

**JUSTICE VERSUS
POLITICS
IN
HAITI
(2001–2004)**

PROSPER AVRIL

Universal Publishers
Boca Raton, Florida

Justice versus Politics in Haiti (2001-2004)

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Universal Publishers
Boca Raton, Florida
USA • 2007

ISBN: 1-58112-966-1
13-ISBN: 978-1-58112-966-3

Universal-Publishers.com

This book is cordially dedicated to:

- my mother, who from my youth taught me the moral, spiritual and Christian values that served me as a guide all my life;

- my courageous and devoted wife, Marie Ange, who steadfastly endured all the vicissitudes imposed on our family by the obscurantist policies of a political regime;

- my children:

Prosper Junior, who suffered much from the persecutions endured by the family;

Carine, who stoically underwent the humiliation of being imprisoned instead of her father in 1995;

Grégor, who, with courage and determination, faced the perversity of the deposed system; and

Philippe, who managed to pursue higher education to doctorate level in spite of the aggravations to which his parents were subjected;

- my courageous son-in-law Paul Henry Cinéas, who, as a victim of the spirit of revenge of a tyrannical head of state, suffered as a political prisoner in 1995; and

- the students of the legal sections of our institutes of higher education, our hopes for tomorrow, for a judicial system finally rehabilitated according to the aspirations of their forefathers.

Other Books by Prosper Avril
English language series

1. *From Glory to Disgrace*
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3. *Haiti (1995 - 2000)*
The Black Book on Insecurity
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ISBN 1-58112-533-X

“If justice were to disappear, the fact that men live on earth would be a nonsense” (Immanuel Kant, Groundwork of the Metaphysics of Morals. 1785)

A thought surprisingly topical:

***F**or about fifteen years, Haiti has been facing one of the most painful crises of its history—a crisis more terrible and more worrying than all the political ones....*

*Concerning the crisis Haiti is confronting today, which constitutes a lethal threat, it is more than a matter of human lives, famous or useful though they be; it is more than a matter of inheritance, sacred though it be ...; it is finally more, and even better, than all the glory and happiness of the material conquests. What is really in danger is the national soul itself! Yes! What seems about to disappear, along with our independence, perhaps, is in fact the high virtues that alone make the people really free and worthy of freedom. (Louis Borno, *The Moral Crisis*, Editions H. Amblard, 1895.)*

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FOREWORD

On April 11, 2002, 11 years and five months after the unfortunate incident dubbed “the prisoners of All Saints’ Day”—an incident for which the political sector had wanted to ascribe direct responsibility to me, just because I then assumed the office of Provisional President of Haiti—on this memorable day, a decision of the Court of Appeal of Port-au-Prince was issued ordering the dismissal of the case. This matter—a pretext used to persecute a former head of state, Prosper Avril—is thus juridically closed.

This unfortunate incident of 1 November, 1989 has been manipulated and exploited in all its facets for more than 10 years, particularly by Jean-Bertrand Aristide, with the idea of eliminating me from the national political scene. In fact, as of April 21, 1991, only 15 days after M. Aristide was inaugurated as President, I experienced the first act of persecution, in the form of a legal document served on me in Miami, Florida by Ira Kurzban, his contemptible attorney sumptuously remunerated with the funds of poor Haiti. Three years later, in 1994, despite my involuntary absence from the audience on the day when the case was pleaded, a default judgment was issued, a decision that, moreover, was never conveyed to me.

In June 2000, to my great surprise, “the matter” became again one of national topicality. The Haitian Supreme Court had just cancelled the ordinance of an examining magistrate dated August 1999 concerning the same case by ruling that this action was radically null because it was not legally founded.

In May 2001, contrary to the doctrine and to the laws concerning the imperative character of a court order, this case was, once more, to reappear. Faced with the impossibility of documenting the charge of “plotting against

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state security” deposited against me after my illegal arrest, M. Aristide attempted to use, one more time, this same case: he wanted to censure my “audacity” in having published the book *Haiti 1995–2000, Le Livre Noir de l’Insécurité* (The Black Book on Insecurity), a book showing and denouncing the inefficiency of his regime in solving the problem of the insecurity in Haiti. Therefore, he had me arrested and kept me incarcerated for 1,011 days, in contempt of three successive Haitian court decisions ordering my release from prison.

Why did I write this book?

