



Fédération internationale des ligues des droits de l'Homme

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DU CONSEIL DE L'EUROPE ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

International Federation
for Human Rights

Federación Internacional
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الفدرالية الدولية لحقوق الإنسان

Policy briefer: Human Rights in Haiti and recommendations for MINUSTAH

As the Security Council is set to review the situation in Haiti and the efforts of MINUSTAH, FIDH and its Haitian partners RNDDH and CEDH would like to share their assessment of some of MINUSTAH's weaknesses, and to make recommendations on how to strengthen its mandate to better meet the challenges currently facing Haiti.

Our organisations take note of the findings and conclusions prepared by the UN Secretary General, calling for a reduction in military and police involvement of the UN in response to changes in the security situation in Haiti. We agree that a large military contingent is not appropriate for Haiti's current situation, but feel that the proliferation of organised crime in the country demands a strong police force and judicial system. In addition, UN support must be strengthened to support economic and social development and fight against poverty. Finally, violations committed by MINUSTAH forces themselves should be prosecuted and their victims compensated, as this issue affects the credibility and *raison d'être* of the mission and its mandate.

It is in this context that we would like to address four specific issues for consideration with respect to MINUSTAH's mandate.

1. Reinforce the fight against insecurity and impunity through a strong MINUSTAH police force better coordinated with the National Police of Haiti (PNH)

There certainly exists a very serious insecurity problem¹ in Haiti which gives rise to a need for an adequate penal system (including a sufficient number of competent police officers) to fight organised crime. Strengthening the Haitian National Police both qualitatively and quantitatively is therefore an essential step in Haiti's recovery. This issue has been on the table since 2006 in the successive mandates of MINUSTAH; however, the necessary means to achieve this have not been implemented.

¹ Secretary General Report on the UN Stabilisation Mission in Haiti, S/2012/678, August 2012, particularly paragraphs 10-12. Also FIDH report to be published November 5. Only 8% of the more than 5,000 prisoners who escaped from detention centres after the earthquake were rearrested and returned to prison. Among those 5,000 who escaped, approximately 500 high-profile criminals have reorganised into armed gangs. In early 2012, the RNDDH (Réseau National pour la Défense des Droits Humains = National Network for the Defence of Human Rights), reported that only during the period 1 January-14 March 2012, at least 147 persons were killed, including 130 by bullets, and the majority in the metropolitan area.¹ From 1 January to 7 May 2012, the National Police of Haiti was also the victim of unresolved crimes; eight (8) of its officials assassinated. The Deputy Director of the PNH, met by the mission led by FIDH in Haiti in April 2012, also highlighted that during the first semester of 2012, it had documented hundreds of cases of abductions, mostly in the metropolitan area, and dismantled several gangs operating in the camps. Moreover, since 2011, the cases of deaths in custody and police violence have increased, seriously affecting the credibility of the PNH. These acts remain unpunished.¹ Finally, from March to July 2012 according to figures on crime from the national police and MINUSTAH, the monthly average is 99 homicides versus 75 for the same period in 2011¹.

This is why, it seems to us that the Security Council should increase and not decrease the number of police officers and police units of MINUSTAH so that they may contribute to the training and actions of the Haitian police force.

Even with 2,807 MINUSTAH police officers (1,127 UN police officers and 1,680 from police units constituted within MINUSTAH)², MINUSTAH has not managed to help create a strong and independent Haitian police force. A number of FIDH interlocutors have highlighted the poor coordination between MINUSTAH police and the PNH. Added to that are the problems which these two entities face in their project to quantitatively strengthen the national police. This project has been hampered by political obstacles, including delays in the appointment of the Prime Minister and the Inspector General of the National Police Chief, delaying the approval of the development plan for the PNH. The absolute priority is recruitment aimed at increasing the size of police promotions so that it can cover the whole territory. A key objective of this plan is to ensure that the police have recruited at least 15,000 men until 2016 which would mean that the police academy should provide basic training for 1,200 cadets by promotion. It also means strengthening the capacity of mid-level officers and higher for new recruits to be properly trained and supervised.³ In addition, the vetting process has made little progress since 2006. According to the UN Secretary General Report, to date only one officer has been dismissed as a result of background checks which commenced in 2006. However, the Director General of the National Police provided the Minister of Justice and Public Safety with a list of 79 officers who he has recommended for dismissal.

