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SECOND QUARTERLY REPORT OF THE SECRETARY GENERAL
ON THE SITUATION IN HAITI

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Introduction:

This second report of the Secretary General to the Permanent Council, pursuant to Paragraph 20 of AG/RES 2147 of 7 June 2005 describes the current situation in Haiti and discusses the work of the OAS' Special Mission for Strengthening Democracy in Haiti (Special Mission) during the period of mid October 2005 to March 2006. The report has been updated to cover more recent developments in Haiti, especially in the electoral process.

During the reporting period, the Secretary General and the Assistant Secretary General visited Haiti on several occasions to meet with government officials, the CEP, political parties, civil society and the international community and to observe the electoral process. The Special Mission also hosted Nobel Peace Prize winner, Archbishop Desmond Tutu in one of the activities of the Peace and Tolerance Initiative launched in December 2005 by the Secretary General.

Throughout the reporting period, the OAS Special Mission continued to reinforce key institutions responsible for security, justice including the police, human rights and governance. The Police Vetting Project concluded in December 2005 and the Team handed over responsibilities for vetting HNP officers and new recruits to MINUSTAH. The Special Mission went on providing expertise to the electoral process in registration as well as vote tabulation and results transmission. OAS consultants pursued activities with Haitian human rights organizations, providing advice, equipment and material assistance, didactic material and facilitating promotional outreach events. In Cap Haitien, the Special Mission's office continued to monitor the overall human rights and judicial situation. Justice personnel continued to monitor high profile cases, provide assessment of legislation as well as contribute to the improvement of penal conditions. The Political Affairs consultant monitored the evolving political developments while the Communications Team supported the activities of the various Pillars of the Mission.

The Chief and Deputy Chief of Mission represented the OAS Special Mission at meetings with the local authorities, civil society, UN-chaired Core Group, donors, international organizations and visiting delegations.

In the governance programme, eleven Haitian experts, contracted by the Government of Haiti and financed by the OAS, continue to work in the Prime Minister's Office, the Secretariat for Youth, Sports and Civic Education; the Ministry of Trade, Industry and Tourism, and in the coordination office of the Interim Cooperation Framework. At the end of the reporting period, nine consultants were in this project. This support programme, originally scheduled to end last year, was extended to April 2006.

Visits of SG Insulza and ASG Ramdin to Haiti:

Both the Secretary General and the Assistant Secretary General visited Haiti during the period under review to take stock of the political and electoral situation, encourage the electoral process, appraise the role the OAS has played particularly regarding National Identification Card distribution, and to discuss the possibility of further support to the electoral and transition process. In addition to meeting

with several local and international leaders, the **November 19 to 21** visit of Assistant Secretary General Albert Ramdin bolstered support for the launching of Card distribution on November 23, while the visit of Secretary General José Miguel Insulza from **December 17 to 18** also served to launch the “Peace and Tolerance Initiative” developed by the OAS SM in collaboration with the Church. In the context of the Peace and Tolerance Initiative, Secretary General Insulza attended a working dinner hosted by the Papal Nuncio and attended by Bishops of the Episcopal Conference and the international Community. The SG delivered an address at the Mass celebrated by the president of the Episcopal Conference Mgr. Louis N. Kébreau and several Bishops to launch the Initiative. The President of the Republic, the Prime Minister and several government ministers attended the Mass.

From **January 20 to January 21** ASG Ramdin also formed part of a High Level delegation¹ of representatives of OAS member countries. The delegation was in Haiti to reaffirm its commitment to the political transition, and in particular to the electoral process and calendar announced, scheduling 1st round of presidential and legislative elections for 7 February 2006, and 2nd Round for March 19 . The visitors attended a series of fruitful meetings with the leading presidential candidates and political parties, the business community, civil society representatives, the Director General of the Provisional Electoral Council, with Prime Minister Gerard Latortue, and President Boniface Alexandre. All parties endorsed the need to hold peaceful elections on the date announced to return Haiti to constitutional rule and to develop medium and long term strategies to face the economic and social challenges ahead.

The Secretary General and the Assistant Secretary General, in response to the invitation of the CEP, returned to Haiti to observe the historic **7 February 2006** elections. During this visit, the Delegation of six persons met with governmental as well as electoral officials, representatives of MINUSTAH, the Core Group, and members of international observer Missions (IFES, EU, OIF and CARICOM). The delegation also observed the vote at various polling sites, and visited the Vote Tabulation Centre, following which the Secretary General held a joint press conference with MINUSTAH and the CEP to express overall satisfaction with the voting operations and acknowledge the high level of political maturity exhibited by the Haitian electorate.

The Secretary General returned to Haiti on **15 February** to further evaluate developments in the electoral process. Insulza met with national as well as international organizations involved in the electoral process, to seek a post-election resolution which was reached the day after his arrival when the CEP proclaimed René Préval First Round winner of the Presidential elections.

Political developments and the electoral process:

The period marked the highlight of the 2005-2006 electoral process and a victory for the electoral authorities, as well as the Government and people of Haiti. The Haitian people have been twice to the polls during this period and have successfully elected a President, and 115 of the 129 members of the Legislative Branch of Government foreseen by the Constitution. Eighty-six (86) of the eighty-eight (88) Deputies as well as the 27 Senators already elected were sworn in on May 9 and 10, respectively, and have already taken office in preparation for their first task, the investiture of President-elect.

On Sunday May 14, René Garcia Préval assumed the presidency of Haiti in an extraordinary session of the National Assembly. The president of the National Assembly invested Mr. Préval with presidential authority in a ceremony witnessed by high-level political, official and diplomatic

1. The delegation included representation from Argentina, Brazil, Canada, Chile and the United States.

representatives from around the world, including the Haitian born Governor General of Canada, Vice presidents of Brazil and Venezuela, Governor Jeb Bush of the United States and the Secretary General of the Organization of American States.

