

# Haiti: Voices of the Actors

## A Research Project on the UN Mission



Amélie Gauthier

With the collaboration of  
Pierre Bonin

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Amélie Gauthier and Pierre Bonin

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All quotations in this paper are taken from these interviews. However, in order to safeguard the interviewees' confidentiality, they have not been identified in the reference notes. The complete list of interviewees can be found in Annex 1.

(This document was translated by Fionnuala Ní Eigearthaigh)

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# List of abbreviations

<b>APROSIFA</b>	Association for the Promotion of Integral Family Healthcare
<b>ASFADA</b>	Asosyasyon fanm soley dayiti
<b>CCI</b>	Interim Cooperation Framework (ICF)
<b>CECI</b>	Centre for International Studies and Cooperation
<b>CEDH</b>	Ecumenical Centre for Human Rights
<b>CIMIC</b>	Civil-Military Cooperation
<b>CNDDR</b>	National Commission for Disarmament Demobilisation and Reintegration
<b>CPVD</b>	Committee for the Prevention of Violence and Development
<b>CONAP</b>	National Coordination for Advocacy on Women's Rights
<b>CSO</b>	Civil Society Organisation
<b>DDR</b>	Disarmament Demobilisation and Reintegration
<b>DPKO</b>	Department of Peacekeeping Operations (UN)
<b>DSRSG</b>	Deputy Special Representative of the Secretary-General
<b>FAd'H</b>	Haitian Armed Forces HAF
<b>FAO</b>	United Nations Food and Agriculture Organisation
<b>FCRJ</b>	Forum citoyen pour la réforme de la justice (Citizen's Forum for Judicial Reform)
<b>FMI</b>	Multinational Interim Force MIF
<b>FOKAL</b>	Fondation Connaissance et Liberté
<b>GRASI</b>	Groupe de Recherche et d'Actions Sociales Intégrées (Research Group and Integrated Social Action)
<b>HC</b>	Humanitarian Coordinator
<b>HNP</b>	Haitian National Police
<b>HSI</b>	Haiti International Solidarity
<b>INTERPOL</b>	International Police
<b>JILAP</b>	National Commission for Justice and Peace
<b>MICIVIH</b>	International Civilian Mission in Haiti, OAS/UN
<b>MINUSTAH</b>	United Nations Stabilisation Mission in Haiti
<b>MSF</b>	Médecins sans frontières (Doctors Without Borders)
<b>OCHA</b>	Office for the Coordination of Humanitarian Affairs
<b>OAS</b>	Organisation of American States
<b>OHCHR</b>	Office of the High Commissioner for Human Rights (OHCHR)
<b>OP</b>	Popular Organisations
<b>PAPDA</b>	Plateforme haïtienne de plaidoyer pour un développement alternatif en Haïti (Haitian Platform for Advocacy for Alternative Development)
<b>POHDH</b>	Plateforme des organisations haïtiennes des droits humains. (Platform of Haitian Human Rights Organisations)
<b>QIP</b>	Quick Impact Projects
<b>RNDDH</b>	National Network for the Defense of Human Rights
<b>RC</b>	Resident Coordinator
<b>RC/HC</b>	Resident Coordinator/ Humanitarian Coordinator
<b>RepRes</b>	United Nations Resident Representative, responsible for UNDP
<b>SRSG</b>	Special Representative of the Secretary-General
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>UNPOL</b>	United Nations Police
<b>UNSC</b>	United Nations Security Council
<b>WFP</b>	World Food Programme

# Introduction

Since the end of the Cold War, peace missions have become one of the most frequently used instruments in the area of peace building and yet, at the same time, one of the most controversial. The number of peace operations has increased considerably since the early 90s and the UN currently leads peace missions in 17 countries.<sup>1</sup>

Such a large number of interventions proves that the international community is increasingly concerned about conflicts and their disastrous consequences. Civilians have become the main target of violence in intra-state armed conflicts, ethnic conflicts and genocides, and protecting civilian lives is the core concept behind *human security* and *the responsibility to protect*. This latter concept was accepted by the United Nations General Assembly at its 2005 Summit. Real progress was made by the international community in achieving the authorisation of a legal framework for intervening in conflict situations to put an end to genocides such as those that unfolded in Rwanda or the Balkans, two well-known examples.

Operations carried out by the United Nations have become a regular international practice to end conflicts. These operations increasingly intervene at earlier stages, even before a political resolution, with the goal of protecting civilians and preventing the situation from deteriorating. The role of these missions as well as their responsibilities and mandate, has been significantly extended.

The United Nations missions and peace operations have continued to make progress in states in conflict or post-conflict situations, in which the concepts of *peacekeeping*, *peace enforcement* and *peace building* seem to be more and more difficult to differentiate. A country could simultaneously suffer a humanitarian,

political and security crisis. The UN is facing a new type of internal conflict in which there is not necessarily a peace agreement, or in which sides do not necessarily have defined political demands nor do they fight to gain power. The stakes have definitely changed and the response of the UN and the international community needs to readapt constantly to these new issues.

UN experience from Darfur to Somalia has proved that reaching a consensus on the definition of a crisis, what form deployment should take, the mandate itself and how to implement it, is sometimes very complex and can lead to mixed results. On the basis of this experience, and given that they are growing in number and importance, peace missions should be the object of study with the aim of improving their capacities and achieving more effective results.

Haiti has appealed once again to the UN to halt the deteriorating situation. Since 1991, no fewer than seven UN missions have intervened in Haiti and the situation in 2004 seems to be worse than ever.<sup>2</sup> The mission authorised for Haiti is an integrated mission endowed with a robust mandate under Chapters VI and VII of the United Nations Charter. It combines assistance and the use of force owing to its two-fold task as a peacekeeping and peace enforcement mission and it also integrates many humanitarian actors, both military and civilian. The initial mandate under Resolution 1542 focuses primarily on the security problem, followed by political processes and human rights.

This report analyses the response of the international community involved in implementing the MINUSTAH mandate. The information gathered in the interviews allows the actors to make their voices heard on many aspects of the situation in Haiti and to communicate their ideas to each other. The following points will be discussed: establishing a secure and stable

<sup>1</sup> There are currently 18 United Nations missions deploying over 100,000 personnel. <http://www.un.org/Depts/dpko/dpko/>

<sup>2</sup> MICIVIH in February 1993; UNMTH in 1993-1996; UNSMTH in 1996-1997; UNTMTH from August to November 1997; MIPONUH from December to March 2000; MICAH from December 1999 to February 2001; MFI from February 2004 to June 2004; MINUSTAH since June 2004.

environment; defining the Haitian context, police reform, the DDR programme and violence reduction, maintaining order and restoration of the rule of law, protection of civilians.

## Haiti: state fragility or a state in a post-conflict situation

When the international community intervened, in the first place by sending the multinational force and subsequently MINUSTAH, Haiti was neither at war nor at peace. Rather, it was in the throes of a social rebellion against an oppressor and a struggle by former military leaders to overthrow this power.<sup>3</sup> When an armed group came down from Gonaïves to Port-au-Prince, they formed a convoy of perhaps forty vehicles; a small group, yet one with enormous power to destabilise in the face of an absent state and a weak, politicised police force. The state had no capacity to respond to this upsurge in violence.<sup>4</sup> Aristide himself appealed to the United Nations in the face of imminent danger. As a result, the Multinational Interim Force authorised by the Security Council under Resolution 1529, voted on the day after Aristide's controversial departure, was deployed with surprising speed to prevent the situation from deteriorating. Rapid deployment is a determining factor in quickly stabilising a conflict and it increases the likelihood of the situation being contained.<sup>5</sup> The deployment of MINUSTAH has, on the contrary, been very slow and its authorisation will only be completed in the next six months; certain divisions have taken over a year to set up.<sup>6</sup>

### How to define the violence

Haitians offer many explanations for the causes of the violence. Despite the diverse origins and manifestations of violence, the Haitian people and civilian

organisations have not been able to reach a consensus.<sup>7</sup> Some think that it is caused by the archetypes of power inherited from colonisation, slavery and even from pre-colonial Africa. Others see the after-effects of countless obstacles on the road to building an independent Haiti, such as the attempt to regain power by Napoleon's army, the odious debt with France, the American occupation, foreign complaisance towards successive dictators and the myriad forms of neo-colonial domination that have persisted right up to the present day. In the early stages of the deployment, a significant current of thought in MINUSTAH, which was promoted by Aristide's followers, insisted on the explanation that extreme poverty engendered the violence.

*"To sum up, a concept known as social appeasement attempts to impose an interpretation of galloping criminality, and the barbarity that accompanies it, based solely on social inequality. MINUSTAH agrees with this explanation in order to justify its biased attitude and passivity. But social inequality alone cannot explain why the bandits' victims come from all walks of life and why the vast majority are poor. This barbarity that consists of raping children, murdering them, and kidnapping busloads of school children, is inconceivable for the population as a whole, no matter what their social class."<sup>8</sup>*

In Haiti, there are many groups, many diverse interests, and many forms of violence that evolve very dynamically.<sup>9</sup> The scenario is complex and reflects in part the type of armed intra-state conflict that many developing countries suffer.<sup>10</sup> Haiti has a tradition of

<sup>7</sup> Violence is one of the central issues in the interviews. Some establish relationships between violence and politics, violence and the lack of socioeconomic development, violence and criminality.

<sup>8</sup> Hurbon, Laënnec., "Haïti: violence politique", *Alterpresse*, Port-au-Prince, 12 January 2007. [http://www.alterpresse.org/spip.php?article5588&var\\_recherche=La%C3%ABnnec%20Hurbon](http://www.alterpresse.org/spip.php?article5588&var_recherche=La%C3%ABnnec%20Hurbon)

<sup>9</sup> Carames, Albert., *¿Un DDR para Haití? Análisis de las estrategias de reducción de la violencia armada en el país*, Escola de Cultura de Pau, Universidad Autónoma de Barcelona, May 2007, p.6.

<sup>10</sup> Human Security Report 2005, Oxford University Press, 2005.

<sup>3</sup> Tokatlián, Juan Gabriel., "Intervención en Haití, misión frustrada. Una crítica de América Latina", September 2005, [www.fride.org](http://www.fride.org)

<sup>4</sup> An interview with Jean-Bertrand Aristide by Peter Hallward, *London Review of Books*, 22 February 2007.

<sup>5</sup> Ramsbotham, Oliver. (et al), *Contemporary conflict resolution*, Polity Press, Bradford, 2005, p156.

<sup>6</sup> The Justice Department was set up in November 2005.

political instability and democratic culture has never been well-established. Public institutions are weak, especially those that should guarantee peace and justice. Previous Haitian presidents have always created or resorted to their own "militias": Duvalier's *tontons macoute*, the army and their *attachés* under Cedras, the *Chimères* under Aristide. These militias have contributed to weakening still further the pillars of the rule of law.

*"Gangs were set up by politicians and criminal bosses; the armed baz<sup>11</sup> all have a boss, whether it's a politician or a drug trafficker. For example, the conflicts began in 1996 with Grande Ravine, an armed baz that was created by Aristide".<sup>12</sup>*

Since 2004, violence has evolved from being politically motivated to causes other than the struggle for power or overthrowing power. These causes were identified by several of the interviewees as relating to organised crime, drug trafficking and the "needs" of ex-*chimères* formerly paid by Aristide. On the other hand, in the absence of a well-defined political agenda, and given that the political importance of organised violence has dropped, armed gangs remain a propaganda tool for political parties who call on them when necessary. The government has always maintained a close relationship with gangs.

*"Where the money comes from is of little importance. The political party that pays the most will have its banner held up. Armed gangs are for sale".*

*"Armed gangs are political. They get protection and funding from the government".<sup>13</sup>*

Today, a number of foreign observers attribute violence to the lack of job opportunities and the need for survival. The thefts and kidnappings that provide large

amounts of fast money seem to respond to basic needs. However, these explanations are completely unsatisfactory in explaining the extreme cruelty that systematically accompanies many kidnappings. Further investigation is therefore needed. Violence has increased and has become a dominating factor that threatens physical integrity and the social and economic fabric of the poorest areas. It appears to be a new way of life whereby criminal gangs secure their leadership in the first place by intimidation and violence but also through a sort of "redistribution" of "basic services" (sic) to the people that the state is unable to provide for.<sup>14</sup> Given the total absence of the state in shanty towns, a clientelist security system, which is common to mafias the world over, including a travesty of justice and discriminatory and illegal access to electricity, are provided by those who rule through violence.