For real progress towards the objective of an effective and sufficiently large national police, the best solution would be to change in the short-term MINUSTAH/UNPOL focus to the status of a joint body composed of both Haitian police and MINUSTAH police based on the CICIG (International Commission against impunity in Guatemala) model⁴ not only centred on the activities of investigation like the CICIG but also on that of maintaining order.⁵ This would quickly provide for more middle ranking officers and higher to contribute to training. This would also strengthen the coordination between these two entities since they would necessarily work together, which would open the way for instilling a new culture within the PNH.

Recommendations to the Security Council:

- 1. Reorient the mandate of MINUSTAH in order to reduce the military forces and at the same time increase or maintain the police units.**
- 2. Prioritise strengthening the abilities of the Haitian police force, in particular recruitment and training of police cadets, and strengthening the capacity of the middle and higher ranking officers.**
- 3. Implement specific instruments and mechanisms to implement the vetting process established in 2006.**
- 4. Call on the UN offices of the SG, DPKO, and DPA to study the possibility of establishing a mixed body to deal with rule of law in Haiti, based on the example of the CICIG in Guatemala.**

² See a description of the UNPol mandate, http://minustah.org/?page_id=21344.

³ Security Council report

⁴ <http://cicig.org/index.php?page=mandato>

⁵ Presently, part of the UNPol mandate includes very limited operational support, which is different from possible co-action.

2. Strengthen the fight against poverty and the support for development

According to statistical data from the 2011 UNDP Report,⁶ Haiti is ranked 158th out of 187 nations classified according to the human development index (which is a drop by two positions since 2006). Nearly 55% of the population lives on less than US\$1.25 per day and 56.4% suffer from multidimensional poverty. The earthquake exacerbated this extreme poverty even more. The objective of stabilisation and security cannot be separated from the fight against poverty.

In its current configuration, MINUSTAH responds mainly to the symptoms of violence with a military presence and even over militarisation which is dissuasive without fully addressing the causes of violence such as poverty. While MINUSTAH is a so-called multidimensional force which coordinates with other UN agencies, the budget proportions show that the civilian activities of MINUSTAH are underdeveloped⁷. It is, however, possible to do otherwise and at this stage of preparation of the future exit of MINUSTAH from Haiti it seems to us essential to do so.

Recommendations to the Security Council:

1. **Revise the MINUSTAH mandate to provide support, insofar as it has the capability to do so, to the reconstruction and socio-economic development efforts managed or approved by the UN.**
2. **Encourage UN agencies and the international community to intensify their efforts to assist the Haitian people in becoming economically independent, while recognising the impact of socio-economic development on the security situation of the country.**

3. Impunity for negligence and human rights violations committed by members of MINUSTAH

a. The grave question of cholera: compensating victims

Nine months after the earthquake, a cholera epidemic first broke out in the Artibonite region. The epidemic then quickly spread. According to the latest figures of April 2012, 7,050 persons died from cholera and 530,000 contracted the disease.⁸

It has now been clearly shown that this epidemic was caused by the lack of sanitary facilities at the MINUSTAH base of Mirebalais; this situation led to the excrement of the Nepalese soldiers, carriers of this disease, being discharged in the Artibonite river,⁹ one of the water sources for the Haitians in that region. On 15 December 2010 the UN Secretary General, Ban Ki-Moon, announced the establishment of a panel of experts to investigate the causes of this epidemic.¹⁰ On 4 May 2011, this UN panel of experts concluded that “the cholera strain introduced by human factor into the Artibonite River was Asian in origin.”

MINUSTAH should formally acknowledge its responsibility for negligence in the cholera epidemic. Moreover, several NGOs¹¹ have filed complaints with the unit in charge of complaints. Indeed, MINUSTAH, like the UN, benefits from immunity and depending on the status of MINUSTAH, the

⁶ PNUD, Report on Human Development, 2011, <http://hdr.undp.org/rdh2011>.

⁷ Approved resources for peacekeeping operations for the period 1 July 2011 to June 2012 from a total of 793 517 100 USD, civilian personnel costs 170 348 400 millions .

⁸ www.ijdh.org/projects/cholera-litigation.

⁹ Since November 2012 Renaud Piarroux, a French epidemiologist raised this argument, which was then confirmed by a scientific study published in August 2011: René S. Hendriksen et al., “Population Genetics of *Vibrio cholerae* from Nepal in 2010: Evidence on the origin of the Haitian Outbreak.” *Bio* 2(4) 2011.