In his inaugural address the president set as his priority the creation of a peaceful environment through dialogue to facilitate social and economic development. He appealed to the international community for bulldozers and tractors rather than tanks on the premise that economic development will contribute immensely to peace and stability.

Despite the climate of uncertainty that enveloped the electoral process from the outset and the deteriorating security conditions in the weeks preceding the February vote, the Haitian population braved all adversities and stunned the entire world with a courageous show of civic responsibility and a high level of political maturity and tolerance, as they participated massively in the virtually violence-free First Round Presidential and Legislative elections. Over 60% of the 3,535,025 citizens registered—close to 3.2 million were in possession of their National Identification Card—turned out to vote on February 7 for the election of one (1) President of the Republic among thirty-five (35) candidates, thirty (30) Senators among more than 300 candidates, and 99 Deputies among over 1000 candidates. Though without the same fervor and in lesser numbers, over 30% of the Haitian electorate returned peacefully to the polls on April 21 for a Second Round of elections to choose the members of their Legislature for which only two Deputies were successfully elected in the February 7 elections.

Various Haitian sectors as well as a broad cross-section of the international community, including the donor countries, the observation missions, and the Secretary General of the OAS, have acclaimed these elections a major step in the democratic process taking place in Haiti. The determination shown and sacrifices made by the Haitian electorate have prevailed over the organizational, technical, and logistical glitches registered before and during the elections, as well as the manifest dissension among the members of the Provisional Electoral Council (CEP).

The success of those elections is also due in large part to the able stewardship of the new Director General appointed by the interim Government in late October 2005, when the process faced what may have been its most challenging moment. In the earlier part of the period, repeated expressions of gross dissatisfaction with the work of the CEP from varying local and international sectors forced the Council to be first temporarily placed under the supervision of an Elections Support Committee and later accept the executive-oriented Director General. The DG combined in a single operations unit the efforts of all the partners—CEP, OAS, MINUSTAH, UNDP, UNOPS, OIF, CIDA—working in the organization of the elections.

The massive voter registration campaign, led by the OAS, was a resounding success. At the official close of registration on October 22, 2005 in the commune of Cité Soleil, the last commune to be reached by the process due to problems of insecurity, registration totals stood at 3,535,025, i.e., 80% of the estimated target population. As put forward in previous reports, the automated registration system introduced by the OAS for the 2005-2006 electoral process also includes the production of a reliable digital National Identification Card valid for ten years. The OAS also led the successful massive distribution of close to 3.2 million Cards in time for the elections despite many obstacles encountered on the political as well as the technical level brought on by the discord within the CEP and criticisms from various local sectors reportedly seeking to thwart electoral preparations and delay the process. Nevertheless, over 3.5 million nationals are now not simply registered but identified and

the technological infrastructure remains in place to set up a permanent electoral registry, for which the OAS will more than likely provide post-electoral technical assistance.

Also of note, the CEP requested specifically that the OAS take charge of printing all voters lists. For both electoral processes, the OAS team produced the lists for over 9000 polling stations and for a polling site public information campaign in all 140 communes across the country, as well as preparing electronic versions of said lists for the CEP to provide to political parties and candidates. Another area lacking in preparation for the elections was that of an effective mechanism for vote tabulation and transmission and dissemination of results. The OAS, as part of a joint effort with the CEP and MINUSTAH, was also asked to provide technical support to the electoral process in that regard. The OAS was specifically responsible for the technological aspects of this venture, including the design of the software, the training of personnel, and the publication of the results on the website of the CEP.

Among the novelties introduced for the 2005-2006 electoral process is the automated vote tabulation and results transmission system, designed on the basis of an auditable e-system, in efforts to increase transparency and guarantee the integrity of the process by providing more timely and accurate results. The vote tabulation system has the capacity to process 9000 poll returns in eight (8) hours but is slowed by challenges the difficulty of Haitian terrain pose to the results retrieval plan. Albeit, definitive results for Presidential elections were available one week after the elections; the results for Legislative elections were tabulated and published in five days, and the publication of preliminary results of the Second Round took place three days after the polls. In addition, through technical support from the OAS, for the first time in Haitian electoral history, the CEP was able to make available on the Internet to political parties and candidates, in particular, and the public in general, copies of all the poll returns tabulated at the VTC (Vote Tabulation Center). This transparency and availability of information served to rapidly quell several complaints and resolve a number of appeals received by the CEP.

The 2005-2006 electoral process also made evident the need for reform of the Haitian electoral law, particularly regarding the issue of blank votes. Unofficial tallies and results of quick counts published showed Presidential front-runner René Préval a First-Round winner and later provoked massive street protests from his supporters when the official tally of the CEP later showed a different outcome. Over several days, the protests paralyzed not only the electoral process but also the day-to-day operations of the capital. The heart of the matter was not only the disappointing First Round non-election of Préval to his supporters but also the abnormally high incidence of blank votes detected and which were tabulated in the results as stipulated in the 2005 Electoral Decree. While most actors disagreed with these untimely protests, it was judged that an urgent solution to the problem of the blank votes was necessary. A distribution of all blank votes—in excess of an authorized 3%—proportionate to the percentage of votes obtained by each candidate was the plausible solution applied by the CEP. This solution, acceptable to most candidates except second and third runners, Leslie Manigat and Charles Henry Baker, conceded a First Round victory to René Préval with 51.21% of the votes based on the tabulation of 95.78% of poll returns. The international community and various local sectors came out in support or acceptance of the decision reached and the results proclaimed by the CEP and at the same time pledged continued co-operation with Haiti under the Government to be led by President-elect René Préval.

The method for counting blank votes remains an issue, however, and re-surfaced in the Second Round of Legislative Elections. The current method does not allow the system to keep accurate control of

voters participating in the elections for Senators, in which one voter has the right to three votes on a single ballot. These are issues that the Permanent Electoral Council, expected to be put in place, must address urgently, especially considering that there are elections for Senators every two years.

