



Threats, Harassment and Intimidation Against Attorney Mario Joseph October 3, 2012

I. Introduction

Human Rights Lawyer Mario Joseph is the Managing Attorney of the *Bureau des Avocats Internationaux* (BAI), a public interest law firm in Port-au-Prince, Haiti. Over the past year, he has been subject to an escalating series of threats, harassment and intimidation, culminating in a September 29, 2012 claim by the recently-removed chief prosecutor of Port-au-Prince that he was fired for refusing to comply with an order to illegally arrest Attorney Joseph and close the BAI. Attorney Joseph has received threats periodically throughout his career, including enough in 2004 to generate an Amnesty International [action alert](#). But the current intimidation appears more organized, more persistent and more closely linked to the Haitian government than previous incidents. This memorandum describes the BAI's politically-sensitive human rights work and details the incidents of threat, harassment and intimidation against the BAI and Attorney Joseph.

II. Politically-Sensitive Human Rights Work

A. Jean-Claude Duvalier Prosecution

The BAI [represents eight victims](#) in the case against former Haitian dictator Jean-Claude Duvalier. From Mr. Duvalier's return in January 2011 until the inauguration of President Martelly on May 14, 2011, the BAI also provided support to government prosecutors building the case. The Martelly Administration, which includes Jean-Claude Duvalier's son Nicolas as a Counselor, and has had several Ministers who are the sons of Ministers under Mr. Duvalier, has [not pursued the prosecution](#). In November 2011, the government prosecutor recommended dropping all charges against Mr. Duvalier, and in February 2012, the Investigating Judge [dismissed all of the political violence charges](#) against Mr. Duvalier. The BAI has appealed this dismissal.

B. Defending Government Critics

The BAI represents several grassroots organizations that engage in peaceful protests against a range of current government policies and against the renewal of the mandate of the United Nations Stabilization Mission in Haiti (MINUSTAH). The BAI provides legal advice, organizing assistance, a venue for press conferences (the BAI office hosts two or more press conferences in an average week), and where necessary, legal assistance. One of these organizations, MOLEGHAF (Movement for Liberty and Equality by Haitians for Fraternity) organizes a

weekly demonstration for economic justice outside Haiti's Ministry of Social Affairs. On June 19, 2012, [police arrested two MOLEGHAF leaders](#) at the demonstration. One leader was accused of breaking a window of a government vehicle, the other was arrested after he protested the first arrest. MOLEGHAF members insist that they did not attack any vehicles, and the government never presented any evidence that the arrested leader damaged a vehicle. Nevertheless, the two spent over two months in Haiti's National Penitentiary without ever being formally charged, before their [August 30 provisional release](#). The BAI represented MOLEGHAF leaders in court, hosted press conferences and prepared articles criticizing their persecution.

C. Human Rights Reporting

BAI is a [leading source](#) of human rights reporting in Haiti. BAI coordinated a collaboration of 57 groups from Haiti and abroad that filed [thirteen reports](#) for the UN Human Rights Council's evaluation of Haiti's human rights record under the Universal Period Review (UPR) procedure. The reports were filed in March 2011 (under the Préval Administration), and Attorney Joseph participated in UPR hearings in Geneva, Switzerland in October 2011 and March 2012 in which he delivered critiques of government human rights policies. BAI has organized a series of press conferences for grassroots groups involved in the UPR collaboration, and has participated in several radio programs discussing the UPR initiative. Almost all of these activities involve a critical review of government policies and practices.

BAI, along with its collaborators, regularly issues reports on other pressing human rights issues, including:

- [Freedom of the Press in Haiti](#)
- [Haiti's Housing Crisis: Survey on Progress of Plan to Close IDP Camps](#)
- [One Year After the Earthquake: Haitians Still Living in Crisis](#)
- [Statement Submitted](#) to UN Commission on the Status of Women for the 56th Session Concerning the Empowerment of Rural Women and Their Role in Poverty and Hunger Eradication, Development and Current Challenges in Haiti
- [Our Bodies Are Still Trembling](#): Haitian Women Continue to Fight Against Rape
- [Haiti's November 28 Elections: Trying to Legitimize the Illegitimate](#).

On July 17, 2012, the BAI sent [a letter to the Inter-American Commission on Human Rights](#) (IACHR), requesting the Commission to conduct an investigation of human rights violations in Haiti, and providing a comprehensive critique of the Martelly Administration's human rights record. On September 20, 2012, Mario Joseph participated in a panel discussion at the Congressional Black Caucus Legislative Forum in Washington DC, in which he provided a critique of the Martelly Administration's human rights record.

D. Defending Internally Displaced Persons at Risk of Eviction

The BAI represents Internally Displaced Persons (IDP) camp residents [contesting illegal evictions](#) from the camps. BAI's advocacy has included: a) filing a criminal complaint against Mayor Wilson Jeudy, the Mayor of Delmas and a close ally of the Martelly Administration; b)

providing legal and organizational advice and training to IDP camp residents; c) filing a successful [request for Precautionary Measures](#) with the IACHR (during the Préval Administration); and d) public advocacy, including hosting several press conferences and discussing IDP camp issues in press interviews.

E. The UN Cholera Case

The BAI has [filed a claim](#) with the United Nations on behalf of 5,000 victims of the cholera introduced to Haiti by UN Peacekeepers in 2010. This case, and the BAI's role in it, has received [wide attention](#) in the Haitian and international press. Attorney Joseph is featured in an award-winning documentary about the case, [Baseball in the Time of Cholera](#), that has received over 300,000 internet views.

F. Labor Rights Work

The BAI represents several labor organizations, including workers who contest their firing from government positions or state-owned enterprises. BAI's advocacy includes formal representation in court, legal and organizational advice and training and public advocacy, including hosting several press conferences and discussing workers' rights issues in press interviews.