*"The correlation between poverty and violence has not been established. Haiti has been poor for a long time, but violence has only appeared recently."<sup>15</sup>*

*"Poverty does not by any means explain the extreme cruelty of the kidnappers."<sup>16</sup>*

*"Are criminals poor people who have now decided to take revenge? Could I then, as a poor person, break into any house, grab all the money, jewels, cars, women and children? That would mean the robber has all the rights; during the criminal act, the robber is in fact a law unto himself, like a little all-powerful king, with no limits any longer, and his desires have no safety catch; this explains why he can go as far as committing barbaric acts"<sup>17</sup>*

*"The first mistake: the Brazilian general based his interpretation of the MINUSTAH mandate*

<sup>14</sup> Gauthier, Amelie., "Security in Haiti and the International Donor Conference", FRIDE, November 2006.

<sup>15</sup> Interview with civil society in Haiti, February 2007.

<sup>16</sup> Interview with civil society in Haiti, February 2007.

<sup>17</sup> Interview with civil society in Haiti, February 2007.

<sup>11</sup> Neighbourhood based gangs.

<sup>12</sup> Interview with civil society in Haiti. February 2007.

<sup>13</sup> Interview with civil society in Haiti. February 2007.

*on a highly debatable premise; that violence was the result of poverty and that they had not come to solve that.*<sup>18</sup>

Some groups have clearly defined demands, such as members of the former Haitian Armed Forces who were demobilised by Aristide in 1995 when the armed forces were disbanded. Still armed and scattered throughout the country, they demand compensation from the state. Some *chimères* want their lost jobs in the government back – formerly only obtained on the basis of their *lavalassien* loyalty – as they consider they were unfairly dismissed when the transition government came into power. In the shanty towns, “Popular organisations” in alliance with the Lavalas party, the *baz armés*, armed gangs and the “vigilante brigades” sometimes ally themselves with criminal gangs, while others guarantee some security in their neighbourhoods (as well as their own security), and often exert political pressure. Fighting was frequent between these groups particularly with the aim of controlling different territories.

*“With a weapon you can automatically control a territory.”*<sup>19</sup>

It is difficult and above all dangerous to try to provide evidence of the activities carried out by force; they range from violence directly linked to organised crime dealing in drugs and weapons to child slavery, the ramifications of which extend right up to government level and some members of parliament. These relationships are very difficult for external actors to perceive.

*“It is estimated that 600 tons of drugs are moved around Haiti and that between 100 and 200 orphanages are involved in the child slave trade.”*<sup>20</sup>

<sup>18</sup> Interview with civil society in Haiti, February 2007.

<sup>19</sup> Interview with civil society in Haiti, February 2007.

<sup>20</sup> Interview with a representative of the UN, March 2007.

### *The UN response to violence*

MINUSTAH is accused of responding only to the symptoms of violence with its dissuasive presence, or even through over-militarisation, rather than attacking the causes of the violence. There is either little information available about the political and social aspects of peace consolidation in Haiti or else this documentation has not reached the hands of the decision makers on the Security Council. Peace consolidation does not only entail an absence of conflict or an absence of violence. It addresses the causes of violence, in order to ensure long-lasting peace in the country.<sup>21</sup> If the international community’s response is to send a peace mission to end the “conflict”, and MINUSTAH does not tackle the causes of violence, it will be difficult to consolidate long-term peace. Seven out of nine conflicts that broke out in 2005 represented renewed fighting between previous foes. This record suggests that peace operations are failing to set up the structures necessary for peace.<sup>22</sup>

Faced with this unusual situation, which is characterised by the lack of a peace agreement and the absence of a definition for a “combatant” with no real political demands, armed gangs have rendered military strategies and tactics ineffective in putting an end to the violence. The “malfrats”<sup>23</sup> seem, moreover, to change their tactics, as they are neither a military nor a police target but rather a form of organised violence between the two.<sup>24</sup> Furthermore, the international force is now facing a dispersal of criminals throughout the country following robust military operations in Cité Soleil. The towns of Gonaives, Hinche, and Cap-Haitien have become hideouts for criminal “refugees”.

The number of soldiers is considered by the Haitians to be excessive and their limited capacity in confronting

<sup>21</sup> Call, Charles T., & Cousens, Elizabeth., "Ending Wars and Building Peace", International Peace Academy, New York, 2007.

<sup>22</sup> Ibidem., p.7.

<sup>23</sup> Term used in Haiti to refer to criminals.

<sup>24</sup> The United Kingdom is setting an example of a change in doctrine that aims to create peacekeeping operations that are flexible and robust, ready for combat and sensitive to the *raison d'être* of the mission and to supporting peace. Ramsbotham, Oliver., (et al), *Contemporary conflict resolution*, p143.

violence and disarming armed groups has led to severe criticism by the population who deem the mission to be ineffective and passive. Furthermore, according to some, it has generated additional conflicts and problems in the country.

*"MINUSTAH is over-equipped; Haiti is not at war".<sup>25</sup>*

*"The violence in Haiti is armed urban crime".<sup>26</sup>*

Faced with the diversity of armed groups, growing insecurity problems, continuing kidnappings accompanied by cruelty and murders, a flourishing trade in the trafficking and distribution of weapons, drug trafficking, the marginalisation of young people, group rapes, and the manipulation and trivialisation of violence, it is difficult to correlate these characteristics with those of traditional "armed conflict". Instead one is faced with a combination of the causes and consequences of a disintegrated state that today is considered to be failed.

This questionable conceptualisation of a "post-conflict" situation has led to other inappropriate elements being introduced in the mission's mandate, such as the DDR programme. The worrying tendency to apply state-building strategies to states in a post-conflict situation and post-conflict strategies to failed states has been observed.<sup>27</sup> In Haiti, justly considered to be a fragile state, the international community should focus mainly on security, that is to say, eliminating violence by restoring the rule of law. Successful state building strategies are equally useful in supporting peace consolidation, such as improving mechanisms for security and non-violent conflict resolution, and enhancing legitimacy in the eyes of the people and the emergent government.<sup>28</sup>

However, two trends can be observed among those who work to strengthen the rule of law, which is the basis

for eradicating violence and a return to conditions that enable sustainable development.

For some, it is a matter of rehabilitating, reforming and developing the capacities of the judicial and penal systems: police, courts, prisons. The rule of law in this case is reduced to exercising a number of civil and political rights.

For others, establishing the rule of law implies functioning institutions and public services so that all citizens will *really* be equal in the eyes of the law, and *before all laws*. It is not just a matter of the state's capacity to apply laws that guarantee the security of individuals and goods but in addition, laws that guarantee the exercise of economic, social and cultural rights such as: "quality schooling for all", access to drinking water, decent and healthy housing conditions, quality basic health care for all, gender equality, access to production factors (land, water, credit, training ...) and genuine possibilities of earning a living as an honest citizen. A global development programme? Yes indeed, in which citizens' rights are treated indivisibly.

For those who support the second interpretation of the *rule of law*, it follows that the mission should not limit its priorities and those of the international community to strengthening the penal system. Instead, it should bring the focus back to economic, social, cultural and environmental development programmes, and the urgent obligation of these programmes to produce results that support not only the fight against extreme poverty but also the "fight against impoverishment".

*"The most urgent issue in Haiti is to create state capacities".<sup>29</sup>*

## *Recommendations*

### **1. A better understanding of the situation and the causes of violence**

Differentiate state-building strategies in a fragile state

<sup>25</sup> Interview with civil society in Haiti, February 2007.

<sup>26</sup> Interview with a military of MINUSTAH, January 2007.

<sup>27</sup> Call & Cousens, p.8.

<sup>28</sup> Ibidem., p. 7.

<sup>29</sup> Interview with civil society in Haiti, February 2007.

such as Haiti from post-conflict strategies that are not very appropriate. A more in-depth analysis of not only the groups involved but also the causes of violence, power structures and relations between the government and armed groups is necessary. Identify the interests of former military personnel, *chimères*, and also identify those who form the drug trafficking networks.

## 2. Give priority to the creation of state capacities

MINUSTAH should increase its capacity for strengthening institutions and reduce the number of soldiers. Security remains a priority in Haiti and the state is the institution that should guarantee it.

## 3. Recognise the civil society as incontrovertible actor in the construction of the rule of law.

MINUSTAH and UN agencies must assure that the participation of organized civil society in the state reform, justice reform and public services, but also in the debates on macroeconomic orientation, national development and the fight against poverty. This recognition seems indispensable for a real collective ownership of state reforms and consolidation of peace.

## 4. Massive support for a national reconstruction and global rehabilitation programme in urban areas that have been taken hostage and systematically victimised by armed groups.

This should be formed of actions coordinated by the Haitians themselves aimed at community reduction of violence, and simultaneous actions focusing on town planning, creation or rehabilitation of infrastructure (roads, water, drains, *fatras*, electricity...), public services (primary health care, state schools, public transport, local policing, etc.), the environment and the creation of sustainable employment.

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# First part of the mandate: a secure and stable environment

MINUSTAH's principal mandate is to establish a secure and stable environment, conducive to effective political and constitutional functioning. From 2004 to the present date, MINUSTAH has made enormous progress and in terms of stability the situation is not comparable. In particular, the elections organised in 2006, the resumption of the Senate and the Chamber of Deputies, the promotion of HNP officers, robust operations in Port-au-Prince shantytowns, and the recent arrest of the most powerful gang leaders have contributed to reshaping the current situation. The UN peace mission has effectively created a space within which political processes can take place, and Haiti is benefiting from an opportunity unheard of in the last 15 years. MINUSTAH still has many challenges to address and they are outlined in the following sections of the report.

### *Has Haiti become a "stable" country?*

There are several answers to this question. For some, MINUSTAH has effectively created the minimum level of security necessary for holding credible elections, the results of which have only been partially contested. For others, however, the electoral process was marred by serious electoral fraud and the widespread impunity that allowed many district magistrates, who should have been brought to justice for the crimes they were suspected of, to become candidates and be elected.

*"Peace cannot be reduced to 'a stable order' if that order is unjust and false".<sup>30</sup>*

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<sup>30</sup> Interview with a human rights organisation in Haiti. February 2007.

It has been pointed out that the “stability” of public institutions that seems to exist does not by any means guarantee their correct functioning or even the legality of their procedures. An accusing finger can be pointed at the courts, police and prisons, and also the parliament, government ministries and public services, whose legal existence does not in any way mean they have the real capacity to fulfil their role according to the laws that established them. Furthermore, the fact that Haiti is at the bottom of the list of the most corrupt countries in the world – even allowing for discrepancy over Transparency International’s criteria and methods – confirms that “public order stability” is a concept that can hide serious wrongdoings because it does not take into account whether this “order” is fully constitutional, just, and respecting of all fundamental human rights according to the treaties and conventions that Haiti has ratified.

## Police reform: one officer per armed gang

Police reform has been a priority for MINUSTAH since the first UN Resolution, 1542, in 2004. In addition to being a priority, it is also one of the most sensitive aspects of the mission. Police reform is a long process and there is little or no room for error. Although the UN has considerable experience in this field, having overseen police force reforms in several countries since 1989, each new reform is a real challenge.

The police force is a key institution for security in Haiti as it is essential for restoring and maintaining public order. It has the monopoly over the use of force and is the only institution that can apply and enforce the law. When the Haitian Armed Forces were disbanded, the HNP became an arena for many groups with vested interests. Since the police force was set up in 1997, there have been four missions mandated to train and professionalise it. The state of the institution today reveals the extent of the problems and challenges that must be addressed.

*“He who leads the police leads the country; there is no counterweight to the police force”.<sup>31</sup>*

When MINUSTAH arrived in 2004, the HNP had serious problems: without enough manpower to guarantee security, police officers were badly equipped, had scarce resources and were poorly trained, in addition to being politicised.<sup>32</sup> It is also widely known that the last police promotions under Aristide’s government were made up of “chimères” or Aristide militias. It has been estimated that close to 25% of the force is corrupt, in addition to being responsible for human rights violations.

*“There is at least one police officer associated with each armed gang”<sup>33</sup>*

Resolution 1542 and subsequent resolutions expressly authorise the mission to carry out the vetting and certification of HNP officers.<sup>34</sup> This process is essential for establishing a professional and democratic police force. It contributes to improving its image and to regaining people’s confidence. The vetting process of HNP members did not start until 2007, partly due to the transition government’s reluctance. This delay in setting up such a vital process has had serious consequences.