The new President has just been sworn in by a Parliament comprising 115 members from some twenty (20) political parties. No single party holds a majority in Parliament. *Lespwa*, the party of President René Préval holds some 32 seats, followed by Victor Benoit's socio-democratic Fusion, which has 18, Paul Denis' OPL, 12, and Evans Paul's *Alyans*, 11. *Lavalas*, the party of former President Jean Bertrand Aristide, holds 9 seats and a new party LAAA (The Artibonite in Action) led by the nephew of interim Prime Minister Gerard Latortue holds five, while Guy Philippe's FRN managed 1 seat in the Lower Chamber. Reports have indicated that OPL and Fusion have been holding discussions with President René Préval to form a block in Parliament in order to advance a rapid development plan for Haiti. Other political parties, such as *Alyans* and *Lavalas* have also expressed their willingness to cooperate with the Executive in pursuit of the advancement of the country. The internal elections of Parliament held after the swearing-in of its members have awarded the presidency of both the Upper and Lower Chambers to representatives of *Lespwa*.

It is a common understanding that the task ahead for the incoming Government is enormous and involves various domains. The Legislative Government must be completed. The elections for the decentralized governmental structures are yet to take place. The Provisional Electoral Council has addressed a letter to the Government requesting that the pending elections to complete the 2005-2006 electoral process be convened on July 23, many tasks are left to be accomplished for that date to be upheld, including obtaining the necessary funds, currently estimated at over USD 13 million. The local elections, whose resulting assemblies play an indispensable role in the formation of key institutions, such as the necessary Permanent Electoral Council, seem now uncertain. The President has already initiated contact with other Governments, donor countries, and key international organizations, including the OAS and the UN. Political sectors evidently remain divided, but opposing parties and the local private sector have voiced co-operation with the Préval Government. The international community, including the USA, Canada, and the European Union, has expressed satisfaction with the elections and pledged financial support for the Government. Nationals remain expectant, the internationals, watchful, but most seem hopeful that this time Haiti is indeed on its way out of the ongoing transition and on the path to nation-building.

Justice:

In June 2005, the new Minister of Justice and Public Security established as his priority the solving of the critical problem of prolonged pretrial detention. In October at the start of the 2005-2006 Judicial year, he publicly declared that his Ministry aimed to reduce prolonged pretrial detention to less than 50% of detainees by the end of 2005.

By mid-January 2006, the percentage had not been reduced: it remained stable, and had even increased in some jurisdictions. Despite verbal commitments, the Ministry of Justice has not succeeded in solving the problem even though a special commission was created to deal with the issue and special hearings convened. This situation has plagued several administrations over the past decade and it is hoped that the new administration will commit to tackling the problem/challenge. Effective measures are still needed to guarantee the regular functioning of the courts. In October 2005, the OAS SM offered its full collaboration to the Minister of Justice to attain the announced targets, an offer which will be made to the new administration should they decide to pursue this issue.

In December 2005, the Supreme Court in two decisions, declared that the CEP should add the name of Dumarsais SIMEUS, presidential candidate, to the definitive list of candidates for Presidency. A “governmental commission on nationality” headed by the Minister of Justice and Public Security M. Henri Marge DORLÉANS was formed. This Commission decided that Siméus should not be admitted to the list. Following those developments, the Executive power adopted two presidential decrees: one retiring without their consent five of the Judges of the Supreme Court, and a second one naming five other judges to replace them.

Those decisions created serious turmoil in the judicial sphere, the decrees being seen as unconstitutional and illegal and two associations of judges² called for a “general strike” in protest. Courts were paralyzed and, as a consequence, the problem of prolonged pretrial detention worsened. The Inter-American Commission on Human Rights (IACHR) issued a press release on 16 December expressing its concern about the decision, which could be seen as an infringement of the democratic principle of separation of powers and the independence of the Judiciary. On 23 December, in a ceremony organized by CARLI³, the OAS SM Head of the Justice Pillar reminded those present of the democratic principles for which the OAS stands, and the obligation of the Haitian State to abide, as a member of the Organisation and being party to the juridical instruments covering those democratic principles.

In November the DAP (*Direction de l'Administration Pénitentiaire*) faced a serious increase of detainees suffering from bérubéri, a disease caused by a lack of vitamin B complex. Two detainees perished in the National Penitentiary in Port au Prince as a result and several prisoners across the country succumbed to the illness. The OAS responded positively to the request of the DAP to provide medication for prisoners outside the capital. OAS Justice Pillar quickly intervened to provide the much needed medicine, thus contributing to the saving of lives. The DAP then requested that the OAS SM be involved in a “reflexion unit” on the implementation of its 5 year work plan. The OAS SM has reacted positively to the request. The Special Mission will support the DAP to take actions which help to guarantee the rights of minors to rehabilitation, safeguard the rights of women, and improve the respect of the rights of all persons in detention.

The Special Mission is currently contributing to the renovation of one section of the National Penitentiary in Port au Prince. This section houses the prisoners suffering from beriberi. The total cost of the project is USD\$25,641.03.

On 13 October, the DAP inaugurated the new premises of the minors’ detention center in the Delmas 33 Police Station. While recognizing that the detention conditions would improve somewhat in these new premises, the Special Mission encouraged authorities to remove children from detention centers and place them rather in rehabilitation centers where they would be treated in accordance with national and international standards.

During the period, the Special Mission continued to monitor the situation of high profile prisoners such as former Prime Minister NEPTUNE, who have been detained at the Annex of the “*Pénitencier National*” for almost two years now without having been tried for accusations of participation in a “massacre”. The SM visits Mr. Neptune regularly. He maintains his position of not answering to accusations and refusing to be represented by a lawyer. He pursues the hunger strike started 8 months

2. ANAMAH (Association Nationale des Magistrats Haitiens) and the Women’s Judges’ Association.
3. CARLI : Comité des Avocats pour le Respect des Libertés Individuelles.

ago and considers himself a political prisoner. He is asking the government to treat his case as a case of political prisoner instead of a judicial case. On that basis, he refused to be served with the order of the investigating magistrate in October 2005. He has repeatedly declared to SM representatives that he appreciates their monthly visits and that he still hopes to regain his freedom. Nevertheless, he is determined not to accept freedom without a withdrawal of all criminal accusations against him and claims his honour has to be respected.