G. Voting Rights Work

The BAI engaged in significant [voting rights advocacy](#) during the elections of 2009, 2010, and 2011. The BAI has particularly focused on the illegal exclusion of political parties and candidates and the disenfranchisement of voters through flawed registration and polling procedures. The BAI issued reports and press releases, represented excluded candidates and parties, provided briefings to members of the U.S. Congress, provided information and analysis to U.S.-based solidarity organizations and participated in interviews with Haitian and international press. The BAI expects to continue its voting rights advocacy when the next elections, currently a year overdue, are scheduled.

III. Threats, Harassment and Intimidation

A. Death Threats

When a Haitian judge dismissed the political violence charges against Jean-Claude Duvalier on January 30, 2012, Attorney Joseph held a press conference denouncing the judge's order as legally baseless and politically motivated. After the press conference, which was attended by many journalists and widely reported in Haitian media, Attorney Joseph received regular violent threats on his telephone.

The caller never shared any identifying information, and always called from lines that Attorney Joseph could not trace. The caller usually said "we are going to kill you," "we are going to put a bullet in you," "we are going to burn down the BAI office," or some variation of these themes. For several weeks after the press conference, these calls were received up to 3-4 times a day. The

calls generally came in the early morning, around 5 or 6 a.m., during the afternoon, and late at night.

Graffiti was painted on the BAI office's gate and streetside walls, stating "*met Mario, Duvalier gen dwa tou*" (Attorney Mario, Duvalier has rights too) and "*BAI = vole international*" (BAI = international thieves). On September 22, 2011, supporters and lawyers for Jean-Claude Duvalier [forcibly interrupted and cancelled](#) a press conference organized by Amnesty International regarding the Duvalier prosecution, at which Attorney Joseph and one of his clients were speaking. Police never came to establish order, and those responsible were never pursued by the government or justice system.

The threatening calls lessened after February, but intensified again in July, within days of the BAI's submission of its request for an IACHR investigation. The threatening calls have decreased over the past month. There were at least three different callers making the threats, and the callers in July and August appear to be different than the caller in February.

B. Warrantless Police Surveillance and Searches at BAI Office

On July 27, 2012, a Haitian National Police vehicle parked outside the BAI office while police officers in uniform searched people leaving the office. Attorney Joseph was in court at the time and did not witness the activities.

A BAI employee first reported the vehicle's presence at around 2 p.m. He identified it as a Toyota SUV, or similar vehicle, with tinted windows. The employee saw four uniformed officers with the vehicle who were stopping people leaving the BAI office. The employee was stopped and the officers searched his bag. The officers claimed that they were searching for weapons, but they also appeared to look through people's papers. The officers selected some people for searches and not others, leading witnesses to believe that there was a police informant in the vehicle who was familiar with the BAI and the organizations that meet there.

The officers did not produce a warrant. The surveillance and searches appeared designed to intimidate the BAI and the grassroots organizations that meet at the office.

C. Radio Threats

In early August, a government official speaking on the morning shows of two radio stations, Magik 9 and Vision 2000, claimed that there was an office on Impasse Lavaud that holds meetings to discuss destabilizing the government. The official did not name the BAI, but the two Impasse Lavauds in Port-au-Prince are small, so it was clear to BAI staff and grassroots organizations that meet at the BAI that the official was referring to BAI. They considered this a warning that the government was watching them, and an attempt to intimidate them from exercising their constitutional rights to critique the government and provide legal representation to dissidents.

D. Court Summons

On August 30, 2012, Investigating Judge Jean Wilner Morin of the Port-au-Prince Trial Court issued a summons requiring Attorney Joseph to appear before him on September 4. Although it is legal to require attorneys to appear before investigating judges in Haiti, it is unusual, and typically only done when the judge has a strong legal justification. Judge Morin had telephoned Attorney Joseph before the summons arrived to alert him, but the judge did not explain, in either the telephone call or the summons, the reason for the appearance.

Attorney Joseph appeared as requested on September 4, and submitted to questions over a period of 10-15 minutes. Judge Morin asked two principal questions. First he asked whether Attorney Joseph sublets his house (he had not). Second the judge presented the file of a client who BAI represents in a criminal proceeding, and asked who referred the client to the BAI. The client is an activist with a committee of displaced persons living in Jalousie, a poor community in Port-au-Prince. Attorney Joseph explained that the BAI provides legal support for the Jalousie committee's efforts to contest an eviction by the Haitian government, and that the committee requested BAI's help after the activist was arrested in July 2012 following a well-publicized demonstration.

Nothing in Judge Morin's questions indicated that the judge had reason to believe that Attorney Joseph possessed any information relevant to any criminal investigation. In light of this, fact, the brevity of the interview and the judiciary's practice of not summoning lawyers without a strong legal justification, it is likely that the summons was an attempt to intimidate Attorney Joseph and the BAI.

E. Reports of Order to Arrest Attorney Joseph and Close the BAI

On September 26, 2012, the former chief prosecutor of Port-au-Prince, Jean Renel Senatus, who had been fired the day before, announced in several radio interviews that Haiti's Justice Minister Jean Renel Sanon fired him because he had [refused to execute Minister Sanon's order](#) to arrest Attorney Joseph and two other lawyers who had filed corruption complaints against President Martelly and his family members, as well as 36 additional government opponents. Attorney Senatus also claimed that the Minister had ordered him to close the BAI office and place judicial seals on it. Minister Sanon has denied the charges, but Attorney Senatus has repeatedly confirmed his report. Mr. Senatus [reported](#) that Minister Sanon had informed him that complying with the arrest warrants "would make the President very happy."