

GENERAL ASSEMBLY

Independent Expert of the Commission on Human Rights

The Independent Expert's interim report to the 1998 General Assembly (A/53/355) contains information on, *inter alia*: combatting impunity, the Haitian National Police, the judicial system, women's rights, and the rights of the child.

The Expert visited Haiti twice, from 26 February to 2 March, and from 9 to 15 August 1998. The report states that the absence of a prime minister for 14 months has had an adverse impact on the human rights situation. The institutional crisis has had a disastrous effect on economic activity, noting: an erosion in purchasing power; raging inflation; steady rises in the prices of basic foodstuffs; and a slowing of the process of modernization of the state as well as of economic reforms. The report also notes that the transformation of society is still being hampered by the weakness of its institutions, as evidenced in the deplorable situation of women's rights, the violations of the rights of children, the impunity realized by those who commit serious human rights violations, the lack of professionalism of the National Police and the deterioration of conditions in prisons. Some progress has been made, however, in the process of reform of the judiciary.

The report notes that concerns over the impunity of those committing serious violations of human rights — as well as the right to reparation, restitution and rehabilitation of victims — are currently at the centre of a wide-ranging public debate in Haiti. Complaints related to the attitude of officials of the Ministry of Justice include: a lack of transparency in the handling of the issue of reparations; failure to implement the recommendations of the National Commission of Truth and Justice and establishment, instead, of an Office of Prosecution and Follow-up for Victims (BPSV); the failure to include NGOs in the management of that Office and its lack of procedures for the settlement of cases. Noting the Ministry's preference for collective reparations in the form of legal and medical assistance and economic and social reinsertion, the Expert recommended much broader cooperation or even a partnership with NGOs in the search for solutions to the problem of reparations.

The incident involving documents seized from the headquarters of the Haitian Armed Forces and of the Front pour l'avancement et le progrès Haïtien (FRAPH) by the United States (see E/CN.4/1997/89) continues to cause controversy. The Expert stated that return of the documents was important in order to help shed light on cases currently before the courts, including the case of the Raboteau massacre which is referred to by some as the "trial of the coup d'état of September 1991". The report states that the success of the struggle against impunity largely depends on the way in which this trial is conducted and that it is important for the U.S. to return the confiscated documents, intact and without delay, since they may prove to be an invaluable source of information

for the proper administration of justice. The Expert urged all concerned states to assist in the extradition of the officers accused of participation in the Raboteau massacre, noting that requests for extradition of the superior officers had been turned down on legal grounds. The Expert recommended that assistance be furnished to the government with a view to maximizing its chances of obtaining a favourable response to extradition requests.

Commentary on the Haitian National Police notes that considerable progress was made over the past two years but that many human rights violations committed by its agents remain cause for concern. Reference is made to the Mirebalais affair in February 1998 which is said to exemplify the atmosphere of violence prevalent in that region — characterized as political violence. Two persons, one of them a police commissioner, were killed during incidents in which members of a popular organization known as "Metè lòd nan dezòd", which has close links to the Lanfanmi Lavalas party, clashed with members of the Mouvement des Paysans de Papaye. The report notes that the Minister of Justice did suspend the senior judge and the government commissioner who were suspected of involvement in the incidents at Mirebalais, but is critical of the Compagnie d'Intervention Rapide et de Maintien d'Ordre (Rapid Intervention and Law Enforcement Unit) of the National Police, on the basis that the Unit conducts itself in a corporatist manner, reminiscent of the troops of the former Haitian armed forces.

The report notes the work of the Office of the Inspector-General of the Haitian National Police (IGPNH) and the efforts made to clean up the police force. More than 2,200 files were handled by the IGPNH related to: 468 cases of human rights violations, 234 reviewed; 188 cases of fraud or theft, 86 reviewed; 32 cases involving drugs, 15 reviewed; 1,392 cases of violations of rules, 1,051 reviewed; and 187 miscellaneous complaints. The many cases of corruption had not been addressed. As a result of the review, the contracts of 200 police officers were revoked and the files of 66 police officers dismissed for disciplinary and criminal offenses were turned over to the courts. The cases involved assassination, murder and attempted murder, voluntary homicide, theft, gratuitous violence and physical abuse, embezzlement or extortion, use of counterfeit money, illegal search, misuse of firearms, infliction of gunshot wounds, insulting behaviour, bribing witnesses, and use of narcotics. The report notes this progress, despite the continuing difficulties and obstacles encountered by the IGPNH including: a shortage of human resources; pressure on investigators — including death threats against them and their families; the fact that, without adequate support, investigators have been left on their own to determine responsibility in particularly serious cases; and problems of a logistical nature, especially the shortage of vehicles and computers and the absence of a communications system. The greatest obstacle facing the IGPNH, however, is noted as the defects in the Haitian justice system, characterized by the Inspector General as "judicial impunity and complicity".