On 23 February, Mr. NEPTUNE shared all the press releases and open letters he had written since his detention. The last document, dated February 21 is an open letter to the newly elected President Mr. René PRÉVAL underlining his status of political prisoner and urging the new government to tackle his case from this perspective.

Mr. Jocelerme PRIVERT, former Minister of the Interior, confirmed to the Special Mission that his case was pending at the Gonaïves Court of Appeal since October 2005, despite legal requirements demanding the case be examined within 48 hours in the case of a defendant in detention.

On 17 January, at a demonstration organized in front of the "Palais de Justice" of Port au Prince, by the wives of "Lavalas" political prisoners, the spokesperson of the group, the wife of Yvon Zap Zap (Lavalas activist, who allegedly participated in the aggression against the Director of Education of the State University of Haiti in December 2003) expressed the difficulties the families of the prisoners were undergoing. On that occasion, Mr. Ronald SAINT-JEAN, spokesman of the Group for the Defense of Political Prisoners, read a message sent by Mr. Neptune. He recalled CARICOM had asked for the liberation of all political prisoners so that honest elections could be held. On 11 January, Amnesty International also issued a press release demanding the "immediate release" of Lavalas activist Annette Auguste (Sô Anne), in prison for two years, without charges against her.

Regarding Father Gérard JEAN-JUSTE, on 7 December 2005 investigating magistrate Jean Péres PAUL signed an "ordonnance de clôture" which was issued on 19 January 2006. This "ordonnance" deals with the arrest of October 2004 for allegedly killing two police officers and plotting against state security. It dismisses all charges for lack of evidence.

Also, on 12 January 2006, the investigating magistrate PAUL signed a second "ordonnance de clôture" which was issued on 19 January 2006. This one deals with the *arrest of July 2005 for allegedly kidnapping and killing Jacques ROCHE, possession of illegal weapons and "association de malfaiteurs" (criminal conspiracy). In this case Roger ETIENNE was a co-defendant. It dismisses charges of kidnapping and killing of Jacques ROCHE but sends Father JEAN-JUSTE for trial for possession of illegal weapons and "association de malfaiteurs". The trial will be conducted by a criminal court, a judge sitting without a jury.* On 20 January 2006, Father JEAN-JUSTE's lawyer, Mario JOSEPH, filed an appeal of the second "ordonnance". He also filed two motions before Justice PAUL for provisional release of his client for medical treatment following the diagnosis of leukemia by an independent medical exam. Apparently, Justice PAUL did not rule on either motion. The prosecution could order a provisional release, though. The prosecutor has the obligation to ensure that the detainee receives the medical care that he needs.

On 27 January, the state prosecutor (*commissaire du gouvernement* Raphaël JEAN-BAPTISTE) issued an order for the provisional release of Father JEAN-JUSTE authorizing him to be transferred to a hospital of the capital to receive the required medical care. The defendant must come back into detention after his treatment to answer the remaining charges if the Court of Appeal does not rule in

his favor. On the Sunday morning of 29 January, measures were taken to transport Father JEAN-JUSTE to Miami where he was hospitalised at the Jackson Memorial Hospital.

In November and December, the Special Mission's Justice Pillar participated in workshops organized by the Minister of Justice and Public Security to discuss certain draft decrees relating to police custody, the judge of detention and the "habeas corpus" procedure, the reorganization of the Ministry of Justice, the creation of a new "Conseil Supérieur du Pouvoir Judiciaire", the updating of judicial fees, the procedure before the "tribunaux de paix" and the status of "l'École de la Magistrature". The Special Mission expressed concerns about the coherence of the texts individually and collectively. Some unconstitutional dispositions together with some illegalities were also observed in the documents e.g, the draft decree on the reorganization of the Ministry of Justice has a stipulation that abrogates some articles of the law of 1994 on the Haitian National Police. The Mission advocates caution regarding working on implementation measures based on these new decrees which need to be reviewed/revisited.

The Special Mission is greatly concerned by the fact that two of those normative texts were adopted on 28 December 2005 and published in the official journal, "**Le Moniteur**" on 16 January 2006. These two Decrees are respectively "*Décret réorganisant le ministère de la justice*" (*Decree reorganising the Ministry of Justice*) and "*Décret créant un organe dénommé conseil supérieur du pouvoir judiciaire en lieu et place du conseil supérieur de la magistrature*" (*Decree creating an organ called Superior Counsel of the Judiciary Power in replacement of the Superior Counsel of Magistrature*). The first one contains a disposition on abrogation of some articles of the law on the Haitian National Police (e.g article 89) together with the stipulation that the service of "*Inspection générale de la Police nationale d'haïti*" (*Inspectorate General of the Haitian National Police*) be removed from the authority of the Director General of the Police to be placed under the control of the Minister of Justice and Public Security directly, this Inspectorate General being linked to the Minister's cabinet.

The second decree is problematic as regards the composition of the members of this Council. The decree foresees that the President of the *Conseil Supérieur du Pouvoir Judiciaire* is the President of the Supreme Court. The current President of the Republic, Mr. Boniface ALEXANDRE, who plans to return to his former post of President of the Supreme Court, would therefore preside over this new entity. No mention is made of a representative of the society among the members, all being judges and prosecutors. These are the most evident legal and administrative problems identified so far in these decrees.