Widespread corruption throughout the police force obliged MINUSTAH to remove HNP from the planning of military and civil operations in order to avoid leaks that were occurring frequently. Unfortunately, this was a lost opportunity for the institutional strengthening of HNP. The UN needs to improve institutional strengthening and devote more resources to this aspect, in collaboration with experts in police training and specialists in human rights.<sup>35</sup>

<sup>31</sup> Interview with civil society in Haiti, February 2007.

<sup>32</sup> Police Reform Document S/2006/726. p.3.

<sup>33</sup> Interview with a member of MINUSTAH, February 2007.

<sup>34</sup> These security controls comprise a thorough inspection of each police officer in coordination with INTERPOL in order to ensure integrity, respect for the code of discipline, professional competence and performance.

<sup>35</sup> O’Neill, William G., “Police Reform in Post-Conflict Societies: What we know and What we still need to know”, International Peace academy: The Security-Development Nexus Program, April 2005, p.4.

### *An ambitious reform plan*

The reform plan signed by the Haitian government and the Security Council establishes strategies for Haiti to become able to ensure its basic security needs. The plan is ambitious: to double police manpower between now and 2011 in order to reach a figure of 14,000 well-trained and well-equipped officers. The plan foresees the need for a police force with 18,000 to 20,000 officers to fulfil all Haiti's security needs.

A number of issues need to be addressed with regard to this reform. In the initial stages the plan emphasises, among other aspects, the quality of recruitment procedures, but the level of the candidates recruited may not be high enough.<sup>36</sup> Furthermore, the training that is currently given to new officers is very short, only four and half months. If HNP is the cornerstone of security in Haiti, quality training must be given and opportunities for further training provided. The UN should make an ongoing commitment to consolidate integrity, professionalism and discipline in the police force.<sup>37</sup> The plan also points out that HNP has not yet generated the sense of self-esteem that is essential to consolidate a democratic police force.<sup>38</sup>

The Inspectorate General and Central Command of the Judicial Police urgently needs strengthening, as has been pointed out in the reform plan. The Inspectorate General's practices, methods of operation and public perception of the institution will serve to assert the state's authority as well as create models of conduct for police officers.<sup>39</sup> The Inspectorate General has the capacity to renew people's confidence and, as in previous years, it has the means to inform the population of human rights violations, to deal with complaints, to ensure that an investigation has been opened and that a resolution is made public thus encouraging people to work hand-in-hand with the

institution.<sup>40</sup> In addition to strengthening the Inspectorate General, an intelligence unit, which does not currently exist, is needed to gather information and to watch over criminal gangs.

*"It is not normal that Santo Domingo should be informed more quickly of events that happen in Port-au-Prince than President Préval himself."*<sup>41</sup>

The process of consulting with the population seems to have been neglected. Relations between HNP and the people are characterised by distrust, accusations of brutality, human rights violations, corruption, collusion with criminals and politicization, not counting the police officers who have committed violent or criminal acts. People need to be included in this process, so that the context and needs of the police can be better understood, rather than just referring to an international police standard. MINUSTAH should avoid a "top-down" approach; the population should take part in defining the institution and how it can respond to their security needs. This dialogue could be positive for the HNP, which has inherited many state responsibilities, such as being the only state presence in the provinces.

### *A neglected debate*

On the other hand, a number of the state and non-state actors that were interviewed expressed the need, from their point of view, to create a "second force" for Haiti. For some, this force would be totally independent of the HNP, either a new Haitian Armed Forces or a *gendarmerie*. For others, it could be a *gendarmerie* or a civil guard subordinate to a high command that would oversee this new force and the HNP. In addition, a "youth civil service", according to some opinions, could be linked to this new body.

However, the international community is very reluctant to finance the creation of a second force and the reasons given are many and varied. There is no

<sup>36</sup> World Bank, 85 percent of Haitians with training have left the country. Other requirements are to be able to speak and read French and to be in good physical condition.

<sup>37</sup> O'Neill, William G., p.4.

<sup>38</sup> Police Reform Document, S/2006/726. p.20.

<sup>39</sup> Mathurin, Rodolphe. *L'Inspection Générale de la Police Nationale: Priorité ou Porte d'entrée pour la réforme de la police Nationale d'Haïti*, December 2006.

<sup>40</sup> O'Neill, William G., p.8.

<sup>41</sup> Interview with a member of MINUSTAH, February 2007.

agreement regarding the name and exact function of this force. Several proposals are being studied, one of which is being funded by the Haitian parliament. The population does not believe that the HNP has the capacity to confront the armed gangs that terrorise the population and who, until recently, ruled in Cité Soleil and other hot spots, or indeed that they are able to protect the borders. From a practical point of view, the former soldiers who now belong to the HNP are carrying out tasks that do not correspond to their training, capacity or wishes.<sup>42</sup> Military doctrine based on protecting the country against external aggression differs greatly from that of a police force with a mandate to maintain order and public security for citizens, goods and institutions. Around 800 ex-soldiers have joined the HNP, which has 7,429 members, but the higher ranks in particular are mainly made up of ex-military personnel and this fact could compromise the force's mission in the long-term.<sup>43</sup>

*"HNP is not interested in protecting ports and airports. That's why a second force is necessary"*<sup>44</sup>.

*"In the Haitian police there has been a shift towards the dominant military structure of the former Haitian Armed Forces"*<sup>45</sup>

This second force, which is at the centre of a political and popular debate, should be considered by the international community. A reform process in which the Haitian people do not have local ownership increases the likelihood of failure. Literature on the subject insists on this point and the specific history of Haiti has proven it more than once; an ownership process is essential for this reform to succeed.

### *The importance of UNPOL*

Calls for increased manpower for the United Nations civil police (UNPOL) are constantly heard, given that

they respond more effectively in intra-state armed conflicts in different parts of the world. Currently the UN is overseeing police reform in 13 countries.<sup>46</sup> Countries can more easily contribute military troops while sending police officers has a more immediate and direct effect in the country of origin. Canada for example is prepared to send more police officers in winter because the crime level is lower than in summer. UNPOL deployment around the world has increased substantially, around 29% in 2006, and the number of personnel authorised rose to 12,000. MINUSTAH is the second largest UN mission and it has the largest police contingent (composed of civil police officers and formed police units).<sup>47</sup>

Despite the large numbers of UNPOL officers in Haiti, the quality of the personnel that make up the contingent is a controversial issue. China, Jordan, Nepal, Pakistan and Senegal contribute over 60% of the UNPOL force and Haitians question their capacity to accompany the HNP. Given the rather dubious human rights record of certain countries, in which the populations have suffered from crimes and violations committed by the police, the armed forces or by groups that have benefited from State complicity, the suitability of these countries for the task would seem to be debatable. In addition, a large number of these international civilian police officers do not speak or understand either French or Creole.

*"The UNPOL are not necessarily better than the HNP."*

*"Excessive multiculturalism, that is not correctly supervised, should be avoided in the UNPOL... The UNPOL should learn how to help.... UNPOL from countries that do not have a democratic tradition should not be recruited"*<sup>48</sup>

<sup>42</sup> *OECD Handbook on Security Sector Reform – Supporting Security and Justice*, OECD 2007, p.105.

<sup>43</sup> Interview with MINUSTAH, January 2007.

<sup>44</sup> Interview with a government official, February 2007.

<sup>45</sup> Interview with civil society in Haiti, February 2007.

<sup>46</sup> O'Neill, William G., "Police Reform in Post-Conflict Societies: What we know and What we still need to know", International Peace academy: The Security-Development Nexus Program, April 2005, p.1.

<sup>47</sup> "Annual Review. Global Peace Operations 2007", Center for International Cooperation, P.9, 152.

<sup>48</sup> Interview with civil society in Haiti, January and February 2007.

### Recommendations

#### 5. Proceed immediately with vetting processes and controls of HNP officers

As authorised by Resolution 1542, MINUSTAH has a mandate to proceed with security controls. It is imperative to carry out these controls as quickly as possible in order to purge the HNP. Otherwise, corruption will undermine MINUSTAH's efforts to strengthen the institution.

#### 6. Increase the duration and quality of training

The MINUSTAH goal is to train 14,000 police officers and to create a professional, democratic and ethical institution. MINUSTAH should promote longer training and ensure effective monitoring of new police officers in order to create a force capable of addressing its responsibility of ensuring the country's security.

7. "Community policing" or "local policing" should receive more attention and could contribute to rebuilding a relationship of trust and collaboration between citizens and the police.

#### 8. Address the political and popular debate on HNP reform and the pertinence of a second force.

Citizen participation in reforming the Haitian police could be included within the programme *Forum citoyen pour la réforme de la justice*<sup>49</sup>, recognised as a privileged platform for civil society participation in reforming the penal system. MINUSTAH could suggest that civil society organisations who participate in the citizen forum might initiate a debate with the populous in order to define the HNP: its mission, its code of conduct, the competences expected from officers, their training, management, and monitoring. It could also advance

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<sup>49</sup> In 2001, three human rights organisations, the Ecumenical Centre for Human Rights (CEDH), Haiti International Solidarity (HSI) and the National Episcopal Commission for Justice and Peace (JILAP), founded the "Coordinating Committee for the Citizen Forum", with the support of the UNDP. The Citizen Forum for Judicial Reform was conceived as a forum for dialogue and creating proposals and the Committee and UNDP meet in this forum. Their goals are to enable organised civil society to participate in designing the nation's policies relating to justice; to strengthen the democratisation of political institutions involved in the reform and to encourage State modernisation, particularly in justice. See: <http://www.forumcitoyen.org.ht/>

the debate on the relevance of a "second force", a debate that is very much present and should not be ignored.

### The DDR programme: a resounding failure

Was the DDR programme destined to fail from the start because of an incorrect analysis of the situation? A DDR programme is essentially a political process and its success depends on the will of the parties involved to demilitarise after the conflict.<sup>50</sup> This process is also a mechanism that can help to generate confidence in the peace process and support transition between the conflict, peace and development. After Resolution 1542, the Security Council authorised the mission to help the Haitian government set up a sustainable DDR programme for all the armed groups involved. It was not until two years later that the Security Council asked the mission to reorient its efforts towards programmes aimed at countering violence.<sup>51</sup>

#### *Incorrect diagnosis*

A "post-conflict situation" is, initially, preceded by a conflict and then followed by a peace agreement. But this is not the case in Haiti. This is a diffuse conflict and the sides and their demands are not clear. Aristide's departure did not amount to a peace agreement and the election of the new president is not one either. This unsuitable political framework has contributed to the failure of DDR.

*"A misreading of the situation: Haiti is not in a post-war or post-conflict situation"*<sup>52</sup>.

*"Neither poverty nor extreme poverty can explain the terrible cruelty of the muggers and kidnappers and their apparent blindness in*

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<sup>50</sup> "Operational Guide to the Integrated Disarmament, Demobilisation and Reintegration Standards", UN Inter-Agency Working Group, 2006, p. 25.

<sup>51</sup> UNSC 1702, 15 August 2006.

<sup>52</sup> Interview with a human rights organisation in Haiti, February 2007.

*choosing their targets, rich and poor indiscriminately*<sup>53</sup>

DDR should be planned, implemented and carried out according to the political process of each country. In Haiti, however, the transitional government did not succeed in establishing the necessary legitimacy to lead a DDR process and the parties to the conflict never agreed to be “demilitarised”. It was not until over two years later, with a newly-elected government that had been legitimised at the polls, along with the creation of the National Commission for Disarmament, Demobilisation and Reintegration with a strengthened mandate and direct access to the President, that tentative talks took place between the government and the armed gangs about voluntarily handing over weapons.

This dialogue, which was in fact a negotiation with the leaders of armed gangs, proved beyond any doubt to be untenable. According to many Haitians, neither the Presidency nor the Prime Minister’s office should have taken part in the negotiations, as they were suspected of playing both sides of the fence - of making pacts with criminals and of making money from these contacts, reinforcing impunity and tarnishing the nobility of their high office.

Ambiguous relations between the presidency and armed gangs, and the co-opting of notorious criminal leaders as partners or even spokespersons for the CNDDR have detracted from the credibility of the newly started process to achieve voluntary disarmament. Concern has arisen about the possibility that individuals widely suspected of serious crime might evade the law, thereby achieving a sort of amnesty, and in the process broadening still further the field of impunity so often referred to as one of the factors that aggravates violence in Haiti.

The transitional government’s lack of legitimacy, the prolonged absence of a government body to manage DDR, and the lack of a clear message from the

government have seriously compromised the programme’s success.

