and democratic development in Haiti for the last 22 years. I lived and worked in Haiti from May 1995 until February 2004. In 1995 and 1996, I worked for the United Nations/Organization of American States Civilian Mission to Haiti as a Human Rights Observer.

5. From 1996 until 2004, I co-managed the *Bureau des Avocats Internationaux* (International Lawyers Office, or “BAI”). The BAI helped victims and the justice system prosecute human rights cases, and advised the Haitian government on justice issues. I held a Brandeis International Fellowship in Human Rights, Humanitarian Intervention and International Law from 2001 to 2003, and a Wasserstein Public Interest Law Fellowship at Harvard Law

School in 2005-2006. I have served as Director of IJDH since 2004. I am fluent in French and Haitian Creole. My *curriculum vitae*, attached to this affidavit, provides additional details on my experience on human rights in Haiti.

6. I follow the political and human rights situation in Haiti closely through my work at IJDH. I am in almost daily telephone or email contact with colleagues and collaborators in Haiti, and regularly read news reports and human rights reports about Haiti. I last visited Haiti in February 2017. During that trip I met with human rights lawyers, victims of human rights violations, leaders of women's rights organizations and grassroots advocacy groups, among others, to assess the current human rights conditions in the country.

7. I am regularly consulted regarding human rights, governance and country conditions in Haiti by government officials from the U.S. and Canada, United Nations officials, human rights organizations, scholars and journalists. I have provided training on human rights, politics and country conditions in Haiti to U.S. immigration officials and law students, and briefings to members of the U.S. Congress and their staffs. I write regularly on human rights in Haiti, including book chapters and articles in academic journals and newspapers. I speak frequently about human rights in Haiti at law schools, universities and conferences, and am frequently interviewed for radio and television programs throughout the world.

8. I am familiar with the extremely high level of uncertainty over land tenure in Haiti, and the problems generated by the uncertainty, including deadly violence. It is often difficult to determine with confidence who owns any particular parcel of land, and many parcels have several claimants, each with mutually-exclusive chains of title.

9. Part of my responsibilities with the United Nations in Haiti was analyzing a large land conflict that had persisted for decades between two families in the Artibonite Department,

leading to outbreaks of violence that led to killings in most of those decades. With the BAI, we investigated two massacres that were the product of long-running land conflicts, the 1987 Jean Rabel Massacre and the 1990 Piatre Massacre, and helped the justice system to prosecute both. At IJDH, I receive several inquiries every year from people reporting that their land had been stolen from them through fraud and force. In November 2016, a former high-level government official, who was close to the then President, was shot twice, once in the neck. He told me that he believed the attack against him was ordered by two government officials who were trying to obtain title to land he owned.

### **Background: Uncertain Land Title in Haiti Leads to Conflict and Hostile Takeovers**

10. Land has historically been the primary source of wealth in Haiti, from the poor families scratching out a subsistence living to the large landowning families that have traditionally dominated the country's economy and politics. For most of Haiti's history agriculture has been the predominant economic activity. As insecure as it is, land tenure is more secure than many other ways of holding wealth in a country that suffers from so many natural disasters and political upheavals, including thirty-three coups d'état. In this context, control over land is the least unpredictable way of a poor family obtaining the next meal or a wealthy family building a dynasty.

11. One cause of the land tenure uncertainty is poor records. Haiti's government has historically had weak structures for collecting and preserving information. Until recently, most Haitians did not have a birth certificate or other official recognition of their existence, and even now up to a quarter have no birth certificate. The country's archives have suffered repeated destruction, through natural disasters such as the earthquakes of May 1842 and January 2010 and regular hurricanes, as well as burning through accidental fires and arsons that regularly destroyed

large areas of Haiti's major cities before the advent of modern fire-fighting equipment.

Documents are also regularly removed from archives and destroyed by people who believe the documents are harmful to their interests.

12. Even to this day, most transfers of land are not formally recorded. Poor people find the legal costs and recording fees prohibitive, and know that even if they had a recorded, legally-enforceable title, they could never afford the cost of going to court to defend it. They also fear that official cognizance of their ownership might invite someone to defeat their title. The majority of people in rural areas cannot read, which decreases their ability to rely on written records. As a result, poor people rely on possession and informal neighborhood understandings of land ownership to protect their tenure.

13. A second cause of land tenure uncertainty is political violence. Haiti has had thirty-three coups d'état by some counts, and the majority of its governments have obtained power through force. These governments have often rewarded their supporters with parcels of lands seized from opponents or otherwise obtained illegally. These transfers were often not recorded correctly. As various governments came and went, the relative strength of competing claims rose and fell, sometimes leading to displacement of the occupants, but almost never leading to a conclusive determination among the claims. This process has led to some parcels having multiple chains of title going back a hundred years or more to the same property.