On 20 March, the Head of the Justice Pillar met with President PRÉVAL's transition team, a Canadian delegation and other international Coordinators of Justice Projects. The Canadian delegation, headed by former Chief of the Special Mission/former Special Representative of the Secretary General Mr. David LEE, was mandated to recommend to the Canadian government what type of cooperation to provide the government of Haiti in the fields of Justice, Security, Police and Prisons. The Special Mission representative emphasized the role the OAS, as a regional Organisation, could play in assisting the government with its programme in justice and human rights and invited the new team to strongly express their strategic vision and structural programme in Justice and Human Rights. They were encouraged to take advantage of the OAS structures and specialized organs, commissions and meetings; CEJA, CICAD, REMJA for example, could play a role in supporting the judicial reform process. She recalled the important task that they want to achieve by ratifying and implementing the regional Conventions covering several subjects of interest to them:

drug control, firearms control, control of traffic of persons, fight against corruption, etc. The new team was invited to submit their needs for assistance and were assured of the full commitment of the OAS Special Mission to accompany them in the judicial reform process.

Governance/Institutional Strengthening:

As regards institution building, the programme under which eleven (11) national consultants are serving in several ministries⁴, extended from last year to end in February 2006, was renewed until the end of April with nine (9) consultants. Prime Minister LATORTUE expressed his appreciation to the Secretary General, during the visit for Election Day, for the support given by the OAS to the government's efforts in the field of good governance.

Human Rights:

On the border with the Dominican Republic, there has been tension over the past few months. Illegal Haitian workers seeking better living conditions in the DR continue to be repatriated, in several instances in untenable conditions. NGOs such as *Groupe d'Appui aux Réfugiés et Rapatriés* (GARR) and the *Commission Episcopale Nationale Justice et Paix* have voiced concerns about the government's inability to take effective, concrete measures to deal also with the trafficking of persons.

The situation of women, and children is also worrisome. According to different women's NGOs⁵, collective rapes and sexual violence are on the increase. Minors continue to be victims of exploitation (labour, sexual, etc) and are recruited by gangs who force them to participate in criminal activities. The Court for Children in Port au Prince and Cap Haitien exists in name; much needs to be done to make them effective. Crossborder trafficking of children has been reported; however the lack of trustworthy statistics is a hindrance to effective intervention. The Human Rights Section collaborates with « le Collectif » on the issue of Trafficking of Persons. This group includes national organisations such as GARR and international organisations such as UNICEF, OIM, PADF, and Plan Haïti.

The Inter-American Commission on Human Rights (IACHR) Rapporteur for Children, in conjunction with the regional bureau of UNICEF for Latin American and the Caribbean organized a visit to Haiti from 3-5 November 2005 to observe and receive information concerning the situation of the rights of children. The delegation met with authorities, representatives of civil society organizations, and children. It visited centres of detention for minors, and traveled to Ouanaminthe, on the Haitian-Dominican border with Dajabon. The Delegation also noted the absence of legal parameters to regulate traffic between the two countries. In a closing press conference, the Delegation indicated they were exceedingly troubled by the fate of Haitian children. They called on the government to adopt urgent measures to assure the protection of their rights. Personnel of the Human Rights section of the Special Mission facilitated the visit.

UN Independent Expert on Human Rights Louis Joinet also visited Haiti from 14-29 November. The visit focused on social and economic rights (land registry and civil registry), justice (visits to prisons) and forensic medicine. On 16 November, Special Mission personnel shared their findings on these

4. Office of the Prime Minister, Ministry of the Interior and Territorial Collectivities, Secrétariat d'État of Youth and Sports, Ministry of Commerce and Industry and Ministry of Planning and External Cooperation.

5. Komisyon Fanm Viktim de Violans (KOFVIV), Solidarité Fanm Ayisyen (SOFA), Kay Fanm, Collectif Haïtien contre l'Exclusion de la Femme (FANM YO LA).

issues with Mr. Joinet. In the press conference at the end of the 12 day visit, Mr. Joinet spoke of the “scandalous” conditions in which many persons were imprisoned without judgment. He likened the situation to a “national tragedy” and specifically mentioned the cases of former Prime Minister Neptune and Père Jean Juste. He was also particularly worried by the increase in the violence against women who represented 85% of the victims of violence in Haiti.

Regarding the inordinate number of persons in prolonged pretrial detention and overpopulation in prisons and police stations, human rights organisations⁶ have publicly expressed their preoccupation with the gravity of the situation. DAP statistics of 20 March 2006 indicate that 3527 persons in pretrial detention live in the seventeen detention centres which currently function, only 439 of 3966 have been sentenced. DAP statistics of 28 February reveal 415 sentenced and 3441 in pretrial detention. Much still needs to be done within the judicial system to improve the situation. Police custody cells in locations where there are no prisons are often overcrowded (Aquin, Gonaives, Petit Goave) and in some instances detainees are transferred to other localities thus complicating the judicial follow-up process.

Some human rights and civil society organisations such as RNDDH, the Platform, CONOCS, CNO, ISC, Justice et Paix amongst others fielded teams to observe the electoral process and to ensure that the right to vote was respected. The OAS Special Mission financed some of the expenses of the latter three organisations. Most groups have stated that despite the organizational problems, the firm will of the Haitian people to express their vote was evidenced in the exemplary patience displayed.

On 16 March 2006, in the 124th Regular Period of Sessions, the [Inter-American Commission on Human Rights](#) released its report on the situation of the administration of justice entitled “Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community”. The accompanying press release issued by the Commission describes the report which evaluates the current status of the administration of justice in Haiti in light of its obligations under the [American Convention on Human Rights](#) and other human rights instruments and concludes that the justice system in Haiti, gravely deficient in almost all respects, systematically fails to protect the fundamental human rights of the Haitian people. The report also emphasizes that efforts to address Haiti’s present serious political, economic and social problems will not succeed without urgent reforms to strengthen the administration of justice and the rule of law in Haiti, and will require ongoing, coordinated and sustained support from the OAS and other members of the international community.

