

The report notes that the problems of the National Police are exacerbated by the economic and political climate and by the weakness of the state. Acknowledging that most police officers do their jobs in a relatively acceptable manner, the Expert nonetheless expressed concern about the excesses of some police officers who have been implicated in cases of torture, summary execution of gang members, abuse, corruption, and narcotics trafficking.

With regard to the judicial system, the Expert shared the view of some persons in Haiti that the judiciary remains part of an exclusionary state system which is inaccessible, ineffective and slow and which fails to respect human rights. As a result, the majority of the population is essentially without legal services. Reference is made to the report of a Preparatory Commission that was established in February 1997, pursuant to a recommendation of the National Commission of Truth and Justice. The report is described as a general policy document on the reform of justice which contains proposals for reform of, *inter alia*, the legal system and focusses on five topics: the fundamentals of reform; civil society's primary requirements for the administration of justice; responses to requests from civil society; a strategy for action; and the agents of change. The urgent need for judicial reform is underlined in the report with the observation, that out of a prison population of approximately 3,500 detainees, 85 per cent are being held in pre-trial detention. The Expert strongly recommended that the international community spare no effort to ensure implementation of the plan of action for the justice system.

With regard to women's rights, the report notes that violence against women remains a major concern of women's rights organizations and, further, that in November 1997 80 women's organizations established an International Tribunal for the Elimination of Violence against Haitian Women. The theme of the organizations involved was: "Let's remove the gags" (i.e., no one will realize the extent of violence against women unless people talk about it.) The report notes that the progress of the "trial" has been a success from the point of view of the mobilization of women and of the press and has proved to be a turning point. For three days, the "Tribunal" sessions made society realize that the problem of women's rights is one of human rights, thereby sparking genuine awareness.

The government's efforts on behalf of women are acknowledged, but the report notes: the shortage of staff and equipment of the Ministry of Women's Affairs; the apparent absence of an adequate judicial response to violence against women; serious flaws in police procedures and practices with respect to crimes of a sexual nature and to the protection of women victims of crimes of violence; and a tendency of judges to blame a woman's rape on her "sex appeal" and wife-beating on the victim's "disobedience" or remarks to her husband.

The Expert recommended, *inter alia*, that: article 262 of the Penal Code, which prohibits and penalizes abortion, be amended to authorize abortion in cases of rape or

incest or where the mother's health is at risk; the flaws in articles 285, 286 and 287 of the Penal Code, which make women and men subject to different penalties for adultery, be corrected; legislators endeavour to recognize women's rights in cases of plaçage (Haitian common law marriage) and concubinage, which are widespread in rural areas; a comprehensive study be undertaken on the compatibility of the provisions of Haitian legislation with the international instruments ratified by Haiti, particularly the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará); a sensitivity course on the problem of violence against women be included in training programmes for judges and lawyers; and the government and the international community support the actions of women's groups, which are breaking the silence with increasing frequency, to ensure that complaints are followed by investigations which might lead to the arrest and trial of those responsible for crimes against women.

With regard to children, the report notes: the problem of restaveks (child servants) persists and will continue to do so until poverty is eliminated in Haiti; there has been an alarming increase in the number of street children, particularly restavek girls; and the failure of the government to harmonize domestic law with the Convention on the Rights of the Child. Examples of inconsistencies between domestic law and the Convention are provided.

In the conclusions of the report, the Expert expressed regret at the decision of the Office of the High Commissioner for Human Rights to transfer its cooperation activities to MICIVIH. The Expert invited the OHCHR to consider the consequences of its decision, noting that in the context of the President's will to advance human rights in Haiti, it is important to demonstrate the international community's commitment to strengthening Haitian expertise in the field of human rights.

Resolution of the General Assembly

The 1998 session of the General Assembly adopted by consensus a resolution on the situation of human rights in Haiti (A/C.3/53/L.43). The GA, *inter alia*: noted that, despite the efforts of the government to improve the situation of human rights and the progress that has been reported, serious problems still persist relating mainly to the administration of justice; noted with concern that the prolonged absence of a Prime Minister has had adverse consequences for the situation of human rights; reiterated the hope that the Haitian people will, at the earliest possible date, be able fully to express their will through free, fair and transparent elections; welcomed the decision of the Special Rapporteur of the Commission on Human Rights on violence against women to travel to Haiti on mission in November 1998; welcomed the decision of the government to distribute throughout the country the report of the National Commission on Truth and Justice of February 1996 and to initiate legal action in serious cases; encouraged the government to continue its work on the reform of the judicial system and called