Since the day of my retirement from the military, in March 1990, I had never ceased thinking about the unhappy fate of the Haitian people. As a conscientious and charitable Christian, after analyzing the disturbing report of the high number of Haitians and foreigners casually and unnecessarily assassinated in the streets, sometimes even inside their residences, I had carried out meticulous research for more than five years (1995–2000) in order to offer to my compatriots a literary work aiming to open their eyes and to help them to have a better understanding of the monster named “Insecurity”, this phenomenon generated especially by the unwise decision of President Aristide to dismantle, unilaterally and in a totally improvised manner, the armed forces of the country, a vain decision that put in jeopardy the very existence of the Haitian nation.

Taking into account the negative impact of the insecurity throughout Haitian society, I thought it convenient to organize a book launch to raise interest among readers. Alas! I did not have to wait long to understand that I had made the worst mistake in my life: to have had faith in the hypocritical speech on reconciliation, tolerance and democracy made by President-elect Jean-Bertrand Aristide, on February 7, 2001, before the Haitian Parliament, senators and deputies, and before the accredited ambassadors of the powers of the modern world. On May 26, 2001, I was a

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victim of my concept of honor, of integrity and of the word of a head of state!

In fact, forced to live almost on the margin of the society since the return of M. Aristide to the country in October 1994, because of the assassination of many military personnel since that time, I had believed that in 2001, the reelected President was indeed going to keep his word promising to open his arms widely and sincerely to all his compatriots without discrimination in order to work for the happiness and peace of mind of all Haitians. Alas! I was wrong.

Moreover, I thought that the experiences accumulated by this former Catholic priest during his three years of exile abroad, his new international relations, his aura of global concern, and the context of the deficit of legitimacy surrounding his reelection all constituted a sure pledge of his good faith and of his devotion to the cause of democracy. I was thus persuaded that his inaugural speech respecting the established standards reflected the mature attitude of a responsible leader. Once again, I was wrong.

After February 7, 2001, I thought that the time had come to discard my disguise and to resume my normal activities as a paterfamilias and an honest and respected citizen. Also, on February 9, 2001, only two days after the speech of the President, I presented myself, as a retired army officer, at the Ministry of Economy and Finances, in order to complete the formalities of claiming for two years of service under the civil pension. Everything went very smoothly.

Then, at the end of April 2001, having been invited as a former President of the Republic and as the leader and founder of the political party “CREDDO”, I presented myself at the forum organized by *Democratic Convergence*, a recently founded political coalition, at *Villa Creole Hotel* in Pétion-Ville. For four hours, I took an active part there in these patriotic workshops of constructive debate on the Haitian problems. The democratic atmosphere prevailing on

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this day seemed to confirm the thesis that the new government had effectively taken a new direction, that of tolerance and reconciliation.

Thus, fully convinced of the new character of the new Aristide regime, I deliberately undertook, a month later, on Saturday May 26, 2001, the presentation to the public of my patriotic work on the topic of the insecurity. Fatal, catastrophic mistake of Prosper Avril, however well known he is as “intelligent”! Surprisingly, Jean-Bertrand Aristide revealed his true face to the Haitian political community, to the national society and to the whole world. Despising my status as former President of Haiti, trampling down the laws and violating the Constitution, he ordered his devoted henchmen to humiliate me publicly while brutally carrying out my arrest in the middle of this cultural event. O abominable crime! O public misfortune! O foolish and contemptible act of a so-called democrat!

With a visceral hatred, obsessed by the absurd idea of destroying a political adversary, Jean-Bertrand Aristide was going to transform the Haitian justice system into a veritable house of ill repute. In contempt of all legal standards, he decided to prevent me from circulating freely, from devoting myself to my regular activities, in an effort to muzzle me because I was speaking the truth, to break my pen considered too prolific. Using the justice system as a tool of persecution, he would impose on me many legal and judicial annoyances in order to attain these goals. The politically masterminded lawsuit that, at the beginning, seemed to concern one man, henceforth assumed a broad, national dimension. The interpersonal conflict “*Prosper Avril versus Jean-Bertrand Aristide*” was assimilated to “*justice versus politics*”, because, on that occasion, M. Aristide, unconstrained, was going to reinforce his spectacular and indecent seizure of the whole legal apparatus.

As the designated target of a whole series of violations of the standards of justice during three successive years, I consider it my duty to report the damage to the Haitian

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justice system caused by the political power during the period under consideration. Moreover, having witnessed so many misdeeds suffered by Haitian citizens, and having physically endured so many scandalous and dishonorable abuses, in pleading my own cause, I especially plead the cause of many innocent people, persecuted, vilified, dishonored, and degraded, supposedly in the name of justice!