The report examines law enforcement, the lawcourt system, detention facilities and prisons. The Haitian National Police force suffers from grave shortages of officers and resources, lacks a clear and enforced hierarchy of command and control, and is tainted by corruption and human rights abuses. The court system is plagued by inadequate resources and training as well as outdated laws, resulting in chronic and unacceptable delays in the judicial process and systemic impunity for serious human rights violations. Conditions in Haiti’s prisons and other detention facilities fall far short of minimum international standards, including special protections for minors. In light of these and other fundamental deficiencies, the report calls upon the international community to expedite the delivery

6. Réseau National de Défense des Droits Humains (RNDDH) an dits network in the provinces, Comité des Avocats pour le Respect des Libertés Individuelles (CARLI) , Alliance Gonaïvienne pour le Développement et le Respect des Droits Humains (AGREDAH) , Ligue pour la Défense et le Respect des Droits Humains au Plateau Central (LIDERHPC) , Mouvement des Femmes Haïtiennes pour l’Education et le Développement (MOUFHED) et la Commission Episcopale Nationale Justice et Paix.

of funds pledged to Haiti in 2004 in the context of the Interim Cooperation Framework and to take the measures necessary to ensure that their justice initiatives in Haiti result in lasting change.

The Human Rights section of the OAS Special Mission works with NGOs of all tendencies. While the section does no monitoring itself, it receives information on human rights violations, the efforts of national NGOs to deal with the violations and in turn assists the NGOs to strengthen their response capacity.. In some instances the OAS SM facilitates contacts with institutions of higher learning as well as human rights organisations abroad for the purposes of conferences, meetings and training. The Section also collaborates with international organisations working in the field of human rights, rights of women, children, and the specially challenged amongst others.

SM Human Rights Section has financed several training activities organized by the “National Episcopal Commission on Peace and Justice” in different parishes of the ten Departments. The fundamental issues of human rights, social, economic, civil, and political rights were the basis of the training. In addition the Human Rights section is collaborating with the Executive Director of Commission Episcopale Nationale Justice et Paix in promotion activities and human rights training in the Peace and Tolerance Initiative - 45 seminars were conducted (35 in Port-au-Prince and 10 in Gonaïves). The section also worked with the organisation of training for observers fielded for 7 February elections.

The Section collaborated with women organizations such as MOUFHED⁷ in developing awareness programs on the Inter-American “Belém do Pará” Convention in the different departments of the country and among grassroots organizations. The section promotes instruments of the Inter-American System, its mechanisms, and sensitizes local organisations to the importance of the IACHR.

Over the course of 2005 the SM financed a monthly discussion forum in Port au Prince « Vendredis du Carli », *Comité des Avocats pour le Respect des Libertés Individuelles* (CARLI) where different human rights issues are debated by specialists. This event has been held successfully every month with university students, lawyers, and various professionals in attendance. Themes covered included “The elections and the democratic process in Haiti” (28 October) and “Haiti and the Millennium Development goals” (25 November). At the special year-end ceremony on 23 December, certificates were presented to the various panelists of 2005. OAS Head of the Justice Pillar gave a keynote speech, stressing the importance of the rule of law, and the full respect for principles such as the independence of the Judicial system in a democratic State. The first session of 2006 (27 January) focused on Peace and Tolerance. The OAS Special Mission participated in the panel and discussed “Peace and Tolerance Initiative ».

In the Departments of the Central Plateau and the Aribonite, the Human Rights section has been working to strengthen the capacity of organisations such as “*La Ligue pour la Défense et le Respect des Droits Humains au Plateau Central*” (LIDERHPC) et *Alliance Gonaïvienne pour le Développement et le Respect des Droits Humains* (AGREDAH) through the provision of technical assistance and training. The League also received didactic material.

7. « Mouvement des Femmes Haitiennes pour l’Education et le Développement ».

Children:

The section has worked intensely with other national and international agencies⁸ on child protection to put the subject high in the list of priorities of presidential candidates. The Special Mission collaborated with UNICEF, the Minors Protection Unit of MINUSTAH, IOM, Coalition Haitienne pour la Défense des Enfants (COHADDE), and other agencies involved in the protection of the rights of the child. The objective of the *Agenda politique des enfants* is to sensitise political parties and Presidential candidates to respect the rights of children. The Project was inaugurated with a symposium on 20-21 October where children of different sectors made recommendations. Training sessions were also held in the Departments. The Human Rights Section made a financial contribution and participated in the sessions in the Departments of the North (Cap Haitien) and Northeast (Fort Liberté). On 2 February 2005 Presidential Candidates and political leaders were invited to declare and sign their adherence to the *Agenda Politique*. Some twenty- two parties committed themselves to work for the respect of children's rights.

Women:

In the context of assisting NGOs in their efforts to educate the wider public, the OAS Special Mission has offered some financial support to the Communications Section of the women's organisation ENFOFANM to produce their newspaper *Ayiti Fanm*, a creole production which promotes information relating to women and gender issues. The Mission also supported activities of *Fanm yo la*, as they urged women to participate at all levels of the electoral process. As mentioned earlier, the Section also collaborated with women's organizations such as *Mouvement des Femmes Haïtiennes pour l' Education et le Développement*⁹ (MOUFHED) in developing awareness programs on the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women "Convention of Belém do Pará" in the different departments of the country and among grassroots organizations. This particular programme was inaugurated on 7 October and ended on 9 December 2005 in Port au Prince.

One of the main aspects of the work of the Human Rights Section has been the promotion of the instruments of the Inter-American system. Human Rights organisations and state institutions have been encouraged to apply, for instance, the "Convention Belem do Para". An increasing number of organisations make reference to this Convention when denouncing abuse of women, this use of the Instrument is seen as a positive step. The section observes some cases before the courts. Haitian justice is still deficient in these types of cases- several lawyers do not have the training, nor the sensitivity to plead these cases. The Human Rights section works with these women's organisations for greater public awareness of the problem of physical and sexual violence against women.

OAS SM is currently in discussion with other organisations such as CONAP and SOFA regarding future projects.

