



# International Service for Human Rights

## The Reports in Short

ISHR's summaries of documents for the UN Commission on Human Rights  
62nd Session and Human Rights Council 2<sup>nd</sup> Session

### Independent Expert Appointed by the Secretary-General on the Situation of Human Rights in Haiti<sup>1</sup>

Mandate holder

Louis Joinet

Mandate

The mandate was established in 1995<sup>2</sup> to furnish assistance to the Government of Haiti in the area of human rights, to examine the development of the situation of human rights in Haiti and to monitor the fulfilment by Haiti of its obligations in this field. Experts have been mandated to monitor the human rights situation in Haiti since 1987 and focused on the general situation in Haiti, particularly the political instability following the end of the Duvalier regime in 1986 and the 1991 coup d'état; problems in the establishment of and functioning of democratic institutions; and the socio-political environment surrounding the grave human rights situation.

Activities

- The Independent Expert held discussions with officials from the international bodies present in Haiti, including the Special Representative of the Secretary-General, the chief of the UN Stabilization Mission in Haiti (MINUSTAH), the head of the UN Civilian Police (UNCIVPOL) and representatives of the Special Mission to Strengthen Democracy in Haiti of the Organisation of American States (OAS);
- The Independent Expert undertook special visits to Saint Marc and Gonaïves.

Annual report<sup>3</sup>

### Scope

The report gives an account of the sixth, seventh and eighth missions to Haiti, during which the Independent Expert met with the interim President of the Republic and other high-ranking government officials, members of the judiciary, the police and non-governmental organisations.

### Summary and key conclusions

- There has been a gradual improvement in **security** in the provinces, but the situation in the capital is worsening, reflected notably with daily increases in the numbers of kidnappings;
- Most of these serious violations are due less to complicity on the part of the State than its failure to prevent them. However, the fact that since his exile former President Aristide has never formally condemned these acts or disavowed those responsible contributes to this situation, as insecurity is used to destabilise effective transition with demands for his returns;
- The situation of **children** has deteriorated as a result of poverty and violence, with 47 per cent of sexual assaults involving minors. School enrolment rates fell as low as 20 per cent in the most disadvantaged districts, and some 200,000 children are affected by HIV;

<sup>1</sup> Summaries prepared by Cléa Thouin, Intern, ISHR, supervised and edited by Meghna Abraham, Information Program, ISHR.

<sup>2</sup> Commission Resolution 1995/70.

<sup>3</sup> E/CN.4/2006/115, 24 January 2006.

- There is a worsening of the situation of **women**, with the number of reported cases of sexual violence, particularly gang rapes, increasing. There have been **positive developments** however: a national plan to combat violence against women has been launched, and rape has been criminalised;
- There have been proposals to decriminalise abortion, reflecting changing attitudes in this respect. Harsh legislation has meant that clandestine abortions have become a public health issue;
- There has been a significant increase in **mass expulsions by the Dominican Republic**, frequently in conditions incompatible with human rights, and in contravention of an Agreement concluded between the two countries in 1999. The government is focusing on establishing a joint mechanism to implement this Agreement, as it contains a number of important guarantees, such as avoiding family separation;
- The question of “**deportations**” is also problematic with mass expulsions from abroad, usually the United States of America, of convicted persons of Haitian origin at the end of their sentences. These individuals are imprisoned for identification purposes, but many of them have not been released yet;
- Problems with the **police** include persistent corruption, ill-treatment during arrests and failure to observe procedural time limits. A serious effort has been made to rectify this situation with the appointment of a new Director-General and training of new recruits;
- The **system of justice** is increasingly besieged: serious damage was done to judicial facilities in the insurrections of February 2004, the recurrent abuse of pre-trial detention has worsened (at the end of 2005, only 9 per cent of detainees had been convicted), and there is ongoing interference with the judiciary by the executive, exemplified by the recent dismissal of five judges from the Court of Cassation;
- Some measures have been taken to counter these problems, such as establishing five additional court chambers in the capital and holding two weekly hearings at the National Prison to avoid transferring prisoners, but in view of the extent of the problem these efforts are largely insufficient;
- The Court of Cassation’s shortcomings are particularly regrettable in view of the important role it could play in this transitional period. It has recently issued an annulment decision, the legal construction of which constitutes a license for impunity;
- Most **reforms**, including that of the Supreme Council of Justice, the Judicial Training College and the reform concerning statutory guarantees for judges, are bogged down, with the exception of a proposal concerning police custody and the granting of autonomous status to the Institute of Forensic Medicine;
- The reform of the police has been criticised for restricting the right of defence, but meets an evident need;
- The **land register** serves as an obstacle for development in that the absence of reliable title deeds makes it difficult for agricultural workers to mobilise their real estate assets, or prove inheritance, thereby facilitating speculative transactions resulting in dispossession;
- There have been some initiatives to improve **water supply** and a reform of the **civil register** is underway.

### Key recommendations

- Some of the **Government’s decrees should be constitutionalised** to avoid the country sliding into endless wrangles and insecurity, or even a legal vacuum;
- The Government should prioritise the **fight against insecurity** and therefore **poverty**, as the two are closely linked, through long-term development programs, as well as micro-programs;
- The Government should set up a commission on the prevention of extended **pre-trial detention**; complete the proposed reform of **police custody**, the Institute of Forensic Medicine and the Supreme Council of Justice, and develop **regulations governing the judiciary** based on transparency;
- Projects for the **decriminalisation of abortion** and **regulation of domestic work** should be included once again in the business of Parliament;
- The Government should start the **reform of the land register**, notably by preparing an inventory of relevant studies and experience, and establishing a reform commission supported by international cooperation.