

The Return of Dictator Jean Claude Duvalier

&

The Tragic Comedy of November 28, 2010

by Patrice Florvilus, Av.

The return of dictator Jean-Claude Duvalier less than a week of the anniversary of the fateful January 12, 2010 earthquake and two months after the tragic comedy of the “elections” held on November 28, 2010 is like a huge “April Fools” joke played on Haiti. Those who lived through the bloody reign of Duvalier believed they were in a nightmare when suddenly the news reverberated throughout the country of his return. Incredible, but true, the dictator Jean Claude Duvalier may be left to travel into the savannah of impunity after spending 25 years enjoying the millions of dollars he stole from Haiti’s public treasury in the land of Haiti’s former colonizer – France – which to date refuses to honor its debt to Haiti.

Duvalier’s dramatic comeback has occurred in a context marked by exceptional circumstances: following shame elections orchestrated by the Haitian government in concert with the OAS, CARICOM, the great powers in North America and Europe, and traditionally reactionary and shameless political parties; following a submission of a preliminary report by the OAS, as a judge and jury in its own cause, recommending the reformulation of the election results; following candid revelations of the OAS diplomat Ricardo Seitenfus about the role of the international community in Haiti; following calls for President Rene Prével to respect the constitutionally mandated end of his presidency on February 7, 2010; following calls by different political actors to form a unifying national government in the aftermath of the earthquake and sham elections; following the failure of NGOs and the State of Haiti in the management of the so-called humanitarian aid that flowed into Haiti after the earthquake; following growing protests against the presence of the UN occupying forces in Haiti after the spread of cholera from the UN’s contamination of the Artibonite River, which has resulted in the deaths of 3,889 of my fellow Haitians and infections of 194,000 more; and following recommendations for a Senate committee composed of the old cronies Youri Latortue, Rudy Herivaux, Evaliere Beauplan and others for the return of political exiles following the arrest of the First Minister Michele P. LOUIS.

Certainly, the youth of my generation, in large part, have little information about the criminal acts of Jean Claude Duvalier and his henchmen as a result of the alteration of Haitian history by politicians and major players in the international community; Haiti’s inadequate, exclusive and weak educational system; the virtual absence of organizational structures for public education; and the cynical manipulation of the social movement that had led to the end of the Duvalierist dictatorship and fostered the Lavalas movement.

“The return of the tiger's son!” they exclaimed, as those who have always defended the criminal acts of their old buddy – the former bloody dictator. The systematic and

deliberate amnesia for many members of the Haitian justice system should not vitiate the memory of and continuing popular resistance to the “kadejakè” (rape) of this country by domestic and international forces.

The Duvaliers – father and son, together – murdered, according to some statistics, about thirty thousand (30,000) of my compatriots and diverted U.S. \$ 600 million of public funds for their own personal use. Those who attempted to oppose the bloody reign of the Duvaliers were all labeled “Kamoken” (communists). Unfortunately, many of those victims chose to go on to vilely serve the traditional political class always at the service of Haiti’s aristocracy. Worse, many among the former victims of the Duvalier regime are now the puppets in this play directed Rene Préval and his friends at home and abroad.

Opinions are divided on the exact amount of funds embezzled by the Duvalier regime. But a federal court ruling in the Southern District of Florida in the civil case of *Jean-Juste v. Duvalier*, No. 86-0459, dated January 8, 1988, found Mr. Duvalier liable for his misuse of US \$500 million of public funds for personal purposes. Whatever the amount, corruption must be prosecuted and tried by a court. Misuse of funds in the hundreds of millions of dollars can in no case go unpunished. The state of Haiti and individual victims must be compensated. And while jurists, lawyers, and politicians can continue to analyze the amount Duvalier embezzled, they cannot deny the heinous crimes committed by his bloody regime.

