

AFFIDAVIT OF _____ IN SUPPORT OF XX'S CLAIM FOR ASYLUM

I, _____, hereby declare under penalty of perjury that the following statements are true and correct to the best of my knowledge.

1. I do not recall ever having met XX, but I have read her statement dated August 21, 2006, and I am familiar with the broader context of her claim, including the obstacles that women face when seeking protection against domestic violence, especially in the law enforcement and judicial systems.
2. Both Haiti's police and its justice system function poorly, as a result of a long history of dictatorship, recent political upheavals and poverty. Women face additional obstacles to obtaining effective protection from the police and courts because of: a) a conservative culture in Haiti reluctant to interfere with what is often considered a private family matter; b) biases both in Haitian law itself and the way it is applied; and c) women's unequal social and economic power relative to men which is magnified by the corruption and high costs associated with both the police and the justice systems.
3. The Haitian justice system is plagued by widespread corruption, a legacy of over two centuries of dictatorships in Haiti. Most, if not all, judges take bribes at some point. In addition, accessing the justice system requires additional payments. Lawyers' fees are high by Haitian standards, and court fees often prohibitive: because there is so little public financial support for the justice system, litigants must pay costs to have documents served or processed, and even to have initial investigations conducted.
4. Haiti has been governed by dictatorships for most of its history. The justice system evolved to respond to the needs of those with power, especially the power of force or money. Legal codes are antiquated; the criminal procedures facilitate obfuscation and delay. However, the foundation of dictatorial structures in the justice system is not the law itself, but the legal system's practices and people. Corruption is widespread, skewing justice towards the highest or most powerful bidder. Chronic under-investment and low salaries make honest practices extremely difficult for officials. Even where judicial officials are not dishonest, the legal culture encourages taking the side of the more powerful.
5. The justice system's transition to a more functional and democratic system during Haiti's democratic interlude (1994-2004) was slow and frustrating. Entrenched people and practices responsive to a dictatorial system proved more difficult to reform than laws. National and international investment in buildings and materials, as well as in people, under Haiti's elected governments (1994-2004) did yield better equipped facilities, and a small corps of judges and prosecutors willing and able to apply the rule of law. However, these improvements lagged

- behind increasing demands on the system, and delay and corruption remained all too common.
6. Following the forced departure of President Aristide in February 2004, the justice system went into a sharp decline. Many of the newly trained and competent judges were pushed out, illegally, and replaced by judges willing to follow the dictates of the executive branch. On December 9, 2005, the Prime Minister fired five members of the Supreme Court, the day after they issued an opinion that the government disliked. That mass firing was as unconstitutional in Haiti as it would be in the U.S. Democracy was restored to Haiti in May, 2006, but the justice system has been slow to respond to this democratic transition.
 7. Haiti's police force, the Police Nationale d'Haiti (PNH) is also corrupt and weakened by political upheaval. In addition, it is overwhelmed by an increase in common crime. Until 1994, police work in Haiti had been carried out by the army. When the army was demobilized, a new civilian PNH was established in 1995. From then until 2004, the new force struggled to effectively provide protection to citizens and root out corruption and brutality, with mixed success.
 8. Following the February 2004 coup d'état, the PNH went into sharp decline. Good officers were fired, forced out, imprisoned and killed. Paramilitary thugs and demobilized soldiers with no police training were integrated into the force. This replacement violated police regulations for recruitment and promotion. It also swelled the PNH with a large number of officers with no civilian police experience or training, who are not accountable to the official police hierarchy or rules.
 9. Police officers were encouraged to engage in brutality, especially against political dissidents, and the normal crime-fighting structures were dismantled. Human rights groups like Amnesty International documented a pattern of illegal, politically-motivated arrests by the police. Even the PNH's Director General, Mario Andresol, conceded in 2005 that as many as 1/3 of his officers were involved in criminal activity.
 10. A mortality study for Port-au-Prince published in *The Lancet* in August 2006 calculated that over 8,000 people were killed in violence in Haiti between March 2004 and December 2005, almost half of them for political reasons. The study also found high levels of assault, especially sexual assault, and destruction of property. *The Lancet* study calculated that police officers were responsible for 27% of the killings, and 20% of the assaults during the study period.
 11. Since the return of democracy to Haiti in 2006, the police force has resumed progress towards the creation of an effective, democratic force, but that progress has been slow. Systematic police attacks on civilians have stopped, but the thugs and former soldiers illegally integrated into the force have not been purged.