In order to make my contribution to the challenge of regenerating the Haitian legal system, so denigrated after the passage of the Aristide “hurricane”, I assign to myself the mission (side by side with other honest and courageous thinkers) of informing my compatriots about the depth of the damage caused to the Haitian justice system by the nondemocratic regime of M. Aristide.

To denounce, once more, the ugliness, the gaps, the dysfunctions and the vicissitudes of the Haitian legal system, and to envision with the readers some proposals for solutions to correct the situation—such are my goals in publishing this work titled *Justice versus Politics in Haiti (2001–2004)*. May the rising generations make the greatest profit from this work! May Haiti enjoy again the benefits of a justice system restored and modernized! May it finally find its former prestige and social equilibrium, conditions considered to be essential for its harmonious and durable development and for the full blooming of its martyr people so thirsty for true justice, and so deprived of material and spiritual well-being!

Prosper Avril
February 28, 2005

INTRODUCTION

Dear readers,

It was 11 a.m. on a sunny morning of May 2001, the month of the spring flowers and of the Virgin Mary. Right in the center of Pétion-Ville, the most wealthy city of Haiti, devoted henchmen and thugs dressed in black and with their faces hidden by hoods, dispatched without any doubt by the prince of darkness, violated the enclosure of the *Cassagne Restaurant*, where the launch of my book *Haiti 1995–2000, Le Livre Noir de l'Insécurité* was in progress. They brutally carried out my arrest, bound me with shackles, hustled me and threw me like a bag of trash into a four-wheel-drive vehicle that speedily departed, followed by other cars assigned to the service of the presidential palace.

My guests, confused, dumbfounded, petrified and flabbergasted, and the members of my family, petrified, stiff with fear and fright, and horrified by this hideous spectacle, considered this act unworthy of its silent partner, a President supposedly vested with the confidence of the Haitian people since his recent engagement to promote democracy in Haiti.

Deposited without any consideration at the Pétion-Ville police station, I was kept in custody for two days in a narrow cell of 16 square meters already filled with a score of individuals. I was revolted by such cruel and unconstitutional practices. Therefore, at that moment, I decided to fight valiantly until the end to make the truth shine and to make the law triumph.

This political persecution, which started 10 years ago under the pretext of providing justice, was thus resumed. Moreover, this time, it was to my great disadvantage, because I was in the claws of the lion in fury, at my torturer's mercy. The fight to be engaged would be rough and keen. This combat is reported in detail in this book.

However, far be it from me to write a book *pro domo*, promoting only my own cause! Within the framework of the presentation and development of this subject, I also and especially want to compile, expound and analyze the tribulations of the Haitian judiciary regarding the executive branch of government under the second (or third) mandate of Jean-Bertrand Aristide. Through following my own struggle, the reader will have a precise idea of the obscurantist use of the legal system of a country at the personal and political service of a despotic, authoritative and tyrannical power, thus lowering it to an unprecedented level of degradation.

My stay for almost three years at the National Penitentiary allowed me to measure the damage caused to the Haitian justice system because this more-than-traumatic journey enabled me to touch the wound with my fingers, to experience the daily reality of a Haitian prison, to discover the truths revealed by certain inmates. These hidden truths will be revealed, so that a definitive end may be put to the noxious practices, arbitrary processes and abusive methods used by certain officials in the pay of a tyrannical political power.

Having reached the end of the tunnel, thanks to the awakening of the youth, the students of the universities, the elites, and the Haitian masses in general, I believe that it will be convenient for the nation to reveal publicly the misdeeds of the last Aristide regime regarding its numerous violations of individual rights and to denounce its harmful strategy of using the prosecutor's office, the halls of instruction, the prisons, and even sometimes the courts, to attain its political ends.

The Haitian judiciary was never so soiled, prostituted, spurned, vilified, and degraded as it was between the return of Jean-Bertrand Aristide to the Haitian presidency on February 7, 2001 and his departure on February 29, 2004. *Justice versus Politics in Haiti (2001–2004)* exposes the annoyances endured by the Haitian justice system under the

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strong grip of Jean-Bertrand Aristide and proposes solutions for rehabilitating this essential and vital institution created for the establishment of social peace in the nation.