According to the Institute for Justice and Democracy in Haiti (IJDH) and Bureau des Avocats Internationaux (BAI), which have documented Jean Claude Duvalier’s crimes, the crimes of Duvalier are not prescribed. According to section 466 of the Code of Criminal Procedure of the Republic of Haiti, the crime of embezzlement is not prescribed because of the ongoing investigation and prosecution between 1986 and 2008 of Mr. Duvalier’s misappropriation of funds. Neither can the killings and torture committed under Mr. Duvalier’s control be prescribed, as they constitute crimes against humanity¹, which are imprescriptible under international law. The Inter-American Court of Human Rights, interpreting the obligations of States party to the American Convention on Human Rights, which includes Haiti, held in the *Case of Almonacid-Arellano et al v. Chile* (2006) that crimes against humanity are not extinguishable and non-applicability of statutes of limitations to crimes against humanity is a norm under General International Law (*ius cogens*).

It is clear that under section 466 of the Code of Criminal Procedure and Haiti’s obligations under the American Convention on Human Rights and customary

¹ Crimes against humanity, as defined by the Rome Statute of the International Criminal Court Explanatory Memorandum, “are particularly odious offences in that they constitute a serious attack on human dignity or grave humiliation or a degradation of one or more human beings. They are not isolated or sporadic events, but are part either of a government policy (although the perpetrators need not identify themselves with this policy) or of a wide practice of atrocities tolerated or condoned by a government or a de facto authority. Murder; extermination; torture; rape; political, racial, or religious persecution and other inhumane acts reach the threshold of crimes against humanity only if they are part of a widespread or systematic practice. Isolated inhumane acts of this nature may constitute grave infringements of human rights, or depending on the circumstances, war crimes, but may fall short of falling into the category of crimes under discussion.”

international law, the prosecution of Jean Claude Duvalier remains possible and is dictated by law. As such, the fact that the Haitian state has not ratified the Rome Statute of the International Criminal Court cannot prevent victims and/or relatives of victims to appeal directly to the *Cabinet d'Instruction* to bring charges against the dictator Jean Claude Duvalier and all of the perpetrators and accomplices of the crimes committed under his control.

How could we forget the martyrs of Fort Dimanche? How could we dare throw into the dustbin of history the murder of the three Gonaïve students – Jean Robert Cius, Makenson Michel, and Daniel Israël? What demon, if any, could poison our memories to make us forget the inhumane treatment meted out to journalists Jean Léopold Dominique, Liliane Pierre Paul and others? If killing thousands of our countrymen can go so easily unpunished, how can we obtain justice for Anil Louis Juste shot a few hours before the earthquake of January 12, 2010 on Capois Street; Jean L. Dominique, Jean Mari Vincent, Petit Jean Pierre Louis, Antoine Isemery, and Filbert Jean Louis killed by police officer Francine Desruisseau; Jeff Saint Vilus killed by police officer Cazeau Barthélemy; Ramong Robert killed by police officer Réginald Larosiliere; Beatrice Jean and his baby killed by a MTPTC (Minister of Public Works, Transportation, and Communication) truck during police fire in Duvivier on December 18, 2010, among many, many others.

The result of impunity today is simple: If it is so easy to accept the failure to prosecute Duvalier under the guise of prescription, there will be no need to consider any prosecution of the UN occupation force, MINUSTAH, which massacred hundreds of people in Cite Soleil; on whose base in Cap Haitian the dead body of a 16 year old boy was found hanging; and whose actions have lead to the tragic deaths of thousands of Haitians by the contamination of cholera in the Artibonite River.

On Tuesday, January 18, 2011, the prosecutor of Port-au-Prince decided to bring charges against “the son of the tiger” and a government commissioner accompanied by Justice of the Peace Emmanuel Amboise went to the Caribe Convention Center to order proceedings against Duvalier, suggesting that the arrest of the dictator was evident. However, this theatrical choreography served only to legalize the return of Jean Claude Duvalier in the country and to silence Duvalier’s critics.

Who could imagine that the Haitian justice system would be able in only a few hours to indict someone, inform him of the indictment, send the case to the Cabinet d’Instruction, and have a judge hear the case? In the tragic comedy Prévalian, unity of place, time and action of classical literature is without any form of reservation.

The appeal is therefore being made to all progressive sectors to unite to demand justice and redress for the country in general and the individual victims of the dictatorship of Jean Claude Duvalier in particular.

DOWN WITH IMPUNITY! DOWN WITH IMPUNITY! DOWN WITH IMPUNITY!