*“The government never clearly announced the DDR process”*<sup>54</sup>

*“On the radio Préval announced the handing over of illegal weapons, or else death, while Alexis declared that he will negotiate disarmament with the gang leaders”*<sup>55</sup>

*“It is not fitting for the country’s leader to announce death as a solution for constructing peace. He is there to talk about life”*<sup>56</sup>

Furthermore, since MINUSTAH arrived the target group for the DDR programme has been ex-soldiers. The HAF, comprising 8,000 soldiers, were disbanded in 1995. In the early 90s there was an initial DDR process that failed as it did not succeed in completely disarming the armed forces. To attempt a second DDR initiative aimed at ex-military personnel, nine years after the army’s disbandment, would appear to indicate that logical and serious consideration was not given to the selection of suitable candidates for such a programme. Furthermore, ex-soldiers are atypical in their behaviour: sometimes they commit acts of violence and on others they protect the population. Their demands of the government focus mainly on economic compensation for services rendered to the Haitian state.

*“The North (of Haiti) had already been pacified by former soldiers when MINUSTAH arrived. There were negotiations to replace them with UN troops.”*<sup>57</sup>

### *Weapon ownership*

Given that the Haitian constitution allows citizens to possess and carry weapons, legally everyone has the right to a weapon, on the condition that it is registered

<sup>53</sup> Interview with civil society in Haiti, February 2007.

<sup>54</sup> Interview with civil society in Haiti, January 2007.

<sup>55</sup> Interview with civil society in Haiti, January 2007.

<sup>56</sup> Interview with civil society in Haiti, January 2007.

<sup>57</sup> Interview with a government representative, February 2007.

with the correct licence. Many Haitians have weapons, but that does not make them murderers. However, most weapons in circulation are not registered. There are historical and psychological issues concerning weapon bearing and security in the country that date to the time of independence. According to a UN study, if possessing weapons is a cultural trait of the population, and is considered to be a habit that existed before the conflict, recovering weapons is in all likelihood destined to fail.<sup>58</sup> The number of weapons is without any doubt a serious concern both for the population and the international community. According to IANSA estimates, there are between 170,000 to 200,000 light weapons in the country.<sup>59</sup>

Disarmament programmes that have been successful in Africa cannot be implemented in another country without analysing and diagnosing the situation. A weapon in Cité Soleil does not have the same value as a weapon in Africa, no matter what ends it is used for; money, territory, security, or status. Even if Haiti does not have the characteristics of “war economies” linked to diamonds, as in Sierra Leone for example, drug trafficking is a significant destabilising factor and motivates some groups to create an unstable environment. It is increasingly recognised that in the initial phases of stabilising a conflict, war or drug economies should be dismantled.<sup>60</sup> Individuals involved in illegal activities have no interest in handing over their weapons voluntarily or forming part of a DDR programme. They should therefore be arrested and brought to justice.

The absence of an appropriate political framework, former military personnel who have not taken part in the DDR programme in the numbers expected, the legal framework allowing the carrying of weapons in Haiti,

and drug trafficking that benefits criminals who thrive on insecurity; these are the factors that have led the Security Council to review the MINUSTAH mandate.

### *United Nations Integrated Response*

After failing to implement a classic DDR programme, the Security Council requested MINUSTAH to “reorient its efforts towards violence reduction strategies”. The United Nations integrated programme for reducing violence is structured as follows and the first two components are analysed below:

- Negotiation, disarmament and reintegration of armed groups (responsibility of MINUSTAH and CNDDR).
- Community security and conflict prevention (UNDP)
- Prevention, disarmament of armed children linked to armed groups (led by UNICEF)
- Reintegration of women associated with armed groups and strengthening of their role as vectors of peace (MINUSTAH – gender equality department).
- Strengthening of political and legislative structures to control the proliferation of light weapons (cross-cutting issues).<sup>61</sup>

MINUSTAH also tried to promote a “peace process” negotiation between five gang leaders who were fighting to control a particular territory. Unfortunately the initiative failed owing to distrust and the impossibility of getting five people to sit around a table to negotiate a “peace agreement” in a situation of widespread insecurity in which violent acts are still glorified. What’s more, this peace agreement would only have applied to a very small area of Port-au-Prince, and would not have been extended nationally. A successful outcome would undoubtedly have helped to reduce violence and it would have set an example, but it would never have been considered as a peace agreement preliminary to a DDR process. This proves how complex and fragmented these groups are, creating a major obstacle for the negotiation of a peace agreement.

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<sup>58</sup> “Operational Guide to the Integrated Disarmament, Demobilisation and Reintegration Standards”, UN Inter-Agency Working Group, 2006, p. 141.

<sup>59</sup> Muggah, Robert, “Securing Haiti’s transition. Reviewing human security and the prospects for DDR”, April 2005. An independent study undertaken by the Small Arms Survey project on request from the DFAE. Small Arms Survey is an independent research programme located at the Graduate Institute of International Studies in Geneva, Switzerland.

<sup>60</sup> Ramsbotham, p.140.

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<sup>61</sup> Carames, Albert, “¿Un DDR para Haití?”, p. 8.

*"As long as there is no security, there will not be voluntary disarmament."<sup>62</sup>*

Aside from disarmament, the collaboration between MINUSTAH and CNDDR to recover weapons has scarcely made any progress. The day after the CNDDR was established, the first batch of 70 weapons was collected, then 40 weapons more the day after, with no information as to where they had come from, and with no registration process. Both the unknown source of the weapons (with no recorded statements) and the composition of the CNDDR (including the notorious Jean Baptiste Jean Philippe, alias Samba Boukman, responsible for relations with local and community organisations) led to the resignation of two members of the commission the day after it was created, thus seriously harming its credibility and reputation as well as disarmament efforts.<sup>63</sup>

MINUSTAH's progress regarding disarmament is poor; the mission claims to have found only 5,000 munitions following extensive operations in Cité Soleil, and very few weapons have been collected. After checking candidates' legal records, between 150 and 160 people took part in the MINUSTAH DDR programme. By April 2007 there was a significant increase in numbers with around 300 or 400 people, who had been arrested after operations in Cité Soleil, deciding to take part in the DDR programme.

The people have high expectations that MINUSTAH will disarm the gangs but they accuse it of lacking the will to do so. In addition to poor results in recovering weapons, the demobilisation that usually takes place thanks to tight security measures and the dismantling of command structures has not been implemented nor is it enforceable. The psychological aspect of demobilisation is an important step in order for participants to be ready for reintegration. In the reintegration phase, participants have the right to receive job training for 18 months and a grant of

\$3,000 when they voluntarily hand over their weapon. However, participants take advantage of the programme, by using their programme identification or registration card to benefit from immunity, while also using weapons in the evening or when they have finished the programme's activities. When their training has been completed, job opportunities are practically non-existent and reintegration is difficult.

### *CPVD: a programme adapted to Haiti, or must Haiti adapt to the programme?*

The UNDP programme is key to reorienting efforts towards comprehensive violence reduction programmes and it complements a later stage of the MINUSTAH DDR programme.<sup>64</sup> In the field, the UNDP programme assists the creation of *Committees for the Prevention of Violence and Development* (CPVD) in the cities that have been hard hit by violence.<sup>65</sup> There are currently six CPVDs operating and they are made up of people who have been elected with a mandate to represent different population groups.<sup>66</sup> The purpose of creating these committees is to identify the sources of violence, define security, encourage conflict prevention and to provide the means for non-violent resolution. In theory, this programme seeks to include the population in reflecting on the problems of security that affect them directly and on a daily basis, and to work together to find solutions. One of the very positive aspects of the CPVD is the inclusion of a HNP officer and a local government representative, thus promoting dialogue between the people and state institutions which could help to restore confidence in these institutions.

*"The idea of the CPVD is to create an institution that is able to survive coups d'état".<sup>67</sup>*

<sup>64</sup> UNDP, "Support à la Stratégie Nationale de la CNDDR en Haïti – Le Programme de Sécurité communautaire par la Réduction de la Violence Armée", Document de projet (draft), Port-au-Prince, Haïti, 30 January 2007, p.34 & annexes p.22.

<sup>65</sup> For further information see <http://www.unddr.org/countryprogrammes.php?c=80>

<sup>66</sup> The CPVD are made up of a child, a woman, an elder person, a spokesperson elected by the people in the district, a police officer and a government representative. There are pilot projects in Bel Air, Martissant, Carrefour Feuille, Cité Soleil, Gonaïves and Les Cayes.

<sup>67</sup> Interview with a UN representative, February 2007.

<sup>62</sup> Interview with a representative of MINUSTAH, January 2007.

<sup>63</sup> The President's representative on the Commission was a man called Samba Boukman who was the spokesperson for Operation Baghdad, one of the most serious massacres since 2004.

In actual fact, the programme has materialised differently. The CPVD forms a parallel structure to the dysfunctional government structure and it diverts international community resources towards the CPVD rather than to the decentralisation mechanisms foreseen by the Haitian constitution. What will happen when the international community stops funding the programme? How will the international community ensure that these structures are sustainable?

Furthermore, the critical problem for the CPVD is the Haitian social context. On the one hand the shantytown population is the most affected by insecurity, while on the other it needs civic education to really understand concepts such as representation, elections, the role of elected individuals, and the rights conferred on the community.

*"The Haitians do not know how to participate in a community. This is not Africa."*<sup>68</sup>

In a country like Haiti, in which democratic culture has never taken hold, the concept of the common good and the meaning of elections and representation are limited to the educated elites, and in particular to those who have received citizen education within the social movements. As a result, the people who have been elected to the CPVD are very often people who have a lot of influence in their neighbourhoods, which they impose with their weapons. The outcomes achieved are the opposite of what was hoped for, giving even more status and ownership or consolidation of power to the leaders of armed gangs. They use their status of having been "elected" by the people to get benefits and resources from the international community rather than benefiting those they "represent", whom they continue to extort and abuse.

*"There is no natural or spiritual leader similar to the African context."*

*"The 'elected' CPVD representatives know the people in the armed gangs and have connections with them."*<sup>69</sup>

<sup>68</sup> Interview with an NGO in Haiti, February 2007.

<sup>69</sup> Interview with civil society in Haiti, January and February 2007.

Many civil society organisations work together under the umbrella of the coalition The Campaign for the Reduction of Violence in Haiti.<sup>70</sup> This coalition brings together 15 Haitian and international NGOs who work towards reducing violence through consciousness-raising, strengthening the legal framework against weapons trafficking, community work, advocacy, and by encouraging activities for young people such as sports, photography and sculpture. For example, in Carrefour-Feuille, the Family Health Centre run by APROSIFA<sup>71</sup> is already very active in organising activities such as these with young people in order to reduce violence and to fight against the stigma of HIV in the areas where they are involved. The UNDP seems to ignore the social fabric that has already been created and the social movement organisations already engaged in peace building in socially deprived local neighbourhoods. The UNDP prefers to work alone, opting for violence reduction schemes that have worked in Sierra Leone and Guatemala.

*"The CPVDs are not well-considered by local organisations. They fear that this parallel structure will increase violence because of the power associated with money and trafficking."*<sup>72</sup>

### *What is "the" solution for Haiti?*

Restoration of security cannot be ensured by transferring programmes that have been successful in Africa. Security and disarmament are closely linked and cannot be addressed as separate issues. Controlling the sale and circulation of weapons should be strictly regulated by the state, by intensifying control of sea and land borders, ports and airports. MINUSTAH attempts to refine its strategies so that

<sup>70</sup> "Lutter pour la réduction de la violence, causée par la circulation de milliers d'armes illégales en Haïti", AlterPresse, Port-au-Prince, 29 May 2006. <http://www.medialternatif.org/alterpresse/spip.php?article4702> and <http://www.campagnecontreviolence.org/>

<sup>71</sup> Association for the Promotion of Integral Family Healthcare, Asosyasyon pou Promosyon Sante entegral Fanm (APROSIFA), operates a community health centre at 122, Route des Dalles, Carrefour-Feuilles, Port-au-Prince.

<sup>72</sup> Interview with a group of NGOs in Haiti, February 2007.

they are custom-made for each gang leader and each group. Although MINUSTAH appears to be constantly changing direction, a personalised approach for actors who are so different and complex would appear to be a good approach. Coordination with the HNP has been strengthened, as the successful joint operations to arrest gang leaders who had fled the capital have proved.