12. The massive increase in crime generated by the coup, including kidnappings and rapes, continues to overwhelm the police. According to a December, 2006 United Nations report, the PNH has about 8,000 officers, to cover over 8 million citizens spread out over an area the size of Maryland. Many estimates count the effective force as half that number. The Haitian government estimates that it needs almost twice as many officers- 14,000, to undertake essential police functions. By contrast, New York City, which has a similar population to Haiti and a much smaller area to cover, has over 37,000 municipal police officers supplemented by federal and state law enforcement, coast guard and military.
13. Women face particular obstacles in seeking protection from the police and justice systems. The dictatorships, poverty and traditional rural lifestyle have insulated Haitian society from many of the changes in women's roles in society that have occurred elsewhere in the last 40 years. In Haiti, wives are often considered to be subordinate to their husbands, required to follow the husbands' orders. Relationships between a husband or wife, even if they become violent, are considered a private matter, and outsiders, whether it be family members, law enforcement or the courts, are reluctant to interfere.
14. Sexual abuse by anyone with a power advantage over women -- mates, employers, soldiers, teachers, local leaders -- has long been endemic to Haitian life. The violence has been widely tolerated by society, and rarely punished by the courts.
15. This traditional treatment of women is reflected in overtly discriminatory laws. For example, the Criminal Code treats rape as an "offense against morals," and until 2006 prescribed a lesser sentence for rape than for assault. If a man catches his wife in adultery and subsequently kills her or her lover, the murder is "excusable," meaning the husband will receive a greatly reduced sentence. No similar excuse is allowed for a woman.
16. The practices of judges, prosecutors and lawyers can be even more discriminatory. When a woman comes to court seeking protection from abuse, judges will often counsel her to return to the marriage. Judges and even prosecutors require formal medical documentation to proceed with rape cases, even though the law does not require them, on the assumption that a rape victim's testimony is inherently unreliable. This precludes prosecution of many cases, especially where women were unable to seek medical treatment, or had no physical trauma from the rape.
17. The PNH does not make protection against domestic violence a priority. Less than 7% of police officers are women. In my experience of working with them, although some police officers are particularly sensitive to women's needs and perspectives, the majority are not.

18. The PNH is simply too strapped to effectively respond to issues that are not its top priority. The force is chronically short of vehicles, gas money and personnel, and only responds effectively to the most pressing emergencies.
19. The discrimination within the police and justice system is magnified by women's unequal social and economic power relative to men. Men usually earn more money than women, and often control the family finances, so they are better able to pay the legitimate legal fees and court costs, and illegitimate bribes, all of which give them an advantage in court. There is very little legal assistance for victims of domestic violence, so most women are simply unable to proceed with a complaint. Men are also able to intimidate or bribe police to dissuade them from pursuing an investigation or enforcement of a court order.
20. On the basis of Ms. X's personal statement and her account of the attacks against her by her husband, I believe that it is highly unlikely that Ms. X will be provided protection by the Haitian courts or the PNH against Mr. Y's attempts to hurt her.
21. First, Mr. Y is intimidating or otherwise convincing enough that the many people, including family members, who have witnessed previous incidents of violence, have not effectively intervened to stop it.
22. Second, the PNH, overwhelmed with the current crime wave and weakened by political instability, would be unlikely to respond to an emergency call for protection for Ms. X. If the police did appear, I would expect that Mr. Y would be able to convince them not to intervene.
23. I would expect her to encounter similar obstacles with the courts. Unless Ms. X was able to pay for the services of a lawyer, I would not expect that she would have much success in obtaining a court order enjoining further violence. Even if she were able to get to court, she would be at a disadvantage because the judge would be reluctant to interfere in a family matter, and would likely credit Mr. Y's explanation.
24. Even if Ms. X were able to obtain a protection order, it would be difficult to enforce against Mr. Y, because there are simply not enough police in Haiti, and they do not make domestic violence a priority.
25. Furthermore, because of the poor functioning of the judicial and police systems, and the reluctance to make a priority of domestic violence issues, there is little deterrence: Mr. Y could safely assume that he would not be punished for non-lethal violence against Ms. X; and that there would be some chance he could escape punishment even if he killed her.

Executed on May ____, 2007, in Joseph, Oregon.

Brian E. Concannon Jr., Esq.