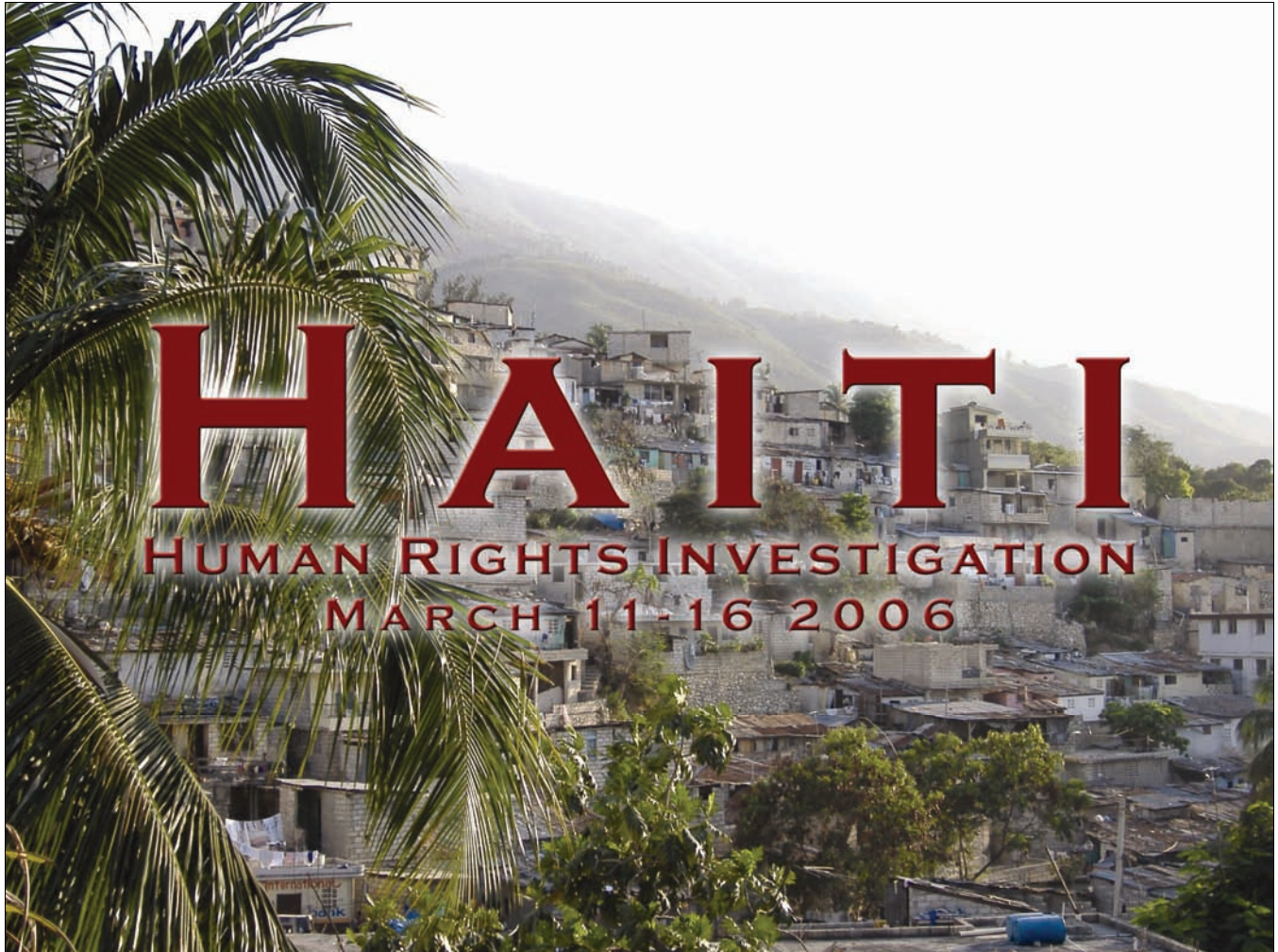


CENTER FOR THE STUDY OF HUMAN RIGHTS

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INTRODUCTION BY:  
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## INTRODUCTION

In February 2006, three first year law students came to my office and asked how they could become involved in the human rights field. After several discussions with them, I suggested that they visit Haiti and investigate some aspects of the massive human rights abuses that have occurred since the interim government took power in February 2004.

