

Addressing “Street Gang” Violence and Collateral Damage: the planned offensive in Cité Soleil by MINUSTAH and HNP

Any loss of life whether as a result of combat, summary executions or other causes such as hunger or denial to basic health care, and whether it is that of a civilian or that of a police or military officer, is one too many. Haiti has already seen too many of these killings resulting in consequences that are similarly abusive against its people. Therefore it is crucial that all aspects and consequences of any proposed action to restore security in the area are properly assessed. While it is imperative that those responsible for committing violence in Cité Soleil or elsewhere are stopped, it is similarly imperative that any action to achieve this objective does not result in further violence.

The declaration today, March 31, 2005 by a UN military spokesperson, Lt. Colonel Elouafi Boulbars, that there is a plan to disarm street gangs in Cité Soleil during an offensive that will take place over several days while at the same time considering collateral damage^{1[1]} therefore deserves the following consideration.

The Nature of Violence

The nature of the violence in Cité Soleil cannot be described solely as street gang violence. While many acts of a purely common criminal nature such as robberies, murders and rapes^{2[2]} have been committed against residents by individual members of armed gangs^{3[3]}, the fact remains that these armed gangs and other groups regard themselves as either Aristide’s supporters or opponents. Consequently they also see themselves, and are supported in this view by residents, as defenders of their neighborhoods against the attacks of the opposite group. Since September 30, 2004, there have been many casualties, not yet assessed or even acknowledged by either political sides and other groups, as a result of such attacks. Additionally, in the case of neighborhoods other than Boston, there is the fear of attack by the Haitian National Police (HNP)^{4[4]}, accused by several groups to having committed numerous human

1[1] AP news article, Thursday March 31, 2005.

2[2] While the majority of the rapes committed in Cité Soleil appear to have been opportunistic, politically-motivated rapes have also been reported.

3[3] It is believed that several scores of persons have been killed, raped and robbed by armed gangs that have been controlling, and responsible for closing off, Cité Soleil since September 30, 2004.

4[4] Already, it is believed by fearful residents that members of the HNP will be hidden inside MINUSTAH’s tanks during the planned offensive. Also, it is widely believed that the attack is taking place because Labanyè, gang leader in Boston, and a former Aristide supporter who later turned against him, has been killed the night before [March 30, 2005]. Whether these beliefs are substantiated or not is not what matter at this precise moment in time but rather, what actions should be taken to avert irreparable damages to any future prospect of peace in the country.

rights abuses such as summary executions and arbitrary arrests leading to disappearances in neighborhoods perceived as supportive of the ancient regime. The same fear is applied to the former military^{5[5]}, responsible for many human rights abuses during the military dictatorship period of 1991-1994 in these same neighborhoods. Women in particular, many of whom were brutally and sexually abused by the former military on political grounds during that period, are particular afraid of such a scenario.

Therefore any offensive inside Cité Soleil by MINUSTAH's troops together with the HNP will be seen as an attack against opponents of the interim government and may give way to acts of reprisal that will result in inevitable casualties for all those caught in the conflict. If this aspect has not yet been understood by involved parties, this is not the case for the majority of remaining residents in Cité Soleil, both from anti-Aristide Boston and other pro-Aristide neighborhoods, who see it as such.

Collateral Damage

Similarly, one could argue that the use of the term "collateral damage" by the UN military spokesperson reflects the fact that MINUSTAH see these armed groups or gangs in Cité Soleil as military objectives, not mere common criminals. Collateral damage occurs when attacks targeted at military objectives cause civilian casualties and damage to civilian objects. It often occurs if military objectives are situated in or close to residential areas.

In any situation of violence, civilians have little legal protection from collateral damage, more so in an area like Cité Soleil where the wide majority live in fragile shacks and where armed groups often commingle among the population. Therefore, an offensive to disarm these armed groups will necessary be targeted at the civilian population and ensuing casualties among innocent civilians will not be collateral damage.