This noble goal will be achieved by first relating the various experiences of the author in his fight to recover his freedom following his arrest on May 26, 2001. Then, we will study together the means used by the political power to concretize the complete subjugation of the Judiciary. After that, we will undertake a walk inside the National Penitentiary to listen to the disconcerting testimonies of several prisoners about their unjust legal situation. Finally, after having exposed the indecency of the deposed regime in the treatment of my own case, I will point out the lessons drawn from this hard experience, and I will outline some proposals or suggestions for a rebirth of Haitian justice. Let us examine the subject.

CHAPTER I

LEGAL HARASSMENTS

Having returned to Haiti from exile on September 3, 1993, the day of the installation of M. Robert Malval as Prime Minister of the Haitian government, I had made a firm resolution to live in my country. I was tired of living abroad with all the annoyances imposed on me since 1991 by M. Aristide in order to discredit and assassinate my character. Therefore, I had decided to return to Haiti in order to respond to any litigation before the courts.

At the time that I moved back to Haiti, I was very serene, especially regarding my management of almost two years as President of Haiti. During my term in office, I displayed respect not only for human life but also for the public treasury. Concerning this last point, I had been lucky to have chosen collaborators who professed respect for the rules for managing the public funds in their respective ministries. In the silence of my cell, I thanked God each day for having inspired and guided me on this matter, because this conduct enabled me to maintain a high moral standard during my long journey in the desert.

Even though this period of my existence was shocking and humiliating, my reputation as an honest man was never soiled by my political enemies. Indeed, taking into account the savage hatred of Jean-Bertrand Aristide against me, the reader will notice—and this is very significant—that he would not find any reprehensible fact in my administration or my life to justify a regular judicial action. It is obvious that during my presence for 18 months at the supreme direction of the country, Jean-Bertrand Aristide had been unable to find any fact to tarnish my reputation as an honest

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citizen, otherwise he would certainly not have hesitated for a second to use some good grounds for an indictment.

Moreover, in politics, when you are the captain on the deck, the acts of others, even outside your knowledge, can splash you. This is why my reasoning goes beyond myself. It also applies to my immediate collaborators. The behavior of each one of them was never at fault. They all are irreproachable! Meticulous inquiries had been carried out since 1991 in the files of the public administration in a search for hints of wrongdoing. The results of these underground investigations were always negative.

I seize this occasion to congratulate my former collaborators in the management of the public affairs, such as Léonce Thélusma, Arnault Guerrier, Gilbert Austin, Rémy Zamor, Jacques Vilgrain, Wilner G. François, Franck Paultre, Wilner Dessources, Yves José, Serge Pintro, Virginie Saint-Pierre, Franck Richard Cavé, Rose-Marie Nazon, Marie Denise Jean, Yvon Perrier, Fritz Romulus, Acédius Saint-Louis, Frédéric Mignon, Rémy Mathieu, Camille D. Syllaire, Serge Elie Charles, Yvon César, Edmond Dupuy, Théophile Roche, Michel Bonnet, Augustin Semé, André B. Limontas, Claude Grand-Pierre, René Marini, Lucien Adam, Tony Pierre, Cavour Delatour, Pierre Holly, Gérard Bissainthe, Hugues Théodore, Carl Michel Nicolas, Charles Plaisimond, Jacques B. Siméon, Gérard Romulus, Carl Dorsainvil, Serge Petit-Frère, the members of the Military General Staff such as Generals Herard Abraham, Gérard Lacrète, Serge Saint-Eloi, etc. Thanks to their honesty and integrity beyond any doubt, they helped me, without their knowing perhaps, to overcome this situation. The least administrative weakness discovered in only one of them would certainly have been used by M. Aristide to justify the persecutions to which I was subjected.

I am proud of having made a sound political choice that enabled me to reach this result: the systematic rejection of any favoritism and any form of nepotism in the choice of my

immediate collaborators regarding the immense challenge of managing the nation. All of them behaved as honest, conscientious professionals. The basis for their selection was their competence, experience, and reputation as incorruptible citizens. Consequently, upon my return home, I was ready to face whoever would dare to question my past behavior at the helm of the State of Haiti!

A. Prelude to the legal harassments

After my return to Haiti in September 1993, the first sign of persecutions came only two years later when M. Aristide ordered a raid of my residence on the night of November 7, 1995 with the evident purpose of killing me: the impacts of the gunshots are still visible on the front of my house. My wife and I, who were living alone in the house, managed to flee in time and took refuge at the Colombian embassy located not far from our residence.