14. A third cause of land tenure uncertainty is corruption in the justice and political systems. The corruption has always worked with the political violence to undermine land tenure, but over the last dozen years it has led to a rash of "judicial" land invasions. Typically, an invader with some combination of financial and political power, will obtain the services of a local justice of the peace or prosecutor, who issues an order purporting to establish the invader's

right to a parcel and order the eviction of anyone on the land. The invader will come with an unassailable force- typically a combination of police, armed civilians and bulldozers—to quickly execute the eviction and establish the invader’s control before any legal challenge can be made.

15. Land claimants will often secure the arrests of anyone they believe is interfering with their claim. I worked on a case involving the 2014 arrest of two engineers and three construction workers at a worksite of a parcel involved in a notorious land dispute in the Vivi-Mitchel neighborhood of Port-au-Prince. The workers were arrested without a warrant, merely for carrying out legal work activities. The workers were released after a week because of a public outcry, but most people arrested in Haiti spend more than a year in jail before going to trial. The workers were working for a landowner whose claim was opposed by the then-President’s daughter-in-law’s good friend. Most observers concluded that the landowner was able to obtain those arrests because of her connections to the President.

16. A fourth cause of land tenure uncertainty comes from Haiti’s tradition of equitable distribution of inheritances. Land is the largest component of most people’s estates, if they have any at all, and both custom and intestate succession laws divide land equally amongst the decedent’s children. This leads to rapid fragmentation of land ownership, especially with the large families typical in rural Haiti. If a couple owning a hectare of land (about 2.5 acres) divided it among their seven children, and one of those children passed their share on equally to their five children, each would have 1/30 of a hectare, which would then be divided among their children.

17. The division of property amongst descendants is often not officially recorded, and is subject only to informal, family records. The importance of land and the dearth of alternatives for economic activity in rural Haiti leads each generation to cling to its share rather than sell out to one of the other owners. As a parcel becomes increasingly fragmented, and the owners’ family

ties increasingly distant, the ability of informal methods to keep reliable records, and of family dynamics to mediate disputes, both diminish.

18. Land tenure insecurity is a significant cause of underdevelopment in Haiti. Peasants refrain from investing in their lands' productivity, out of fear that improvements will make it a more attractive target for takeovers. Landowners building a business on their land must include the risk of losing title to the property in their calculations. Following Haiti's 2010 earthquake, several U.S.-based organizations told me they had raised significant sums—usually millions of dollars—to invest in housing for earthquake victims, but were held back by the lack of title security. Doctors Without Borders, a large international medical organization, built a hospital after the earthquake on land it thought it had leased. But when former-President-for-Life Jean-Claude Duvalier asserted that he actually owned the land, Doctors Without Borders was forced to dismantle its recently-completed and urgently-needed facility. Although I do not know how Doctors Without Borders failed to learn of the conflicting claims to the land earlier, their lawyer in the transaction was a friend of Mr. Duvalier.

### **Disputes Over Land in Haiti Often Turn Violent**

19. The importance of land in Haiti means that a lot is riding on land conflicts. For poor families, it can be a matter of life and death, as even a little land can make the difference between a minimal diet and malnutrition, or mean the ability to buy life-saving medication. As a result, disputes over land can often be violent. The violence included killings, beatings, threats and destructions of houses and crops. The United Nations reported that a single conflict in the municipality of Dessalines in 2014 led to 257 houses burned, 70 looted, and 300 families displaced. All this over four acres of land. The death estimates from the 1987 Jean-Rabel Massacre run from 130 to 1000 killed. In the Piatre Massacre, eleven people were killed and 375

homes destroyed. Families are often central to land conflicts, with conflicts between or within extended families. Land conflict violence is inflicted on both women and men.

### **The Haitian Government Fails to Protect Against Violent Land Disputes**

20. Haiti's law enforcement and justice systems do not effectively deter or control violence arising out of land conflicts. Haiti's civilian police force, the *Police Nationale d'Haiti*, ("PNH") is underfunded, underequipped and understaffed. The PNH concentrates its scarce resources in the cities, leaving the countryside, where most land-related violence happens, with little to no police presence.

21. But even in cities, the PNH, is stretched very thin, and is unable to provide security for people at risk of attack. I have recently worked with lawyers, human rights advocates and grassroots activists under threat who have sought police protection. In some cases, the Inter-American Commission on Human Rights has ordered the government to provide protection. But there has not, to my knowledge, been any police detail provided in any of the cases.