The Human Rights Section continues its work in advocacy and motivation to encourage organisations to participate in the audiences/sessions of the Inter American Commission as well as to know the Inter-American System and to send their petitions to the IACHR. The OAS SM organized with the *Unité de Défense des Droits Humains* of the IACHR a meeting with the leaders of the different

8. UNICEF, Child Protection Unit of Minustah, IOM, Coalition Haitienne pour la Défense des Enfants (COHADDE) among others...

9. « Mouvement des Femmes Haïtiennes pour l'Education et le Développement ».

human rights organisations in Port au Prince and in the provinces. On 3 March 2006, the RNDDH participated in the 124th Session of the Inter American Commission on Human Rights.

Security:

The last trimester of 2005 was marked by a significant increase in kidnappings, murders and violence of all forms, to which the OAS Special Mission also fell victim. On Christmas night a driver and his companion were kidnapped and on 29 December two international employees of the Electoral Technical Assistance Programme of the Special Mission and the wife of one of them were kidnapped in broad daylight on their way to SONAPI to work on arrangements for the setting up of the Vote Tabulation Center. After a series of negotiations all parties were released unharmed. It is believed in both instances, the Special Mission was not targeted directly. An apparent calm reigns in Port au Prince and there is a veritable lull in serious crimes; the incidence of kidnappings has dropped significantly and appears now to be the work of marginal gangs or small groups.

Although there have been improvements, the security of personnel of the Special Mission, remains threatened just as the other international personnel in Haiti. However, for the wellbeing of all and taking account of the current calm, restrictive measures concerning travel and outings have been relaxed. The security situation continues to be monitored attentively and any deterioration will result in immediate measures being taken.

All sectors of Haitian society went in large numbers peacefully to the polls to elect their leaders and the massive demonstrations of 12, 13, and 14 February demonstrated that the people are capable of exercising their civil and political rights without recourse to violence. The Haitian people also showed that they wanted to participate in their traditional activities, fed-up of living in fear of violence and numerous exactions, by participating massively in the carnival festivities of Jacmel and Port au Prince. They have also been collaborating with the police in many instances, to identify criminals.

In effect, there are still “no-go” areas (e.g. parts of Cité Soleil, Cité Militaire) not controlled by MINUSTAH and the PNH, where bandits still reign. A kind of status quo exists, and currently there are no violent confrontations between the Haitian National Police or MINUSTAH and the armed groups. However, the capacity of the gangs to do harm still exists, and if the socio-economic conditions within those deprived, depressed areas are not tackled as a matter of priority, the security situation could deteriorate anew with the known and habitual consequences.

The status of the Haitian army which President Aristide disbanded upon his return to power in 1994 remains a political issue with security implications. During a recent trip outside of Haiti, the president-elect declared his opposition to the reconstitution of the army; however, disgruntled elements are reported to have a noticeable presence in parts of the Plateau Central where they may pose a security threat to the new authorities.

The SM continued with its assistance to the HNP, in particular through its Special Advisor to the HNP Director General. During the period considered, the Special Advisor accomplished different tasks, but was particularly active in preparing and presenting to the police officials a new *project de notation* and career plan project. These two important reforms in the administrative management of the HNP were officially presented by the Special Advisor to the police authorities on December 21, and were very positively received.

The Vetting Project, started in June 2004 officially ended in December 2005. Five Special Mission members worked with the HNP and later with MINUSTAH in the interviewing of HNP applicants, conducting of background checks and training HNP officers in various recruitment procedures.

Peace and Tolerance Project:

On Sunday 18 December Secretary General Insulza launched “Peace and Tolerance ” Initiative during a mass celebrated by Bishop Kébreau, the President of the Haitian Episcopal Conference, at the Roman Catholic Cathedral of Port au Prince.

The objective of the initiative is, in agreement with fundamental OAS principles¹⁰ to contribute to the restoration of constitutional governance in Haiti, through peaceful and democratic elections and to help prevent situations like the one that developed after the contested 2000 elections. The Church, which exercises powerful moral influence in Haitian society has worked with the Mission on the initiative.

This multidimensional project comprises a public information awareness campaign, a series of human rights seminars and workshops, dialogue mechanisms with the political and civil society groups, electoral observation and public cultural artistic events.

The National Episcopal Commission “Justice et Paix”, one of the partners in the project, shortly after the launching of the project on 18 December commenced a series of seminars and workshops on Peace and Tolerance. About 45 one day seminars have already been held (35 in Port-au-Prince, 10 in Gonaïves). Human Rights training material has been produced in Créole. This Commission also played, with some financial support of the OAS, a role in the national electoral observation effort.

From 11-14 February South African Archbishop and Nobel Peace Prize Desmond Tutu visited Haiti, at the invitation of the OAS SM and the Haitian Anglican Church, to celebrate at a Sung Eucharist at the Episcopal Cathedral of Holy Trinity. Persons of all religious faiths were invited to the service where in addition to the inspiring address of Archbishop Tutu preaching peace and reconciliation, messages were read from the Pope, as well as the Commission of Peace and Reconciliation. Archbishop Tutu also had the opportunity to meet representatives of political parties.

As a major feature of its Peace and Tolerance Initiative, the OAS Special Mission in Haiti developed a series of cultural products in order to deliver the message of peace to the youth population of the country. The Mission first produced a Song for Peace in creole Gad Devan (Look ahead) by one of the most talented Haitian music composers, Beethova Obas, named OAS Special Mission Peace Ambassador. The Special Mission recorded a song which exhorts the Haitian populace to look forward working for peace and a video-clip with eighteen popular Haitian singers coming from all political and social backgrounds. Ten thousand enhanced CDs will be distributed for free to young Haitians throughout the country.

On 25 March, a grand Peace Concert was held in the heart of Port-au-Prince, on the Champ-de-Mars. The concert reunited all the performers of the Peace Song, plus other Haitian stars who decided to join the group of their own volition. The concert was broadcast live on various television and radio

10. The OAS Charter states unequivocally that one of the essential purposes of the Organisation of American States is to promote and consolidate representative democracy and respect for democratic institutions.

channels to a national audience. The Mission thanks the different media houses for their participation in the venture.