Moreover, there is the risk that those directly under attack may deliberately take shelter among the civilian population so as to protect themselves. This strategy, which can never be justified, remains nonetheless a possibility and should not be ignored by MINUSTAH or the HNP.

In addition, a battle between military troops in secured tanks together with heavily armed police against armed civilians undisciplined and untrained in the rules and regulations of armed combat, cannot be proportional and will inevitably bring disastrous consequences. It must not be forgotten that even in the case of the trained HNP, MINUSTAH has so far been unable to stop the excesses of certain of its members that have resulted in several illegal killings in other neighborhoods. Therefore, what guarantee exists that this same

^{5[5]} There have been rumors that Ravix, the self-proclaimed commandant of former soldiers disbanded in 1994, has been in talks with certain elements of pro-Aristide armed gangs so as to join forces against the interim government. However, in view of the fact that Ravix and his men have themselves committed abuses against Aristide and Lavalas supporters in the movement that led to the ouster of the previous government in February 2004, this has been discounted by observers as unlikely to happen and many still fear the return of the former military

police officers will not indulge in similar actions in Cité Soleil during that operation or in the future once the armed groups are removed?

If the collateral damage expected from the attack is not proportional to the military or other advantage anticipated, then the attack should be either refrained or suspended until a more appropriate plan to end violence in Cité Soleil and other neighborhoods is found.

Conflict Resolution

The proposed offensive in Cité Soleil to sweep the area for illegal guns during an operation that could last for several days similarly begs the question whether the necessary measures have been taken to address the special needs of this vulnerable community. Any offensive must take into account the physical, emotional and psychological vulnerability of its residents (consequences of daily exposure to chronic violence, both physical and structural), and the recognition of the obligation to respect and ensure respect for their rights. It is therefore imperative that appropriate measures are taken to protect innocent civilians.

By entering by force into Cité Soleil, MINUSTAH is missing the opportunity to address widespread systemic problems that grip to their bones residents of this community who have seen an aggravation of abuses against their rights to life, food, healthcare and freedom of movement among others. The need to ensure that armed groups are disarmed does not warrant an attack which will result in civilian and possibly police and military casualties and more human rights abuses.

Peacemaking is not about ending violence by any means; it should rather set a strategy for achieving peace. Non-violent means should be applied before resorting to the use of force and firearms. Hence, conflict resolution and disarmament programs should be initiated and implemented to enable those most affected by human rights abuses to strive to define the political, social and economic framework that will address their needs.

If on the other hand, the use of force remains unavoidable, then it shall be in proportion to the objective to be achieved.

Recommendations

In view of the above, it is therefore recommended that MINUSTAH

- assess the impact of prospective violent clashes between the HNP/MINUSTAH forces and armed gangs or groups on innocent civilians, especially children, women and the aged;
- take precautionary and long term measures to ensure the supply of food, water and basic services such as health care to the residents of Cité Soleil who, more than anyone else in Port-au-Prince, have suffered atrociously as a result of the intense violence that has plagued their lives for months;
- ensure that its troops and the HNP act in accordance with international standards of human rights; and

- work without discrimination with all sectors in order to address and resolve primarily by peaceful means, the problems of illegal armed groups and use of violence in Haiti

Judy Dacruz
Independent Human Rights Lawyer*
Port-au-Prince
March 31, 2005.

* The author started human rights work in Haiti in November 2002 at the Bureau des Avocats Internationaux (BAI), first as an intern (sponsored by the Transitional Justice Internship Program of Notre Dame University (Center for Civil and Human Rights)) and subsequently as an international lawyer. The BAI was set up by the former government to prosecute cases of human rights abuses committed during the period of the military coup of 1991-1994. She worked exclusively on human rights cases, in particular that of politically motivated rapes, and at no times was an attorney for former President Aristide or his government. Last year she resigned from her position at BAI and since September, has been using her own means to independently investigate, monitor and address human rights violations in Haiti, albeit in a very limited capacity.