22. The PNH's investigation of reports of threats and attacks against individuals is at best uneven. The force does have some good investigators, who do good work on some cases. But most of the people making reports face police stations that lack the personnel, transportation and materials to make an investigation. As a result, many citizens correctly feel that the police will not provide effective help.

23. Police are particularly reluctant to intervene in land conflicts, because of the history of violence in them, and the amount of participants that are potentially involved. Police officers, surveyors and government officials have been killed for conducting official duties relative to land disputes.

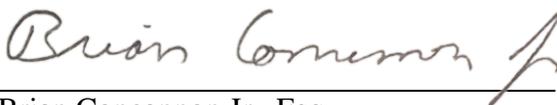
24. Haiti's justice system does a poor job of processing the arrests that the police do make. Most prosecutors and judges are poorly trained and poorly paid. I believe that almost all are involved in corruption to at least some extent. Criminals with money or connections are routinely freed without trial. Bribes to police, judges and prosecutors are routine, in both civil and criminal proceedings involving land conflicts.

25. Although many Haitian police are conscientious and law-abiding, many others regularly engage in criminal activity and brutality. Former Police Chief Mario Andresol estimated that a quarter of his officers were engaged in criminal activity. On May 5, 2014, the *Miami Herald* reported that about a dozen PNH officers had their visas to the U.S. revoked by the Department of Homeland Security because of suspected involvement in drug trafficking and other illegal activity.

26. The combination of limited police capability, and limited prosecution by the justice system due to corruption and other factors makes it highly unlikely that the PNH would take any effective provisions to protect individuals from land conflict violence.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this this 27<sup>th</sup> day of February 2017, in Marshfield, Massachusetts.

  
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Brian Concannon Jr., Esq.

**BRIAN CONCANNON JR., ESQ.**  
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## **PROFESSIONAL**

**Institute for Justice and Democracy in Haiti (IJDH)**, Boston, MA, March 2004-present: Founder and Executive Director. Established and directs human rights non-profit that prepares and disseminates documentation of human rights violations; collaborates with grassroots advocacy groups in Haiti and North America; and represents political prisoners and victims of human rights violations in Haitian, U.S. and international courts. Supervises programs for law student virtual interns and human rights clinics at several law schools, including Boston College, Harvard, Northeastern, University of San Francisco Yale and Hastings Law Schools.

**Health and Human Rights: An International Journal, Harvard School of Public Health**, Boston MA, Editorial Advisory Board Member, 2008-present.

**Wasserstein Public Interest Fellows Program**, Harvard Law School, Cambridge MA: Fellow, 2005-06.

**Brandeis Institute For International Judges**, Salzburg, Austria, June-July 2004, Guest Faculty Member. Created and led two seminars for judges from the ICC, ad hoc tribunals and regional human rights courts: “Complementarity Between National and International Courts,” and “International Courts and Constituency.”

**Bureau des Avocats Internationaux**, Port-au-Prince, Haiti, June 1996 – February 2004. Managed office of eight lawyers and apprentice lawyers that helped the Haitian judiciary prosecute human rights cases, and trained Haitian law school graduates. Worked with victims, judges, prosecutors, police and national officials, and local and international NGOs. Involved in all phases of the prosecutions, including preparation of complaints, coordination with judges and police on arrests, trial preparation and policy advice to national officials. Supervised staff of 13, including lawyers, law students and interns from Haiti, North America, Africa and Europe. Collaborated with U.S. clinical programs working on the office’s cases.

**Brandeis International Fellowships in Human Rights, Intervention and International Law**, International Center for Ethics, Justice and Public Life, Brandeis University, Waltham, MA. Fellow, 2001-03. Participated in series of institutes with activists, international judges, lawyers and diplomats. Prepared teaching unit for international judges’ seminar.

**United Nations/Organization of American States Civilian Mission to Haiti**, May 1995 – February 1996: Human Rights Observer, Elections Observer.

**Concannon Law Offices**, Marshfield, MA, 1993-95: Lawyer, small firm.

**Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.**, Boston, MA, 1989-93: Associate in litigation and corporate departments, large firm.

## EDUCATION

**Georgetown University Law Center**, Washington, DC, J.D. *cum laude*, 1989

Student Attorney, Juvenile Justice Clinic. Member, Trial Moot Court Team, Georgetown International Law Review, American Criminal Law Review

**Middlebury College**, Middlebury, VT, B.A. *cum laude*, 1985, History and French

**Université de Paris X**, Nanterre, France: Exchange Student, 1983-84

## PUBLICATIONS

### II. Book Chapters

Lave Men, Swiye Atè: *Taking Human Rights Seriously*, in Melinda Miles and Eugenia Charles, eds. Let Haiti Live, Unjust U.S. Policies Towards its Oldest Neighbor (June 2004).