The Concert was a complete success. The atmosphere was relaxed and peaceful and the message of peace and tolerance that the artists and speakers such as children from La Saline, Bel-Air and Cit Soleil delivered, was very well received by the audience. Although there was a very large crowd –up to fifty thousand according to the media – there was not a single incident, thanks to the musicians, dancers, singers, masters of ceremony, disadvantaged children and teenagers who came to testify in favor of tolerance. Some of the youth who made presentations were from Foyer Lakou Lakay, an eighteen year old institution run by the Salesian Fathers to protect and educate street children.

The Peace Concert enjoyed excellent media coverage and the public reaction was excellent. Government ministers, the Ombudsman, ambassadors or representatives of embassies and international organisations, and other well known figures on the Haitian scene attended the event. The OAS Special Mission was praised by many for having undertaken this initiative.

In collaboration with the Embassy of Canada in Haiti, the OAS Special Mission organized a forum on May 15 for the Governor General of Canada with approximately two hundred students from five universities in Haiti.

The Rector of the University of the State of Haiti, whose two legs were broken during an attack on the university by State security agents, on December 5, 2003 demonstrated the values of peace and tolerance by appealing to the youths to help take Haiti away from the cycle of violence.

The Governor General spoke to the students of her humble upbringing in Haiti and the challenges of facing life in exile. She asked the students to consider themselves not only part of the future but of the present also. She emphasized that peace and tolerance went hand in hand and were indispensable for development.

The Theme song of the initiative, “GAD DEVAN” was sung by its composer Beethova Obas, backed up by two of his colleagues and supported by the Orchestra of Saint Trinity. They received rapturous applause from the audience at the end of the performance.

The Governor General was accompanied by the Ambassador of Canada to Haiti and other senior members of her delegation, the OAS was represented by Ambassador Modeste, Mr. Victor Rico, Director of the Department of the Special Mission and Crisis Prevention at the OAS headquarters and members of the Special Mission in Haiti.

Public Information Activities:

November 9-10, 2005 the Public Information Officer of the OAS SM organized, with RAMAK association¹¹ two activities on journalism to give an opportunity to Haitian journalists to learn about methods, ethics and approaches to the practice of journalism that are commonly shared by the international media. Special guest for these activities was Le Monde correspondent journalist Jean-Michel Caroït. The two events were held in Les Cayes and Port-au-Prince, and were attended by over 80 and 130 people respectively. The theme developed by Mr. Caroït was: How can journalists help

11. RAMAK : Rassemblement Media Action Communautaire.

the voters make a smart choice between candidates through their electoral coverage? The debates were broadcasted by several local radios and televisions.

On November 24, 2005 in association with a student group GRANDEH (*Grand Rassemblement National des Etudiants Haitiens*), the Special Mission financed a Conference-Debate on the theme “The role and the importance of the Organisation of American States in the Democratic process in Haiti”. This was an opportunity for those present (some 200 mainly students), and for the general public through the media, to get much needed information about the Organisation of American States and its work in the hemisphere and Haiti, and more specific information about the role of the Special Mission (human rights, justice, security, electoral process). OAS ETAPH personnel explained the OAS contribution to the current electoral process. Numerous questions were posed by an interested public.

In March 2006 a new version of the OAS Haiti website (www.oashaiti.org) was launched. The old version has been revised, reorganized and revitalized, making it more user friendly with more up to date information.

Conclusion:

As requested by the Provisional Electoral Council (CEP), the OAS Special Mission in Haiti will continue to provide technical support for the remaining electoral processes necessary to complete the different branches and levels of government foreseen by the Constitution. Discussions between the Special Mission and the CEP regarding specific tasks to be completed by the OAS have already begun.

The 1987 Haitian Constitution makes provisions for a number of institutions at the national level, including the Permanent Electoral Council, to be constituted on the basis of local authority deliberations. Local authorities also have a critical role in the appointment of judges to the bench. The Special Mission will also provide technical support for credible local elections to facilitate the decentralization of state power and the strengthening local administration to enable the local authorities to discharge their constitutionally prescribed functions thereby contributing immensely toward the modernization of the state and increased participation in governance.

For too long, a large percentage of the Haitian people were excluded from the mainstream of economic life because they did not possess an identification card to do basic transactions like opening a bank account. Today, Haiti’s financial institutions are calling on the people to come in with the National Identification Card to do business. The Special Mission will build on the success of registration to help Haiti to create a modern civil registry that will give every Haitian a legal personality to enable them to have dignity, self-respect and economic empowerment. The huge informal sector now has the potential to become a critical engine for economic growth and development, poverty reduction and the reduction of social inequalities.

The OAS commends the President-elect for initiating discussions with political opponents and the different sectors of Haitian society on their participation in the governance of the country. We encourage the incoming administration to broaden the initiative into nationwide consultations with diverse sectors, making a special effort to reach out to groups that are not adequately represented at the national level. These consultations could be used to facilitate the formulation of a shared vision on good governance and to define the country’s social and economic development priorities.

On December 18, 2005, the Secretary General launched a Peace and Tolerance Initiative in Haiti, in conjunction with the Roman Catholic, Anglican and Protestant churches to facilitate the holding of inclusive, free, fair, transparent and democratic elections in a peaceful and stable political environment. The goals are to ensure a smooth transfer of power to democratically elected representatives of the people and to begin the process of creating a culture of peace and tolerance. The OAS, through the Special Mission will continue this initiative in collaboration with the elected government to eliminate intolerance based on political affiliation and beliefs, gender, race religion, disability and standard of living and to foster peace, tolerance and reconciliation through respect for fundamental human rights, respect for the dignity and worth of every citizen, protection of the rights of women and equitable economic policies that would facilitate social inclusion and social mobility.