Faced with DDR programmes that have failed and a UNDP programme that is not adapted to Haiti, insecurity continues to be a worrying problem for the population, despite real progress being made since early 2007.

### *Recommendations*

#### **9. Better assessment of the conditions necessary for a successful DDR programme**

DDR and violence reduction programmes that have been successful in some African countries should be thoroughly adapted to the specific characteristics of the situation in Haiti to ensure the desired outcomes. The diversity of armed gangs and their interests, along with the carrying of weapons, are traits that make it difficult for such programmes to succeed.

#### **10. Review the CPVDs**

In theory, the CPVDs have positive attributes such as participation of the people and promotion of local policing. However, their setting up should take into account the specific social structure of each district under consideration, including “underground elements” and credible civil society organisations already committed to peace consolidation. However, the arrests of gang leaders and the disarming of gangs remains an inevitable prerequisite and should remain a top priority for the HNP and MINUSTAH. In practice, as long as individuals use their weapons as a means to power and control, the CPVD system will not work.

#### **11. Accelerate legislative reforms on weapons trafficking and increase resources for arms control**

Weapons control is essential. The weapons register

should be updated and further resources should be devoted to vetting, examining and controlling weapon ownership.

#### **12. More effective border control**

Land and sea guards at airports and ports should have the authority, structure, personnel, competence and logistical means to effectively control these entry points and to put an end to all criminal traffic: weapons and munitions, drugs, organs and people, especially children.

#### **13. Institutionalise the culture of peace**

Given the violence, legal possession of weapons and the habit of settling differences by force, a culture of peace should be emphasised. This can be achieved through campaigns and activities that involve many different sectors such as central government and local authorities, civil society organisations, local and international NGOs, the media, artists and writers, and schools and universities.

## **Maintaining order and the rule of law**

Whereas maintaining order has formed part of UN missions for a long time, the degree of force authorised and its interpretation have varied in different missions.<sup>73</sup> When states are not able to ensure public order and the security of their citizens, the United Nations – determining that this situation constitutes a threat to international peace and security in the region – commands a number of instruments that enable it to intervene, on request from the recognised government. Maintaining order has been the responsibility of UN members since the Congo mission in 1960. “Restoring the rule of law”, here reduced to three pillars - the police, judiciary and correctional systems - has become a new responsibility for UN missions, however. It can be observed that this situation refers specifically to

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<sup>73</sup> Cherterman, Simon., “The use of force in UN Peace Operations”, External Study, United Nations Peacekeeping, August 2004.

mandates that are applied to transition governments such as those in Kosovo and Timor-L'este. Establishing a police force, and a judiciary and correctional system effective enough to sustain the rule of law, is essential to build sustainable peace.<sup>74</sup> The Security Council effectively authorised MINUSTAH to help re-establish the rule of law.

*"To assist with the restoration and maintenance of the rule of law, public safety and public order in Haiti through the provision inter alia of operational support to the Haitian National Police and the Haitian Coast Guard, as well as with their institutional strengthening, including the re-establishment of the corrections system"*<sup>75</sup>  
Security Council, 30 April 2004. Resolution 1542

The presence of a large number of international troops and police (UNPOL) acts as a dissuasive force. Troops play a supporting role, chiefly for the HNP and UNPOL officers, but if the situation became uncontrollable, they would be called on to intervene. MINUSTAH does not have the authority to make arrests, and in particular the troops cannot be deployed to combat crimes by civilians as this pertains exclusively to the HNP. Given that only civilians commit crimes, MINUSTAH has been criticised for its passivity, especially when it has been present during flagrant acts of violence. Improving the level of safety in Haiti has depended mainly on the dissuasive presence of troops. Interventions alongside the HNP in the fight against impunity, aimed at the arrest and dismantling of organised crime and the tracking down of gang leaders on the run, have also played a role.

### *The three pillars of the rule of law*

The rule of law in Haiti is dysfunctional. As examined in the section on police reform above, this pillar is referred to repeatedly in the mandate, both in the high

number of UNPOL officers authorised, and in the support it receives from the international community. However, the judiciary and correctional system do not receive adequate financial, human or material resources. One of the lessons learnt by the international community is that the three pillars of the rule of law are interlinked and should all receive support from the international community: only a balanced intervention can ensure a significant strengthening of the rule of law.<sup>76</sup>

The Haitian judicial system is in a deplorable state. Many problems affect its functioning; the absence of mechanisms that guarantee the independence of the judiciary, the lack of a code of ethics for magistrates and appropriate power to sanction, widespread corruption, the incompetence of many of the actors, and a lack of infrastructure and basic materials.

*"Do people really seek to fight against impunity? Most magistrates are corrupt. A reform is necessary, and it is possible if there is a strong will to purge the system."*<sup>77</sup>

The courthouses were destroyed, as well as most of the archives, during looting before and after Aristide's departure. Access to justice is limited; the penal code which dates from Napoleonic times is archaic and unilingual - French is the only language used while most Haitians only speak Creole. Some crimes are therefore judged extra-judicially, either according to common law by traditional leaders (in rural district councils particularly), or in a travesty of justice dictated by the interests of the gang leaders in the urban areas and shantytowns that they controlled until recently. The challenge for Haitians and the international community is enormous; millions were poured into the system in the years after Aristide's return in 1994, and the results have vanished as they did in other institutions.<sup>78</sup>

<sup>76</sup> Ibidem.

<sup>77</sup> Interview with Forum Citoyen pour la réforme de la justice, February 2007.

<sup>78</sup> *Haiti: Justice Reform and the Security Crisis*, International Crisis Group. January 2007, p.2.

<sup>74</sup> *Handbook on UN Multidimensional Peacekeeping Operations*, Best Practices Unit, Department of Peacekeeping operations, United Nations, December 2003, p. 83.

<sup>75</sup> Security Council, 30 April 2004, Resolution 1542.

*"In Haiti, there are two parallel justice systems: a system similar to that in France and an informal system."*

*"One is right in not trusting justice."<sup>79</sup>*

The announcement on 13 June 2007 of the creation of the Working Group for the Reform of the Haitian Justice System, established by the President of the Republic, has generated a very favourable reaction from the coordinating committee of the Citizen's Forum for Judicial Reform.<sup>80</sup>

*"When the Coordinating Committee of the Forum prepared the 8<sup>th</sup> Forum, it made the President's mobilisation against corruption its own. In fact, the next national forum will study corruption in depth, as it is at the root of the lack of legal security."*

*"There is no legal security owing to the corruption of the judiciary."<sup>81</sup>*

The MINUSTAH justice department, set up late in November 2005, is working principally on three bills: the School of Magistrates, the Supreme Council of Magistracy and the Statute of Magistrates. The objective of these three bills is to guarantee the independence of the judiciary system. When the United Nations tackles a reform of the justice system, interventions are extremely complex and delicate, especially in the case of Haiti in which all levels need to be reformed: institutional, technical and legislative as well as political.

Justice reform is a process that influences established power structures and seeks to change the nature of the institution.<sup>82</sup> The justice system is a symbol of the

sovereignty of a country, and Haitians associate it with a feeling of pride and dignity. Haitians reacted forcefully to the proposal in October 2006 by the Special Representative of the Secretary General for hybrid courts with foreign judges, thus revealing the extreme sensitivity of this pillar of the rule of law. For example, the minister has not publicly defended these three bills. Moreover, relations between MINUSTAH and civil society organisations have not been legitimised. The *Forum Citoyen pour la Réforme de la Justice*<sup>83</sup> has mobilised almost 2000 citizen organisations to participate in its conference day at eight national forums which are preceded by provincial forums. The forum is coordinated by three human rights organisations (HSI, JILAP and CEDH), with technical support from UNDP and the financial aid of several sponsors (among them Canada). This is how the Citizen Forum believes that Justice reform could become a reality:<sup>84</sup>

- Judicial reform is an integral part of **state reform**. All state sectors need to change their functioning and practices.
- Reform should be the result of a democratic process in which **as many people as possible** put forward their ideas and participate effectively. This is the only way that all citizens can become aware of their decisions so that these decisions will correspond to their beliefs.
- Reform should take place in union with **civil society**. The Citizen's Forum does not agree with the working group's report which reduces the role of civil society to advocacy in parliament so that parliament will approve laws prepared behind closed doors (*Measures p. 18*)
- The institutions defined by law, in particular **the parliament**, have the last word on decision-making.

MINUSTAH has given little consideration to Haitian civil society organisations that work towards justice reform and this, among other aspects, seriously compromises ownership of the bills by Haitian civil

<sup>79</sup> Interview with a Haitian lawyer, February 2007.

<sup>80</sup> FCRJ Press release about the Working Group for the Reform of the Haitian Justice System, Port-au-Prince, 15 June 2007. Coordinating committee: Jean-Claude Bajeux CEDH, Jean Lhérisson HIS and P. Jean Hanssens, JILAP.

<sup>81</sup> FCRJ Press release about the Working Group for the Reform of the Haitian Justice System, Port-au-Prince, 15 June 2007.

<sup>82</sup> Hurwitz, Agnès., and Studdard, Kaysie., *Rule of Law Programs in Peace Operations*, International Peace Academy, August 2005.

<sup>83</sup> [http://forumcitoyen.org.ht/fcrj/home/version\\_fr.asp](http://forumcitoyen.org.ht/fcrj/home/version_fr.asp)

<sup>84</sup> Press release about the Working Group for the Reform of the Haitian Justice System, Port-au-Prince, 15 June 2007.

society. Once again, when reforms are not supported by the people, and in this case with some reluctance by the government, their chances of succeeding are reduced and respect for the rule of law diminishes considerably.

The correctional system is in a similar state to that of the police and the judicial system. The national penitentiary holds over 5,000 prisoners while it was built to hold 2,500 inmates. With less than one square meter per person, overcrowding and illness are rampant. Gonaives and Cap-Haitien do not have detention centres and prisoners are kept in police lock-ups intended for pre-trial detention. Prisoners often manage to escape. The slowness of the courts and inefficient bureaucracy lead to prolonged pre-trial detention in 85 percent of cases, a “cancer” that eats away at the judicial system, according to the RNDDH.<sup>85</sup>

“On 27 September 2006, of the 4,443 prisoners detained in all the country’s prisons, only 715 have been sentenced”, declared Marie Yolène Gilles of RNDDH on the occasion of a conference to launch an awareness raising campaign on this issue. Of these prisoners, Madame Gilles counted 403 men, 225 women, 131 boys and 23 girls. “A total of 16.09 percent of prisoners have been sentenced and 83.91 percent are in prolonged pre-trial detention”.<sup>86</sup>

“Of people in prolonged pre-trial detention in June 2007, women and minors constitute over 80 percent of Haiti’s prison population”, observed the Inter-American commission on Human Rights (CIDH) at the end of a four-day mission in the Caribbean Republic. The percentages of non-sentenced prisoners are; 98 percent of child prisoners in the Juvenile Prison in Delmas (north-east of the capital); 95 percent of women detained in Pétionville Prison

(to the east); and 96 percent in the National Penitentiary (in the centre of Port-au-Prince)” informed the President of the Commission”.<sup>87</sup>

One positive measure has however been approved; the international community has now been authorised, by Resolution 1702 of August 2006, to deploy 16 correction officers in support of the Haitian Penitentiary Authority.

The rebuilding of these three components of the justice system requires commitment from the start of the intervention as well as continued support over time. Coordination between the three pillars, the many state and non-state actors and donors requires committed monitoring. Strategies and actions carried out over lengthy periods of time also require extensive monitoring. In order to assess the effects of police reform, a period of three years is considered necessary and, for justice reform, five years is needed to see results. Interventions undertaken in the 90s have shown that there is no easy, fast or cheap way to restore stable and sustainable peace in countries suffering armed conflicts.<sup>88</sup>

The conception of the rule of law proposed by MINUSTAH is considered reductive by some parties in Haiti because it is limited to those areas of the law dealing with the security of people and their goods as well as the stability of institutions. It refers to a rule of law limited to laws guaranteeing a number of civil and political rights defended by the International Pact of the same name. Institutions guaranteeing the rule of law would be limited to those of the justice system, and more specifically the penal system. Within the Haitian social movement, reflection on the rule of law extends to conditions of de facto equality for all in the eyes of the law, and before all laws, including those that guarantee the exercise of economic, social and cultural

<sup>85</sup> Ibidem. p. 2.