*Paddling on Both Sides of the Boat: Cooperation Between International and National Justice*, in Both Sides of the Bench: New Perspectives on International Law and Human Rights, (International Center for Ethics, Justice and Public Life at Brandeis University, Symposium Projects, March 2004).

*The Bureau des Avocats Internationaux, a Victim-Centered Approach*, in David Barnhizer, editor, Effective Strategies for Protecting Human Rights (London, Ashgate Press, December 2001).

### III. Legal Journals

*Democracy and Sustainability in Reconstructing Haiti: A Possibility or a Mirage?*, Inter-American Law Review, Vol. 4, Issue 1 (2013).

*Cheaper, Better, Longer Lasting: A Human Rights Approach to Disaster Response*, EMORY LAW REVIEW, Vol. 25, Issue 3 (2012).

*Haiti: The Human Rights Struggle in a Land Without Oil*, GUILD PRACTITIONER, v. 61, n. 3, (Summer 2004) (issue editor).

*Libete, A Haitian Anthology* (book review), JOURNAL OF HAITIAN STUDIES, v.8, n. 1, p. 170 (Spring 2002).

*Justice for Haiti: The Raboteau Trial*, 35 INTERNATIONAL LAWYER 641(2001).

*NO RECONCILIATION WITHOUT JUSTICE: Significant Developments in Haiti's Criminal Justice System*, 44 CRIMINAL JUSTICE MATTERS 22, July 2001.

*Beyond Complementarity: The International Criminal Court and National Prosecutions, a View from Haiti*, 32 COLUMBIA HUMAN RIGHTS LAW REVIEW 201 (2000).

*Justice in Haiti: The Raboteau Trial*, 7 HUMAN RIGHTS TRIBUNE, No. 4 (Dec. 2000).

*The Indus Waters Treaty: Three Decades of Success, Yet Will it Endure?*, 2 GEORGETOWN INTERNATIONAL ENVIRONMENTAL LAW REVIEW (1989).

*Criminal Sanctions for Environmental Crimes and the Knowledge Requirement*, 25 AMERICAN CRIMINAL LAW REVIEW (1988).

#### IV. Newspapers

“U.S. Will Pay for Fraud in Haitian Elections,” *Boston Globe*, December, 15, 2010

“Don’t Honor Tainted Elections,” *Miami Herald*, December 11, 2009 (co-authored with Ira Kurzban)

“Change Haiti Can Believe In,” *Boston Globe*, January 25, 2009 (co-authored with Dr. Paul Farmer)

*Boston Haitian Reporter* (regular column on justice in Haiti, 2004-present, available at [www.ijdh.org](http://www.ijdh.org)).

“The Question Not Asked,” *The Guardian* (UK) (Op-Ed), May 21, 2007

“Justice, Not Charity for Haiti,” *South Florida Sun-Sentinel* (Op-Ed), July 24, 2006

“International Justice’s Prodigal Parent,” *Business Day* (South Africa) August 12, 2004 and *The Vanguard* (Nigeria) August 6, 2004.

“Let Voters Choose,” *South Florida Sun-Sentinel* (Op-Ed), September 22, 2003.

“*La PNH en danger*” *Le Bureau des avocats internationaux (BAI) repond...*, *Le Matin* (Haitian daily newspaper), coauthored with Mario Joseph, May 3, 2001, p. 1.

“A Step in the Right Direction for Democratic Haiti,” *Miami Herald* (Op-Ed), February 6, 2001, p. 7B.

#### V. Online

Extensive writing for websites, including the Council on Foreign Relations (January 2011), *New York Times* (January 2010), *Foreign Policy in Focus*, Center for International Policy and Counterpunch

#### **PUBLIC SPEAKING**

Interviewed regularly for Haitian, North American and European press, radio and television reports on human rights and justice in Haiti. In 2011, quoted on the BBC, NPR, Washington Post, Boston Globe, Miami Herald, CNN, and Al Jazeera, among others. Speak often to audiences at law schools, universities and other groups interested in Justice in Haiti.

**LANGUAGES:** Fluent in French and Haitian Creole

**AWARDS:**

Salem Human Rights Award, 2014 (shared with Mario Joseph)

Rochester Coalition on Latin America “White Dove Award” 2012

Center for Justice & Accountability Judith Lee Stronach Human Rights Award, March 2009  
(shared by Bureau des Avocats Internationaux and Institute for Justice & Democracy in Haiti)

Haiti Solidarity Network of the Northeast “Friend of Haiti Award,” April 2005

Boston College High School St. Ignatius Award (for lifetime achievement), April 2004