Currently in Haiti, there is a great deal of violence perpetrated mostly by the former military officials. According to my sources, approximately 250,000 automatic weapons were hidden by Haitian army members when the United States helped restore the Aristide regime in 1994. As a result, when Aristide abolished the army, the displaced military personnel, some of whom were former henchmen for the dictators, formed criminal gangs and essentially took over the drug trade. These thugs successfully disrupted the attempt to create a democratic government by attacking Parliament with grenades, killing a number of senators and other political figures, and attacking the newly trained Haitian National Police, which is beset with problems of its own. Indeed, Haiti is an unstable environment, in which violence often occurs, sometimes systematically and sometimes randomly. While there certainly has been some violence by a variety of factions, the most serious and sustained violence comes from the former military types who are now aligned with the de facto government and its supporters. These so-called “rebel forces” led the uprising that caused the violent overthrow of the democratically elected government of Jean-Bertrand Aristide. Aristide was forced to flee the country on February 29, 2004.

In 2003 and 2004, a coalition of student groups, business organizations, and opposition politicians dissatisfied with Haiti’s President, Jean-Bertrand Aristide, organized to force him from office. At the same time, several loosely affiliated armed groups, made up mostly of former soldiers

from Haiti's disbanded army, had been training in the neighboring Dominican Republic to take Haiti over by force, occasionally conducting raids across the border.

In early February 2004, an armed group took over the city of Gonaives and declared a revolt against the government. The group took over the police station, freed all the prisoners from jail, and killed suspected opponents. When the police were unable to quell this revolt, the armed groups in the Dominican Republic crossed the border and began a major campaign, attacking and taking cities and towns in the north of Haiti. Each time the insurgency attacked a city, it released all the prisoners held in jail, some of whom joined the fight. Often the insurgents executed police, other officials and prominent supporters of the elected government or of the Lavalas party.

Many of the leaders of the armed insurgency had been involved in large-scale violence against pro-democracy activists during the 1991-1994 *de facto* dictatorship. For example, Jodel Chamblain was the second in command of the death squad for the Front for the Advancement and Progress in Haiti (FRAPH), a paramilitary force aligned with the former military dictatorship. Another leader of the insurgency, Jean Pierre, alias Tatoune, was a local FRAPH leader in Gonaives. Both had been convicted for murder in the Raboteau massacre trial.

On February 29, 2004, President Aristide was forced out of Haiti. That day, the insurgents released all the remaining prisoners from Haitian jails. The insurgents and their allies conducted widespread attacks on supporters of President Aristide and on non-political innocent peasants, which triggered an epidemic of violence. They murdered hundreds, perhaps thousands, of people. There are no reliable statistics for total deaths, but the state morgue reported disposing of over 1000 bodies in the month of March 2004 alone. Many of the bodies showed the signs of summary execution. Since then, human rights organizations estimate that more than 2000 people have been killed. Many others have been arrested illegally by the police or by unaccountable paramilitary groups, and have

been tortured. Thousands, and perhaps tens of thousands, have been forced to flee abroad or into internal exile.

Starting in mid-August 2004, the paramilitary groups began setting up open command posts around the country, and then they announced the formal re-formation of the Haitian army. They have also marched openly in the streets of the capitol, brandishing illegal automatic weapons. Although United Nations Peacekeepers have dislodged some of these units from their posts, witnesses report that they retain operating capacity in almost all areas of the country, and still control many areas of the country.

Violence in Haiti over the last two and one half years has been well-documented by Amnesty International, teams from Harvard and the University of Miami Law Schools, Refugees International, the Committee to Protect Journalists and the International Crisis Group, among others. While some of the violence in Haiti is non-political, all of the reports identify perceived engagement in political activity as a significant risk factor for becoming a victim of violence.

Political violence in Haiti does not show any signs of subsiding. Although it tapered off some in the months following the February 2004 forced ouster of President Aristide, it peaked again from September 2004 through September 2005, and has been rising precipitously ever since.

The institutions that should protect citizens from political violence have shown no capacity to do so. After the interim government assumed power, highly placed government officials sharply reduced the Haitian police force by firing many officers considered loyal to the ousted government. In addition, the insurgents killed many other police officers, further reducing the police force. The interim government replaced the purged officers with former soldiers, many of whom had participated in the rebellion. This replacement action violated police regulations for recruitment and promotion. It also swelled the force with a large number of officers with no civilian police

experience or training. These officers have never been held accountable to the official police hierarchy for violating the laws or police regulations.

The police force has also openly contributed to repression through illegal arrests, shooting at people involved in legal demonstrations, and even killing suspected political dissidents. Some sources estimate that over 1000 political prisoners sit in Haiti's jails, the majority of whom have never been brought before a judge. In some cases, the official reasons for the arrest listed in the file are "suspected association with the former regime."