<sup>86</sup> “Lancement d’une campagne de sensibilisation sur la détention préventive prolongée”, AlterPresse, Port-au-Prince, 3 October 2006. See: [www.alterpresse.org/spip.php?article5222&var\\_recherche=D%C3%A9tention%20pr%C3%A9ventive](http://www.alterpresse.org/spip.php?article5222&var_recherche=D%C3%A9tention%20pr%C3%A9ventive)

<sup>87</sup> “Haïti-Droits humains: Plus de 80 % de la population carcérale en attente prolongée de décision judiciaire”, AlterPresse, Port-au-Prince, 22 June 2007. See: [http://www.alterpresse.org/spip.php?article6131&var\\_recherche=D%C3%A9tention%20pr%C3%A9ventive](http://www.alterpresse.org/spip.php?article6131&var_recherche=D%C3%A9tention%20pr%C3%A9ventive)

<sup>88</sup> Paris, Roland., *At War’s End: Building Peace After Civil Conflict*, Cambridge University Press, 2004. p 206.

rights guaranteed by the United Nations and which Haiti has ratified. The right to education for all, health care, drinking water, a decent home and a healthy environment, the right to be judged in the official language, Creole, and the right to earn a living without having to go into exile in the Dominican Republic or as boat people.

### *The fight against impunity*

Two problems in Haiti are of major importance in the mission's daily work: relations between the HNP and justice, and the fight against impunity. Relations between the police and judicial system reached a critical point in December 2007 when the HNP Director accused the judges of incompetence and corruption. In response, the magistrates went on strike.<sup>89</sup> Many suspects were arrested and then freed, on occasions just a few hours later, and some were arrested and freed up to five times. The police accuse the judges of rendering their arrests void while judges accuse the police of making arrests incorrectly, without enough proof, not to mention all the cases of police corruption. The rule of law and the institutions have been further weakened. More effective coordination and better understanding of the needs and functions of the two sectors should be rapidly established in order to restore institutional legitimacy for both the police and justice.

*"When the police arrest an individual, they are convinced that that person is guilty, whereas that person is not considered to be guilty until after judgement."<sup>90</sup>*

*"The concept of policing tends towards a North American approach within a Napoleonic constitution, and this damages the police-justice relationship. On the scene investigation should be deferred to the judicial police by the committing magistrate."<sup>91</sup>*

<sup>89</sup> A Conflict Between the Judicial and Police Institutions, RNDH encourages everyone to respect the dignified positions of Law Enforcement and Justice, 4 January 2007.

<sup>90</sup> Interview with a government representative, February 2007.

<sup>91</sup> Interview with a MINUSTAH representative, January 2007.

The fight against impunity is most definitely a prerogative for the Haitian state. Aided by MINUSTAH, and in particular by UNPOL who have to accompany the HNP on their rounds, this fight should be more visible and effective. The people are crying out for justice and the arrest of criminals and they do not want violence to go unpunished. In addition, any chance of a formal or de facto amnesty linked to disarmament would raise loud protest. Violence in Haitian society has been trivialised although at least one member of each family, or an acquaintance, has been a victim of it. The breakdown in relations between the HNP and judges leads to the freeing of criminals and paves the way for corruption. In some cases, those suspected of violent crimes have been given government jobs for which they are now respected.<sup>92</sup> The fight against impunity must therefore be a priority for all.

*"The United Nations mission in Haiti was in such a hurry to make speeches about reconciliation, in order to avoid accusing criminals, that there was no chance of ending up with disarmament or of restoring any level of security."<sup>93</sup>*

Many Haitian and foreign actors consider that MINUSTAH should make a greater effort to fight against impunity, both in Haiti and within its own ranks. The population has very little information about investigations and sanctions in cases of human rights violations committed by UN soldiers against the population. This lack of information, and the secretive/covert return of soldiers who have been found guilty of crimes to their countries of origin, create a negative perception of MINUSTAH and its efforts to fight against impunity. In the interviews carried out, there are numerous examples of impunity, both based on fact and perceived: weapons and munitions

<sup>92</sup> "The RNDH recalls having pointed out to the government that the composition of the National Commission for Demobilising, Disarmament and Reintegration (CNDDR) that included the spokesperson for Operation Baghdad 1, Jean Baptiste Jean Philippe alias Samba Boukman, was a message of encouragement to armed groups. The success of the CNDDR was thus compromised", RNDH, "La terreur s'installe à Port-au-Prince", press release, ComP/N08/A06. Port-au-Prince, 6 December 2006.

<sup>93</sup> Interview with civil society in Haiti, February 2007.

trafficking by blue helmets, links between the blue helmets and armed gangs, kidnappings in UN vehicles and sexual abuse, among others. And this does not take into account the many accusations of passivity in the face of blatant cases of people being beaten up, kidnapped or executed. These repeated allegations have been made by people who, with no doubt whatsoever, do not have any links with Aristide's deposed government, and even less so with criminal gangs, traffickers of whatever type or former HAF personnel.

Seven out of nine conflicts that broke out in 2005 represented renewed fighting between previous foes. This record suggests that peace operations are failing to set up the structures necessary for peace in the medium term, addressing only the most visible symptoms rather than the persistent causes of conflict.<sup>94</sup>

### *Recommendations*

#### **14. Promote and facilitate relations between the HNP and Justice**

MINUSTAH should encourage relations between the HNP and actors of the judicial system. Constructive relations with the coordination of the Citizen's Forum for Judicial Reform could contribute to bridge-building.

#### **15. Fight against impunity**

The fight against impunity should be a priority for the mission. However the mission cannot do this alone and it should work to support Haitian actors such as the magistrates, whose independence needs to be guaranteed, along with the HNP, and the Ministry for Justice. Civil society also needs support, including the Citizen's Forum for Judicial Reform and the Citizen's Commission for the Application of Justice.

#### **16. Increased efficiency of the mission**

A clear and robust mandate, strategic and sequenced planning including a phased disengagement process, coordination between donor countries and United Nations agencies to achieve a common goal, a more

clearly defined relationship with the Haitian Government, the parliament and magistrates, and regular and meaningful dialogue with civil society, are all essential for restoring the three pillars of the rule of law.

## **MINUSTAH: Protection of civilians or an armed actor in the conflict**

The use of force by MINUSTAH troops is determined by rules of engagement that derive from the mandate approved by the Security Council. Only since 1999, with the Sierra Leone mission, have the mandates of United Nations operations included a directive on the protection of civilians, even though this responsibility lies legally with the government of the host country.<sup>95</sup> Since 1999, most United Nations missions now have the responsibility to protect civilians, "without prejudice to the responsibilities of the host government", "within its capabilities and areas of deployment", and "with all the necessary means".<sup>96</sup>

At the same time, acts of violence that deliberately target civilians are considered to be a threat to peace and international security, as set forth in Security Council Resolution 1296 on the protection of civilians during situations of armed conflict, thus establishing a legal framework for an international intervention.

*Given the current situation in Haiti, some articles of the Security Council's Resolution touch on sensitive points, for example the Council, in Article 2, "reaffirms its strong condemnation of the deliberate targeting of civilians or other protected persons in situations of armed conflict, and calls upon all parties to*

<sup>94</sup> Call and Cousens, 2007, p.5.

<sup>95</sup> Holt, Victoria K., and Berkman, Tobias C., *The Impossible Mandate? Military Preparedness, the Responsibility to Protect and Modern Peace Operations*, Henry L. Stimson Center, September 2006, P. 85.

<sup>96</sup> Resolution 1542 states that MINUSTAH must protect civilians under imminent threat of physical violence without prejudice to the responsibilities of the host government.

*put an end to such practices''; Article 3 ''Notes that the overwhelming majority of internally displaced persons and other vulnerable groups in situations of armed conflict are civilians and, as such, are entitled to the protection afforded to civilians under existing international humanitarian law''; in Article 5 the Council notes that ''the deliberate targeting of civilian populations or other protected persons and the committing of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict may constitute a threat to international peace and security, and, in this regard, reaffirms its readiness to consider such situations and, where necessary, to adopt appropriate steps''. Lastly the Council in Article 17 ''Reaffirms its condemnation of all incitements to violence against civilians in situations of armed conflict, further reaffirms the need to bring to justice individuals who incite or otherwise cause such violence...''*

There are problems with defining ''the protection of civilians'' and with interpreting the rules of engagement. The ''protection'' of civilians could be defined as the fundamental goal of a mission to prevent genocide, and the protection stipulated by the responsibility to protect.<sup>97</sup> On the other hand, ''protection'' could be understood as the result, by default, of ending combat and defeating the enemy.<sup>98</sup> Between these two definitions, each UN mission interprets and assigns different directives with varying degrees of civilian protection.

Furthermore, in a context such as Haiti many factors are highly unpredictable; the violence, the intensity of attacks, the ''combatants'' or perpetrators of organised violence and the victims. The soldiers posted to Port-au-Prince find themselves in a very complicated

situation in which they need to make instant decisions about the use of force; gauging the level of force, which must be appropriate, proportioned and not excessive, is often difficult to judge. The mandate to protect civilians has been asserted in the resolution that established MINUSTAH but the circumstances and methods for putting these directives into operation in the field have not been defined.

*''The difficulty of access and the rugged terrain in Martissant make the operations complicated. Fifteen innocent victims might be killed to kill one sole gangster''<sup>99</sup>*

MINUSTAH has been severely criticised and accused of passivity over incidents in which its officers witnessed aggression towards civilians from close quarters. In some cases the HNP were involved. A massacre in a football stadium, in broad daylight and in the presence of MINUSTAH soldiers, demonstrated their incapacity, or disrespect, for the mandate to protect innocent civilians. The impact of this non-intervention is extremely negative, because the people have high expectations of receiving protection from MINUSTAH soldiers.

*''If Haiti were an organised country, one could accuse MINUSTAH of non-intervention in a situation of human rights violations.''<sup>100</sup>*

*''What's more, one could call it a refusal to give help to people in danger''<sup>101</sup>*

In one case, MINUSTAH vehicles were attacked by heavy weapons in trouble spots and the soldiers did not respond to these attacks. While the United States, France and Canada would like to see more robust actions against the armed gangs, the ''ABC trio'' (Argentina-Brazil-Chile) have adopted a more traditional interpretation of Chapter VI of the Charter, more in line with peacekeeping than peace enforcement.

<sup>97</sup> Resolution 1296 (2000), adopted by the Security Council during sitting number 4130, 19 April 2000, and the international study undertaken for the United Nations, *The responsibility to protect*. Report by the International Commission on Intervention and Sovereignty of States, CIISE – CRDI, Ottawa, December 2001.

<sup>98</sup> Holt & Berkman, 2006, p.183.

<sup>99</sup> Interview with UNPOL representative, February 2007.

<sup>100</sup> Interview with a MINUSTAH military officer, February 2007.

<sup>101</sup> Interview with civil society in Haiti, February 2007.

Traditional military doctrine does not include protecting civilians; it is more focussed on combat and eliminating enemies. Even the most sophisticated armed forces of the Western countries are not trained to protect civilians.<sup>102</sup> The police component of the mission is quite different in this respect. It is more responsive to acts of violence and respectful of human rights. It has greater flexibility and mobility and, in the presence of HNP members, UNPOL can assist in making arrests.<sup>103</sup> In modern doctrine, the mission of a police corps is precisely to protect persons and goods.<sup>104</sup> Troops can “retain” suspects and deliver them to the HNP who proceed with the official arrest. This is why many Haitians wish that the United Nations would deploy more UNPOL officers to support and train the HNP. Moreover, it should be remembered that military interventions in the former Yugoslavia proved that *obeying orders* could not indefinitely legitimise the passivity of international forces in the face of massacres taking place before their eyes.

*“The role of the United Nations forces should not be confused. The objective is not to combat crime.”<sup>105</sup>*

Military operations intensified suddenly from December 2006 onwards, following the failure of government negotiations with armed gangs, in addition to the intolerable rise in child kidnappings. MINUSTAH’s “muscular operations”, as they have been called by the Haitian press, are made up of 700 soldiers and an undetermined number of HNP. They consist of surrounding whole neighbourhoods and sweeping them metre by metre in search of weapons,

<sup>102</sup> Holt & Berkman, 2006, p.183.