¹⁰ “UN calls for probe into Origin of Haïti Cholera” *Washington Times*, 15 December 2010. See “Cholera in Haiti: an imported epidemic”.

¹¹ Institute for Justice and Democracy in Haiti and Bureau des Avocats Internationaux

claims unit manages complaints and in principle, in a case such as this, a permanent claims commission must be created to review MINUSTAH liability. This commission would have the authority to decide on the recourse for remedy by the UN for the victims of the cholera epidemic.

Recommendations to the Security Council:

- 1. Call on MINUSTAH to acknowledge its responsibility with respect to the cholera epidemic and establish a permanent claims commission.**
- 2. Ask the office of the UN Secretary General to decide on measures of individual and communal reparations, such as financial investment into the water and sanitation infrastructure in Haiti.¹²**

b. Impunity regarding the violations of human rights allegedly committed by the members of MINUSTAH

The Secretary General's report on the situation of MINUSTAH in 2012 states that MINUSTAH had to face several serious allegations of misconduct against its members: alleged rape of a minor in Port-Salut, alleged rape of a minor in the Gonaïves and sexual relations with three minors in Port-au-Prince. Among the scandals, including sexual abuse, which tarnished the reputation of MINUSTAH these last few years, only three cases have come before the courts. These are cases of alleged rape of two men (Jonny Jean and Rody Jean) and a pimping network. These follow-ups were not spontaneous.

Uruguayan judicial authorities were seized of the matter following the public disclosure by human rights organisations in the country of the alleged rape of Jonny Jean (Port-Salut, South).

The case relating to the alleged rape of Rody Jean (Gonaïves, Artibonite), was commenced following a resolution unanimously voted on in the Haitian Parliament which called for revoking the immunity of the two soldiers who allegedly raped the minor.

In this same report of 2012, the Secretary General reiterates the UN policy of zero tolerance with respect to misconduct of its staff. While in most cases soldiers were sent home, the situation of impunity in which these soldiers appear to find themselves is a major concern. The trial of the alleged rapists of Jonny Jean before a court of law constitutes an exception since in most cases, if there are proceedings, they are before military courts. In reality, these cases often lead at most to disciplinary action. MINUSTAH generally does not communicate about the fate of soldiers sent home, making it difficult for victims to know the outcome of these proceedings. MINUSTAH refuses any contact with the victim on the pretext that the facts are the responsibility of individuals, and states are accountable to their national contingents and therefore MINUSTAH does not interfere.

Thus, the victims of violence allegedly committed by MINUSTAH members are often worse off than other victims of sexual violence, such as those in IDP camps who benefit from a support structure often provided by UN entities. Indeed, not only do victims of violations allegedly committed by MINUSTAH members have no information on the fate of the alleged rapists, but they also receive no recognition of their suffering, or any support, including psychological support.

FIDH has closely followed the situation of Jonny Jean who had to, following his allegedly rape and its rebroadcast over the Internet, flee his village and was in a serious state of psychological and financial fragility. MINUSTAH refused to provide him with support, including psychological support.

¹² The UN has announced a "One Team against Cholera" initiative to eradicate cholera through investments in comprehensive water and sanitation. This initiative has now to be implemented and financed

Recommendations to the Security Council:

- 1. Call on MINUSTAH to publicly communicate the proceedings involving soldiers that are repatriated pursuant to the zero-tolerance policy.**
- 2. Amend the Status of Forces Agreement in order to oblige MINUSTAH soldiers who commit human rights violations to face prosecution before a court of law in their home country, with a view to develop such liability mechanisms before the courts for all peacekeeping operations.**

4. Improve the relationship with the Haitian population

The general level of support for MINUSTAH among the Haitian population is very low. Several reasons explain this situation: a lack of understanding of the mission's mandate and how it relates with the development and security situation of Haiti, and frustration due to the feeling of impunity of MINUSTAH with respect to human rights violations committed by its members or to the recklessness that led to the cholera. Also the vast majority of MINUSTAH militaries do not speak French or Creole and do not have an adequate number of interpreters at their disposal nor do they benefit from intercultural training. Indeed, of the nineteen countries which are part of the MINUSTAH military contingent, only two are Francophone¹³ and they number only eight out of an actual military personnel count of 7,272.

Recommendations to the Security Council:

- 1. Encourage MINUSTAH to improve its cooperation and information channels with the Haitian civil society.**

¹³ France and Canada.