

ORGANIZATION OF AMERICAN STATES



INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

IACHR

PRELIMINARY OBSERVATIONS OF THE IACHR UP ON CONCLUSION OF ITS VISIT TO HAITI

1. The Inter-American Commission on Human Rights (IACHR) has concluded a visit to the Republic of Haiti that took place from September 1-3, 2004 at the invitation of the government of that country. The delegation was composed of Commissioner Clare K. Roberts, First Vice-President and Rapporteur for Haiti; Brian Tittermore, Senior Human Rights Specialist, Bernard Duhaime, OAS Associate Staff Member and Professor of Law at the University of Quebec at Montreal; Candis Hamilton, IACHR Consulting Attorney; and Julie Santelices, Administrative Assistant.

2. The IACHR is the principal organ of the Organization of American States (OAS) responsible for promoting the observance and protection of human rights in the Hemisphere. The seven members of the Commission are elected in their personal capacity by the OAS General Assembly for a four-year term. The Commission's terms of reference are derived from the OAS Charter and the American Convention on Human Rights, treaties ratified by the Republic of Haiti.

3. The Commission conducted the visit pursuant to its mandate and functions under the OAS Charter and the American Convention on Human Rights, as well as OAS General Assembly Resolution AG/RES.2058 (XXXIV-O/04) concerning the strengthening of democracy in Haiti, in which the General Assembly urged the IACHR to monitor and report on the human rights situation in Haiti and to work with the OAS Special Mission in the promotion and observance of those rights.

4. The visit was the Commission's first since the departure of former President Jean Bertrand Aristide from Haiti in February 2004. Accordingly, the objectives of the visit included establishing contact with officials in the new transitional government, receiving information on the present situation of human rights in Haiti, and planning its future activities in the country. The Commission also conducted a training seminar on the inter-American human rights system with officials and functionaries from various government ministries and agencies.

5. The Commission expresses its appreciation to the Government and people of Haiti for the cooperation, facilities and hospitality provided in the course of the Commission's visit, to the OAS Special Mission for its crucial assistance in organizing and executing the visit, and to the nongovernmental organizations, civil society institutions, and international organizations concerned for their valuable participation in the Commission's activities.

6. During the visit, the Commission met with representatives of the Haitian transitional government and members of civil society as well as international organizations. The Commission met with the President of the Republic, Mr. Boniface Alexander; the Prime Minister, Mr. Gérard Latortue; the Minister of Foreign Affairs and Worship, Mr. Yvon Siméon; the Minister of Justice and Public Security, Mr. Bernard Gousse; the Minister of the Interior, Mr. Hérard Abraham; the Minister of Women's Affairs, Mrs. Adeline Magloire Chancy; the Director General of the National Police in Haiti, Mr. Leon Charles; and the Ombudsman of Haiti, Mr. Necker Dessables. The Commission also held discussions with representatives of different sectors of civil society, including a significant number of nongovernmental organizations with diverse views as well as associations of judges, lawyers and magistrates. In addition, the Commission met with the Head of the United Nations Stabilization Mission in Haiti (MINUSTAH), Ambassador Juan Gabriel Valdes, and other officials of MINUSTAH and the UN High Commission for Human Rights.

7. In the course of its visit, the Commission was particularly cognizant of the brutal events that occurred in Haiti in February and March of 2004, in which armed opponents of the government engaged in a violent rebellion against the former government. At the time of these events, the

Commission deplored the violence in Haiti that resulted in the loss of lives, the deterioration of the humanitarian situation, and the abuse of human rights, and issued an urgent appeal to all of those groups resorting to violence to resolve their differences peacefully, democratically and constitutionally in accordance with the Inter-American Democratic Charter and the American Convention on Human Rights.

8. In this context, the Commission's objectives during the visit included the receipt of information as to whether and how the fundamental rights of the Haitian population are presently being guaranteed and respected. Based upon the information gathered, the Commission remains concerned respecting several key areas in which the basic rights and freedoms of Haitians remain weak and imperiled. At the same time, the Commission is hopeful that the present government will use this opportunity, in cooperation with the international community, to break away from the difficulties of the past and move Haiti toward a future in which the rule of law, democracy and respect for human rights are fully realized.

The Security Situation in Haiti

9. According to the information available to the Commission, the lack of effective security for the population throughout much of Haiti has been and remains an urgent problem. It appears that following the rebellion in February and March, illegal armed groups have retained control over security in many parts of Haiti, particularly in the northern region, and that in some instances these groups have operated in cooperation with, or in the place of, the national police. As a consequence, the security of the populations in many of these areas has not been effectively guaranteed by the State.

10. In this regard, the Commission considers it essential to the future stability of the country that the Haitian government, in collaboration with the international community, take the urgent steps necessary to regain control over security in all regions of the country, disarm the groups operating there, and guarantee the fundamental rights of persons throughout the State's territory. The Commission also reiterates its insistence that the human rights of all persons be respected in the process of restoring order and security to the country and that any human rights violations that occur are effectively investigated, prosecuted and punished, whoever may be responsible.

Administration of Justice and Impunity

11. The Commission is also troubled by deficiencies in the state of the administration of justice in Haiti, some of which pre-dated the present government. The sources available indicate that the justice system remains severely weak and continues to suffer from fundamental failings. These include a severe shortage of resources for judges, magistrates, courts, and the police as well as prevalent due process violations such as the prolonged detention of individuals without being brought before a judge. As one example of the critical lack of resources, the Commission heard during the visit that the police force is comprised of only approximately 3,000 members who are responsible for a total population of over 8 million.