<sup>103</sup> United Nations civilian police (UNPOL), “These UNPOL go on patrol, provide training, advise local police services, help ensure compliance with human rights standards and assist in a wide range of other fields. In short, UN Civilian Police help to create a safer environment where communities will be better protected and criminal activities will be prevented, disrupted and deterred”, . See: <http://www.trainingforpeace.org/themes/civpol.htm>

<sup>104</sup> For example: “The Sûreté du Québec, the national police, in the Quebec territory as a whole, contributes to maintaining peace and public order, to preserving the lives, safety and fundamental rights of people as well as protecting their goods.” See: <http://www.suretequebec.gouv.qc.ca/organisation/mission.html>

<sup>105</sup> Interview with a MINUSTAH military officer, February 2007.

criminal suspects and murderers, and they have led to lengthy exchanges of fire. During these gun battles between MINUSTAH, the HNP and armed gangs in the Port-au-Prince shantytowns, civilian victims could not be avoided, according to the mission’s commanding officers. They say that it is impossible to know where the bullets that penetrate the flimsy dwellings will land. These attacks and the death of innocent civilians have transformed MINUSTAH in a new actor in the conflict.

*“Operating in Cité Soleil is very risky. You never know where the shots will land.”<sup>106</sup>*

Despite the fact that MINUSTAH has put a lot of effort into protecting civilian lives, they have also caused the death of innocent civilians. Aristide supporters, of whom there are still many in the shantytowns, along with the international network of Famni Lavalas, have accused MINUSTAH of causing genocide.<sup>107</sup> In reply, MINUSTAH have stated that the rules of engagement are clear; MINUSTAH soldiers only open fire if they are the target of attacks.<sup>108</sup>

Protecting civilians is certainly very sensitive and shows the extent to which the rules of engagement must be made clear.

### *Recommendations*

#### **17. Support and clarification of the mandate and the rules of engagement**

The protection of civilians is a wide-ranging concept. Although the mandate specifies the protection of civilians, troops have to confront constraints and situations that require great judiciousness and sensitivity. Developing the mandate and the rules of engagement in greater depth will help to determine the interventions that need to be undertaken.

<sup>106</sup> Interview with a MINUSTAH military officer, February 2007.

<sup>107</sup> Zibechi, Raúl., “Seamos todos de Cité Soleil”, *Rebelión.org*, 27 February 2007.

<sup>108</sup> Pierre, Wadner, and Sprague, Jeb., “Haiti: Poor Residents of Capital Describe a State of Siege”, *Inter Press Agency*, 2 March 2007.

### 18. Improved training for soldiers in the protection of civilians

Military training does not include the concept of protection. In the absence of a truly specialised military corps, trained in restoring peace after internal conflicts, keeping peace and peace consolidation, the blue helmets should receive basic training on protecting civilians and human rights.

need ongoing support for at least 5 to 10 years to establish a solid base.

### 3. Strategic planning for the completion of the mission

A hasty withdrawal of the mission would be disastrous for Haiti. While some areas seem to have stabilised and violence has diminished considerably, Haiti is awash with criminals on the run and the HNP cannot yet cover the whole territory, or indeed the ports and borders. A strategy is needed for a phased reduction of troops, withdrawing from the territory in a structured way so that new armed gangs cannot spring up in the regions which the mission has left. The international community must rapidly effect a transition from a peacekeeping mission to a *civilian* peace consolidation mission. That is to say, one of reconstruction-rehabilitation, focussing on long-term national development in all its dimensions.

## General recommendations for the mission

### 1. Provide better training for the blue helmets

- French and/or Creole language classes
- Training in human rights, inter-cultural dialogue and non-violent solutions to conflicts
- Include Haitians in the process of providing classes in the language, history, institutions and culture of the country.
- Better training on the rules of engagement and protection of civilians. Study the hypotheses of creating forces specialised in peacekeeping, which countries would place at the disposal of the United Nations.
- Re-examine the proposals of the “white helmets” and broaden the concept to include integrated peace consolidation missions involving all aspects of national development in countries emerging from crisis.

Brazil provides a good example of a troop-contributing country that has taken initiatives to train its troops so that their preparation is more suited to peace missions.

### 2. More long-term engagement

The international community should not withdraw rapidly. It should make a long-term commitment to fragile states, or states with complex characteristics. Democratic institutions and those of the rule of law

## Annex 1

### List of actors: Haiti

#### MINUSTAH

Edmond Mulet, SRSG

Joel Boutroué, DSRS

Richard Warren, Acting Police Commissioner

Thierry Fagart, Chief of Human Rights Section

Danièle Saada, Chief of Justice Section

Jens Kristensen, Chief Coordinator of Humanitarian Aid and Development

Marc Plum, Chief of Unit of Institutional Support, Civil Affairs Section

Felix Ulloa, Electoral Assistance

Eric Calpas, DDR officer

Juvigny Jacques, Sensibilisation Head, DDR/MINUSTAH

Olivier Cavey, Head of Civil Affairs MINUSTAH for the Artibonite department  
 Marc Ntetye, Head of the Regional Bureau (Nord Department), Civil Affairs MINUSTAH

François Gingras, UNPOL Department Director, Port-au-Prince

Anne Laure Robert, UNPOL Department Director, Artibonite

Stéphane Maurin, UNPOL Head of Operations, Artibonite

Général Cassini, Argentinian Battalion Commander, Gonaïves

Alejandro Villaverde, Civil-Military Coordinator (CIMIC), Argentinian Battalion

Général Pollman, Chilean Battalion Commander, Cap-Haïtien

Javier Varela, Civil-Military Coordinator (CIMIC), Chilean Battalion

Nathalie Man, Gender Unit

Judge Louis-Channel Sindabona, Justice Section, Minustah Cap-Haïtien

Damián Onses-Cardona, Minustah spokesperson

### UN Agencies

Anne-Marie Cluckers, UN country team

Adriano Gonzalez, UNICEF

Njanja Fassu, UNICEF

Andrea Bagnoli, WFP Director, Cap-Haitien

Daniel Ladouceur, Senior Technical Advisor, Deputy Chief DDR section

UNDP

Jean Lavoie, UNDP responsible for Justice Programme  
Guilaine Moïneraie, Technical Advisor for the Forum citoyen pour la réforme de la justice, Rule of Law project – UNDP

Gracia Joseph Maxi, National Expert UNDP/strengthening of actors, Forum citoyen pour la réforme de la justice,

Manuela Gonzalez, OCHA

### Civil society organisations

Jean Lherisson, Director of Haiti Solidarity International.

Walther Wesser Voltaire, lawyer, Haiti Solidarity International.

Joseph Jean Martin, member of Haiti Solidarity International.

Rubens Pierre, Coordinator Haiti Solidarity International, Gonaïves.

Pierre Maxene, Nord Network for the defense of Human Rights, Cap-Haïtien.

Michèle Pierre-Louis, Executive Director, Fondation Connaissance et Liberté (FOKAL).

Pierre Esperance, Executive Director, National Coalition for Human Rights for Haitians (RNDDH).

Yolaine Gilles, National Coalition for Human Rights for Haitians (RNDDH).

Yanick Lahens, writer, Groupe 184, member of Ecumenical Centre for Human Rights (CEDH).

Camille Chalmers, PAPDA.

Jesi Chancy Manigat, Coordonation Nationale de Plaidoyer pour les Droits des Femmes (CONAP).

Elvir Eugene, Founder, Asosyasyon fanm soley dayiti (ASFADA), Cap-Haïtien.

Jean-Charles Evert, Platform of Haitian Human Rights Organisations (POHDH).

Sylvie Bajoux, researcher, Ecumenical Centre for Human Rights (CEDH).

Jean-Claude Bajoux, Executive Director, Ecumenical Centre for Human Rights (CEDH).

Forum Citoyen pour la réforme de la Justice (FCRJ):  
Chérubin Tragéus, National Coordinator Forum citoyen pour la réforme de la justice, Justice and Peace Commission.

Serge Lamothe, Assistant Coordinator, member of Justice and Peace.

Ernst Saintil, Assistant Coordinator, Centre Ecuménique des Droits Humain.

Jean Lhérisson, Guilaine Lemoïnerai (UNDP), Gracia-Joseph Maxi (UNDP).

Rose-Anne Auguste, Founder, member of the Board of Directors, APROSIFA.

Jacques Aly, Administrator.

Marie-Alice Louis-Jean St-Vil, responsible for Human Resources.

Wesline Brunache, Secretary.

Flore D. Ledan, Nurse – Service Supervisor.

Nahomie Vincent, responsible for youth section.

Duportal Annacius.

Didier Dominique, Batay Ouvriye.

Lovinsky Pierre Antoine, Fondation Trente Septembre.

Losieh Philippe, Famni Lavalas.

Roudy Choute, Groupe de Recherche et d'Actions Sociales Intégrées (GRASI).

Pierre Jean Robert, Campaign for Violence Reduction.  
Helen Spraos, Campaign for Violence Reduction.  
Phyto Lesperance, Campaign for Violence Reduction.

### Diplomats and multilateral organisations

Paulo Cordeiro, Brazilian Ambassador to Haiti.  
Marcel Youngs, Chilean Ambassador to Haiti.  
Claude Boucher, Canadian Ambassador to Haiti.  
Lajos Àrendàs, Political and Commercial Counsellor,  
Canadian Embassy.  
Ime Ekong, Political Section, Canadian Embassy.  
Manuel Alhama Orenes, First Secretary and Consul,  
Spanish Embassy.  
Paulino Corujedo, Spanish Ambassador to Haiti.  
Carolina Hernandez Ramirez, responsible for Human  
Rights Section, OAS.  
Bernice Robertson, OAS.  
Bruno Montariol, European Commission.

### International NGOs

Gervais Lheureux, Coordinator Foundation Paul Gérin-  
Lajoie.  
Vincent Maupassant, Intermon Oxfam, Spain.  
Danièle Magloire, Coordinator of Rights and  
Democracy, (ex-member of the Conseil des Sages).  
Ann Osborne, International Crisis Group.  
Isabelle Fortin, CECI.  
Laurie Knop, Quisqueya International Freedom and  
Development.  
Bernard Cloutier, responsible for CECI  
programmes/America's coordinator in Montreal CECI.  
Felix Ulloa, Senior Resident Director National  
Democratic Institute (NDI).  
Hetty Burgman, Field Director Cordaid – Holland.

### Government

Daniel Jean, Secretary of State for Justice.  
Claudy Gassant, Government commissioner,  
Département de l'Ouest.  
Dilia Lemaire, Barrister in Port-au-Prince.  
Jean-Joseph Exumé, Barrister in Port-au-Prince.  
Georgemain Prophète, Department Delegate for Nord.  
Hérard Jadotte, Commission for the Preparation of the  
National Strategic Document on the Growth and  
Reduction of Violence (Commission de Préparation du

document stratégique national de la croissance et la  
réduction de la violence).  
Aspil Fleurant, Mayor Cap-Haïtien.

### Senators

Youri Latortue, Artibonite en Action (LAAA).  
Melius Hyppolite, OPL (Worker Peasant Movement).  
Edmonde Beauzile, FUSION Social Democrat  
Coalition.

### Media

Godson Pierre, Alterpresse.  
Ronald Colbert, Groupe Mediaalternatif.

### Religious sector

Mgr. Hubert Constant, Archbishop Cap-Haitien.  
Père Gérard Dormevil, Parish priest for Troustable,  
Gonaives.  
Père Valsimon Nicolas, Parish priest for Petite-Anse,  
Justice and Peace Commission Cap-Haitien.

### Academics

Charles Manigat, Dean of the University Graduate  
School for Legal, Economic and Regional  
Development Science (l'Institut Universitaire des  
Sciences juridiques, Économique et Développement  
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Serge Durosier, Lecturer IUSJEDR – Cap-Haitien.  
Laënc Hurbon, National Center for Scientific  
Research (CNRS) –France.  
Jean-Réol Élie, Sociologist, Lecturer at the State  
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Gladys Berrouet, Rector, State University of Haiti.

### Private sector

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### Others

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## List of actors, New York

### UN

Rafael Peralta, DPKO, Haiti Desk.  
 Robert Pulver, Best Practices, Justice.  
 Lotta Hagman, Best Practices, DDR.  
 Meg Carey, IMPP Adviser, DPKO.  
 Marco Carmagnani, Electoral Assistance, DPA.  
 Detlef Wilke, DPA, Former COS MINUSTAH.

### Permanent Mission

Jacques Morneau, Military Counsellor/Military Attaché, Canada.  
 Pren Khumar, Permanent Mission, United States.  
 Alejandro Torres, Permanent Mission, Argentina.  
 Luis Guilherme, Permanent Mission, Brazil.  
 Louis St-Arnaud, Permanent Mission, Canada.