Comfortably installed in his absolute power and enjoying his regal right at the expense of the people of Haiti, on Saturday November 11, 1995 at the Cathedral of Port-au-Prince, President Aristide delivered a harangue full of gall and unbridled hatred. It was on the occasion of the funeral of a recently assassinated deputy, M. Hubert Feuillé. In this speech, he assumed sole responsibility for the nocturnal raid on my residence by affirming before the nation and the diplomatic corps that, “from his office at the National Palace, he had monitored the action of his agents dispatched to my house” (*Le Nouvelliste*, November 13, 1995, pp. 1–3). He thus falsely accused me of being responsible for the murder of the deputy.

However, during this raid, the mercenaries and corrupt police officers—unbridled fanatics—plundered, ransacked, vandalized, and stole artworks, money, and personal goods, including valuable jewels and priceless collector’s items of a high commercial and historical value, among them a pistol of the time of the colony, and my first saber as a military officer with its personal memories, all taken away from my house.

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I denounce once more these acts of vandalism perpetrated at my house by order of Jean-Bertrand Aristide during the night of November 7, 1995 and those committed on the afternoon of November 10 when his thugs returned to my home while my wife and I were granted political asylum at the Colombian Embassy and seized the family collection of swords and ancient sabers displayed in my hall. This last act was carried out in the presence of my daughter Carine, brought from her cell at the women's prison where the despotic head of state had kept her as a hostage after she and her husband, Paul-Henry Cinéas, were arrested at their home on the night of the raid.

M. Aristide was replaced as President in February 1996. In fact, under the government of President René Prével, I had been able to live more or less quietly for four years, devoting myself to the joys of reading and the charm of writing, and to family life and social activities. I used that respite to write my book *L'Armée d'Haïti, Bourreau ou Victime?*, published in November 1997 and very well received critically, and also the English version of the book *From Glory to Disgrace, the Haitian Army (1804–1994)*.

Unfortunately, M. Aristide returned to power in February 2001, and everything was about to head in the wrong direction. My presence at the workshop organized by the *Democratic Convergence*, on April 28, 2001, was not acceptable to him. Prosper Avril, seated at a table with former adversaries! Such a political event could not be tolerated by a man deliberately preaching hatred, exclusion, division, and political revenge. Prosper Avril was not to reappear in political life. The resolution of Aristide to silence me surfaced immediately.

The occasion planned for carrying out this cynical project was the launch of my book, *Haïti (1995–2000), Le Livre Noir de l'Insécurité*, a topical subject that was embarrassing for the tyrant. From the copies that I had given to some radio stations in Port-au-Prince for their own libraries, the Aristide government was well informed of the

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contents of this book: a methodical, scientific study of the phenomenon of the insecurity prevailing in the country.

Moreover, the invitations sent through the media gave the date, time and place of this cultural event. A legal scenario was then quickly elaborated by the Aristide regime to topple the author of the book. My arrest took place on May 26, 2001 at 11:30 a.m., 30 minutes after I began to dedicate the books to my guests.

As of that moment, the battle for my freedom and survival, a duel between the judiciary and the political power, was started, roughly and resolutely. Juridically, my lawyers and I managed so well that we were always successful. The project of M. Aristide to give a criminal record to Prosper Avril failed piteously. All the charges invented against me were dismissed by court decisions. During the three years of my imprisonment, three successive court decisions had washed me of all stains. What were the contents of these judgments?

B. The first court decision

On the day of my arrest, Saturday May 26, 2001, I was extremely amazed to read the paper that I was served. Far from being a legal warrant ordinarily used for such a purpose, it was naught but a copy of a memorandum signed by the District Attorney of Port-au-Prince and addressed to the national police force, as follows.

MINISTRY FOR JUSTICE AND PUBLIC SAFETY
Office of the Parquet before the Civil Court of Port-au-Prince
May 25, 2001

The District Attorney before the Civil Court of Port-au-Prince requires the person in charge of the police station of Port-au-Prince to seek and bring to the Office of the Parquet the person named Prosper Avril, a fugitive, living and domiciled in Port-au-Prince, in accordance with the warrant issued and not carried out for plotting against state security.

Done at the Office of the Parquet, on the day, month and year above mentioned.

Me. Josué PIERRE-LOUIS, District Attorney.