12. The State has indicated that it is undertaking measures to address some of these concerns. It informed the Commission, for example, that legislation is being prepared to transfer authority to appoint, promote and discipline judges from the Ministry of Justice to an independent body, and that the salaries of judges have recently been increased. While these increases may still be insufficient, they constitute a first step in efforts to improve the administration of justice in the country. The Commission was also informed that the government has developed a plan for recruiting and training additional members of the police force in the short and the long term, with an additional 1,500 officers expected to be added before the elections planned for next year. Also according to the government, the process for screening new recruits disqualifies candidates who may be linked to past human rights abuses, and human rights education has been included as a key component in police training. The Commission encourages these measures and emphasizes the need for the State, with the support of the international community, to continue to take the actions necessary to address these and other problems affecting the justice system.

13. Connected with the weak state of administration of justice in Haiti is the ongoing problem of impunity for past human rights abuses. The Commission continues to receive reports of failures on the part of authorities in Haiti to effectively investigate, prosecute and punish serious violations of human rights, as well as claims that criminal proceedings have been undertaken for inappropriate and political purposes. With respect to such allegations, the Commission wishes to emphasize the right of all persons to due process of law and of access to a fair, impartial and independent judiciary, and the corresponding obligation of the State to guarantee these rights without discrimination of any kind, including political opinion.

14. In particular, the Commission received criticisms of the treatment of specific individuals within the State's judicial system. These included, for example, alleged improprieties in the recent trial of Louis-Jodel Chamblain and Jackson Joanis for the murder of Antoine Izméry. Concerns have also been expressed regarding the arrest and detention of several members of the former government, including former Prime Minister Yvon Neptune and former Minister of the Interior Jocelerme Privert. The Commission had an opportunity during its visit to meet with both of these former ministers in the National Penitentiary and to verify their condition. In respect of these matters, the Commission wishes to reiterate the concerns expressed in its previous press release No. 17/04 regarding the State's obligation to end impunity for all human rights abuses through demonstrably fair and effective procedures that conform with international standards, as well as the corresponding right of all persons to due process of law and to be heard by a competent, independent, and impartial tribunal, without discrimination of any kind. The Commission also notes that although certain legal procedures may comply with domestic law, the State is obliged to ensure that the investigation, prosecution and punishment of human rights violations accord with international standards. Further, the Commission emphasizes the obligation of the State under Article 54 of the Commission's Rules not to take any reprisals of any kind against any persons or entities providing information or testimony to the Commission.

15. The Commission also received information and reports alleging acts of violence against individuals based upon their affiliation, or perceived affiliation, with the former President and his political party, as well as other incidents of violence allegedly attributable to the supporters of the former government, including a recent episode in which the Secretary of State for Foreign Affairs of the Republic of France was attacked while visiting a hospital in Cité Soleil. The Commission condemns incidents of this nature and emphasizes the State's obligation to investigate allegations of such violence and, where substantiated, prosecute and punish those responsible.

The Situation of Particular Groups

16. In the course of its visit, the Commission also noted circumstances relating to groups of particular focus in the Commission's work, including women, children, and human rights defenders. Accordingly to information received, the rape of women and girls committed by armed groups and bandits, among others, remains a serious problem in Haitian society. It is also alleged that children have been the victims of child labor, kidnappings, and the violence perpetrated by armed groups and are frequently detained with adults in prisons. The Commission reiterates the need for the State to take concrete steps to prevent conduct of this nature, including the effective investigation and prosecution of complaints of such acts. In this respect, the Ministry of Women's Affairs informed the Commission of its efforts to encourage law reform initiatives relevant to needs of women, including proposals to render rape a crime under Haitian law and efforts to develop women's groups throughout the regions in Haiti.

17. Claims have also been made that human rights defenders continue to be the victims of harassment and threats. On many occasions, the Commission has emphasized that coercion of this nature, if left undeterred, places human rights defenders in vulnerable positions and effectively prevents them from carrying out their work. Accordingly, the Commission urges the government to develop effective means of responding to and preventing incidents of this nature.

18. The concerns identified by the Commission must also be viewed in light of the fundamental societal problems such as extreme poverty, high illiteracy and malnutrition, which continue to deprive Haitians of fundamental economic, social and cultural rights and at the same time exacerbate the

consequences resulting from denials of basic civil and political rights. The Commission recognizes that this presents a formidable challenge to the Haitian State and urges the government, in cooperation with all sectors of society and with the support of the international community, to design and implement a plan for development that will address the fundamental economic and social needs of each Haitian citizen.

Final Considerations

19. In their meetings with the Commission, the representatives of the transitional government expressed a strong commitment to making human rights protection a central component of their work. As one example, the Prime Minister indicated to the Commission that he was committed to discontinuing the practice by which some former Haitian government officials may be prevented from leaving the country without permission. The Commission looks forward to further dialogue with the government on this and other efforts to advance human rights.

20. Based upon the information gathered during its visit, the Commission remains concerned over the precarious political situation in Haiti as well as the many serious problems that the State continues to face in protecting human rights. At the same time, the Commission has come away with a sense of hope that the present government, in cooperation with the international community, will seize this opportunity to break away from the difficulties of the past and move Haiti toward a future in which the rule of law, democracy and respect for human rights can be fully realized.

21. In this connection, the Commission emphasizes the importance of the elections to be held in Haiti, planned for 2005, which provide an opportunity to establish greater stability for the future of the country. All efforts should be made to ensure that free and fair elections are convened in a timely way in accordance with the provisions of the Inter-American Democratic Charter and the American Convention on Human Rights. In this and all other challenges currently facing Haiti and its people, the Commission calls upon the international community to provide Haiti with the support and assistance necessary to achieve a more prosperous future.

22. The Commission will continue to monitor closely developments in the human rights situation in Haiti, and reiterates its willingness to collaborate with the Government of Haiti and with Haitian society as a whole to strengthen the defense and protection of human rights.

Washington, D.C., September 7, 2004