### UN Agencies

Marc-André Franche, UNDP Haiti.  
 Luis Francisco Thais, UNDP Crisis Prevention and Recovery Bureau.  
 Ignacio Leon, OCHA Haiti desk.

### Other organisations

Sebastian Einsedel, International Peace Academy.  
 Teresa Whitfield, Director, Conflict Prevention and Peace Forum, CPPF.  
 Renata Segura, CPPF.  
 Harvey Dupiton, UNA-Haiti.

## List of actors, Canada

### Montreal

Jean-Claude Icart, Lecturer on Migration, Montreal University International Observatory on Racism and Discrimination.  
 Lody Auguste, Founder of APROSIFA.  
 Nicholas Galletti, Rights and Democracy.

### Ottawa

Jean Daudelin, Norman Paterson School of International Relations.  
 Carlo Dade, Director of FOCAL.

Pierre Beaudet, Director of Alternatives Canada.  
 Jennifer Salahud, Researcher North South Institute.  
 Ginette Martin, Haiti Desk, MAE.  
 Marina Laker, Peacekeeping and Peace operations, MAE.  
 Boris Jacouty, Stabilisation and Reconstruction Task Force, MAE.  
 Dr. Ann Livingstone, Director of Research, Pearson Peacekeeping Centre  
 Marcia Burdette, Deputy Director, Peace Operations Policy.

### Telephone interviews

Yasmine Shamsie, Visiting Professor at Trinity College, Washington.

## List of Spanish actors

Jaume Segura, Ministry of Foreign Affairs.

# Annex 2

## Recommendations

### 1. A better understanding of the situation and the causes of violence

Differentiate state-building strategies in a fragile state such as Haiti from post-conflict strategies that are not very appropriate. A more in-depth analysis of not only the groups involved but the causes of violence, power structures and relations between the government and armed groups. Identify the interests of former military personnel, *chimères*, and also identify those who form the drug trafficking networks.

### 2. Give priority to the creation of state capacities

MINUSTAH should increase its capacity for strengthening institutions and reduce the number of soldiers. Security remains a priority in Haiti and the state is the institution that should guarantee it.

### 3 Massive support for a national reconstruction and

global rehabilitation programme in urban areas that have been taken hostage and systematically victimised by armed groups. By means of actions coordinated by the Haitians themselves aimed at community reduction of violence, and simultaneous actions focusing on town planning, creation or rehabilitation of infrastructure (roads, water, drains, fatras, electricity...), public services (primary health care, state schools, public transport, local policing, etc.), the environment and the creation of sustainable employment.

#### **4 Recognise civil society as incontrovertible actor in the construction of the rule of law.**

MINUSTAH and UN agencies must assure that the participation of organised civil society in state reform, justice reform and public services, but also in debates on macroeconomic orientation, national development and the fight against poverty. This recognition seems indispensable for a real collective ownership of state reforms and consolidation of peace.

#### **5. Proceed immediately with vetting processes and controls of HNP officers**

As authorised under resolution 1542, MINUSTAH has a mandate to proceed with security controls. It is imperative to carry out these controls as quickly as possible in order to purge the HNP. Otherwise, corruption will undermine MINUSTAH's efforts to strengthen the HNP institution.

#### **6. Increase the duration and quality of training**

The MINUSTAH goal is to train 14,000 police officers and to create a professional, democratic and ethical institution. MINUSTAH should promote longer training and ensure effective monitoring of new police officers in order to create a force capable of addressing its responsibility of ensuring the country's security.

7. "Community policing" or "local policing" should receive more attention and could contribute to rebuilding a relationship of trust and collaboration between citizens and the police.

8. Address the political and popular debate on HNP reform and on the pertinence of a second force.

Citizen participation in reforming the national Haitian police could be included within the programme *Forum*

*citoyen pour la réforme de la justice*<sup>1</sup>, recognised as a privileged platform for civil society participation in reforming the penal system. MINUSTAH could suggest that the civil society organisations who participate in the citizen forum might initiate a debate with the population in order to define the HNP; its mission, its code of conduct, the competences expected from officers, their training, management, and monitoring. It could also move forward the debate on the relevance of a "second force", a debate that is very much present and should not be ignored.

#### **9. Better assessment of the conditions necessary for a successful DDR programme**

DDR and violence reduction programmes that have been successful in some African countries should be thoroughly adapted to the specific characteristics of the situation in Haiti to ensure the desired outcomes. The diversity of armed gangs and their interests, and the carrying of weapons are traits that make it difficult for such a programme to succeed.

#### **10. Review the CPVDs**

In theory, the CPVDs contain positive aspects such as participation of the people and promotion of local policing. However, their setting up should take into account the specific social structure of each district under consideration, including "underground elements" and credible civil society organisations already committed to peace consolidation. However, the arrests of gang leaders and the disarming of gangs remains an inevitable prerequisite and should remain a top priority for the HNP and MINUSTAH. In practice, as long as individuals use their weapons as a means to power and control, the CPVD system will not work.

#### **11. Accelerate legislative reforms on weapons trafficking and increase resources for arms control**

Weapons control is essential. The weapons register should be updated and further resources should be devoted to vetting, examining and controlling weapons bearing.

## 12. More effective border control

Land and sea guards of airports and ports should have the authority, structure, personnel, competence and logistical means enabling them to effectively control these entry points and to put an end to all criminal traffic: weapons and munitions, drugs, organs and people, especially children.

## 13. Institutionalise the culture of peace

Given the violence, legal possession of weapons and the habit of settling differences by force, a culture of peace should be emphasised. This can be achieved through campaigns and activities that involve many different sectors such as the central government and local authorities, civil society organisations, local and international NGOs, the media, artists and writers, and schools and universities.

## 14. Promote and facilitate relations between the HNP and Justice

MINUSTAH should encourage relations between the HNP and actors of the judicial system. An expert in rule of law in the mission could greatly help to ease tensions. Constructive relations with the coordination of the Citizen's Forum for Judicial Reform could contribute to bridge-building.

## 15. Fight against impunity

The fight against impunity should be a priority for the mission. However the mission cannot do this alone and it should work to support Haitian actors such as the magistrates, whose independence needs to be guaranteed, the HNP, and the Ministry for Justice. Civil society also needs support, including the Citizen's Forum for Judicial Reform and the Citizen's Commission for the application of justice.

## 16. Increased efficiency of the mission

A clear and robust mandate, strategic and sequenced planning including a phased disengagement process, coordination between sponsors/donor countries and United Nations agencies to achieve a common goal, a more clearly defined relationship with the Haitian Government, the parliament and magistrates, and regular and meaningful dialogue with civil society, are

all essential for restoring the three pillars of the rule of law.

## 17. Support and clarification of the mandate and the rules of engagement

The protection of civilians is a wide-ranging concept. Although the mandate specifies the protection of civilians, troops have to confront constraints and situations that require great judiciousness and sensitivity. Developing the mandate and the rules of engagement in greater depth will help to determine the interventions that need to be undertaken.

## 18. Improved training for soldiers with regard to the protection of civilians

Military training does not include the concept of protection. In the absence of a truly specialised military corps, trained in restoring peace after internal conflicts, keeping peace and peace consolidation, the blue helmets should receive basic training on protecting civilians and human rights.

# General recommendations for the mission

## 1. Provide better training for the blue helmets

Training soldiers is especially important when a country such as Brazil has little experience in commanding a peace mission, and above all when seven previous missions have failed.

- Training in peacekeeping and peace consolidation for blue helmets.
- French and/or Creole language classes.
- Training in human rights, inter-cultural dialogue and non-violent solutions to conflicts.
- Include Haitians in the process of providing classes in the language, history, institutions and culture of the country.
- Better training on the rules of engagement and protection of civilians. Study the hypotheses of creating forces specialised in peacekeeping, which countries would place at the disposal of the United Nations.

- Re-examine the proposals of the “white helmets” and broaden the concept to extend to possible integrated peace consolidation missions open to all aspects of national development for a country exiting a crisis.

## 2. More long-term engagement

The international community should not withdraw rapidly. It should make a long-term commitment to fragile states, or states with complex characteristics. Democratic institutions and those of the rule of law need ongoing support for at least 5 to 10 years to establish a solid base.

## 3. Strategic planning for the completion of the mission

A hasty withdrawal of the mission would be disastrous for Haiti. While some areas seem to have stabilised and violence has diminished considerably, Haiti is suffering from criminals on the run and the HNP cannot yet cover the whole territory, nor the ports and borders. A strategy for a phased reduction of troops, leaving the territory in a structured way so that new armed gangs cannot spring up in the regions which the mission has withdrawn from, is needed. The international community must rapidly develop a transition mechanism from a peacekeeping mission to a *civilian* peace consolidation mission, that is to say one of reconstruction-rehabilitation, focussing on long-term national development in all its dimensions.

- Coherence in the areas of development, humanitarian assistance and environment.
- Performance Report on the budget of the United Nations Stabilisation Mission in Haiti for the period 1 July 2004 to 30 June 2005.
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**Table 1. Armed groups and weapons availability, January 2005**

	Group	Estimated numbers	Multiplier	Estimated weapons
Non-state military.	Revolutionary Front of	500-1,000	0.5-1	250-1,000
	The NorthEx-USGPN (Presidential Guard)*	700	2	1,400
	Ex-FADH/FRAPH	1,500-2,000	0.5-1	750 - 2,000
Non-state political	Popular Organisations (OPs)* including vigilante brigades	2,000 (10-50 members per OP)	0.5	1,000
	Pro-opposition groups	...	0.5	...
	Self-defence bourgeois Militia	200-300	1.5	300-450
Non-state criminal	Baz armés (criminal gangs)	2,000 (10-30 per Baz)	0.5	1,000
	Organised criminal gangs (including drug traffickers)	...	0.5	...
	Zenglendos (petty criminals)**	...	0.5	...
	Prison escapees	1,500	0.2	300
Non-state other	Private security company personnel	6,000	1	6,000
<b>Non-state sub-total</b>				<b>11,000-13,150</b>
Civilians	Bourgeois, middle class, slum dwellers	8,500,000 (1,7 million households)	0.1	170,000***
MINUSTAH	Argentina (1BTN, 2COY)a		2	12,400
	Brazil (2BTN, 5COY)		2	
	Chile (1BTN, 2COY)b		2	
	Guatemala (MP, 1COY)		2	
	Jordan (1BTN, 4 COY)		2	
	Nepal (1BTN, 4 COY)		2	
	Peru (1COY)		2	
	Spain/Morocco (1BTN, 2 COY)		2	
	Sri Lanka (1 BTN, 4 COY)		2	
	Uruguay (1 BTN, 3 COY)		2	
	QG		2	
State	HNP	5,000	1	5,000
	Demobilised FADH and IPSF	5,482 (1994-96)	1.5	8,220
	Disbanded MIPONUH	285 (2000)	1.5	430
	Navy (coast guard)	30	2	60
	Disbanded air force	... (1995)	...	...
	Dismissed HNP	500-1,000 (2003/04)	1	500-1,000
<b>State sub-total</b>				<b>26,610-27,110</b>
<b>Total</b>				<b>207, 610- 210,260</b>

\* "Securing Haiti's Transition

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# FRIDE

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Since the end of the Cold War, peace missions have become one of the most frequently used instruments in the area of peace building and yet, at the same time, one of the most controversial. The number of peace operations has increased considerably since the early 1990s and the UN currently leads peace missions in 17 countries.

The organisation is facing a new type of internal conflict in which there is not necessarily a peace agreement, or in which sides do not necessarily have defined political demands nor do they fight to gain power. The stakes have definitely changed and the response of the UN and the international community needs to readapt constantly to these new issues.

Haiti has appealed once again to the UN to halt the deteriorating situation it is currently facing. Since 1991, no fewer than seven UN missions have intervened in Haiti and the situation in 2004 seems to be worse than ever. The mission authorised for Haiti is an integrated mission endowed with a robust mandate under Chapters VI and VII of the United Nations Charter. It combines assistance and the use of force owing to its two-fold task as a peacekeeping and peace enforcement mission and it also integrates many humanitarian actors, both military and civilian. The initial mandate under Resolution 1542 focuses primarily on the security problem, followed by political processes and human rights.

This report analyses the response of the international community involved in implementing the MINUSTAH mandate. The information gathered in the interviews allows the actors to make their voices heard on many aspects of the situation in Haiti and to communicate their ideas to each other. The following points are discussed in detail: establishing a secure and stable environment; defining the Haitian context, police reform, the DDR programme and violence reduction, maintaining order and restoration of the rule of law and the protection of civilians.

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