**Figure 1: Women connected to political prisoners, protesting outside the Annex to the Palais de Justice.**

Police have opened fire on crowds at several recent demonstrations. The most notable incident took place on February 28, 2005, when police shot into a crowd and killed a number of innocent people. United Nations peacekeepers, human rights workers, and the international media observed this "police riot." Nevertheless, the interim government did not prosecute or even discipline any officers for these murders.

Haiti's justice system does not provide protection for people targeted for persecution. Those who complain of crimes by gang members are virtually *never* protected by the police. Indeed, some of the police, who are themselves gang members, target these complainants for death or imprisonment on trumped up charges. In most prisoner cases, the victim is denied access to a judge, or is only brought before a judge without the authority to release the prisoner. In July 2004, a judge announced in court that he found no justification for the detention of Jacques Mathelier, a former government official, but gave the prosecutor time to respond. The authorities responded by transferring Mathelier outside the judge's jurisdiction to the National Penitentiary, where he remained as of the end of June 2006. On November 22, 2004, a judge ordered the release of Jean-Marie Samedi, but the government simply ignored that order. (Samedi later escaped from prison.) In December 2004, a judge ordered two former government officials, Harold Sévère and Anthony Nazaire, who had already spent ten months in prison, freed for lack of evidence. Although the prosecutor approved the release, the Minister of Justice issued an illegal order for them to remain in prison.

The interim government arrested Father Gerard Jean-Juste, a Catholic priest, in October 2005 without warrant, and dragged him from his church where he was serving hundreds of children their only meal of the day. Although the Haitian Constitution entitles detainees to a hearing within forty-eight hours, Father Jean-Juste spent seven weeks in prison with no evidence ever presented against him before being freed for lack of evidence. On July 15, police again arrested Father Jean-Juste at the airport on the basis of unsubstantiated charges. They temporarily released him, but required him to return for more questioning. Later, they arrested him again and imprisoned him on trumped-up charges. After he spent several more months in jail, they allowed him to go to Miami to be treated for cancer.

Judges are under significant pressure not to release prisoners, regardless of the evidence against them. In July 2004, ANAMAH, the national judge's association, issued a press release condemning executive interference in judicial matters. In December, the Minister of Justice personally wrote to the Chief Judge of the Port-au-Prince Trial Court, ordering him to take all the cases away from Judge Fleury, who had ordered Father Jean-Juste's release. The Minister of Justice also ordered the Chief Judge to take all the cases away from Judge Fabien, who had ordered the release of four other people who had spent ten months in jail on trumped up charges. These orders are as illegal in Haiti as they are in the United States. One of the judges resigned in protest.

Neither the police nor the judiciary effectively investigate or prosecute killings. Although the government has made arrests in some high profile incidents, in most cases these arrests are illegal and no evidence is presented against the accused. As a result, the justice system provides almost no deterrence to would-be political killers.

The press is not able to monitor effectively the police. As the Committee to Protect Journalists and others have documented, attacks against journalists by private groups and the government have sent many journalists into hiding, and silenced others. In mid January 2005, the police executed Abdias Jean, a journalist with a Florida radio station, after he witnessed police executing two men. Several press organizations and UNESCO denounced this killing. In another notorious incident in January 2005, Prime Minister Gerard Latortue threatened journalist Guy Delva, the correspondent for Reuters in Haiti and the head of the Haitian Journalists Association. Journalists who criticize the insurgents, the gangs, the police, and the government have been threatened, beaten, even kidnapped.

An unprecedented level of violent non-political crime has accompanied Haiti's political violence, especially in the past year. There has been a wave of murders, kidnappings, beatings, and

robberies, which the police have proven powerless to combat. The common crime has two connections with the political violence. First, in some cases it is conducted by groups that originally armed themselves for political reasons and then became gangs involved in robberies and drug running. Second, the common crime can be a convenient cover for the political crime. It would be easy to arrange for a political opponent or witness to be killed and simply disguise it as an ordinary murder.

The national elections, including the presidential election, were postponed several times. They were originally scheduled for October, then rescheduled for November, and then December 2005, and then rescheduled again for January 2006. The election finally took place in February 2006. On February 7, 2006, the people of Haiti elected René Préval as their next president.

The student investigators – Anna Mance, Quinn Smith, and Rebecca Yagerman – pursued their investigation in Haiti between March 11 and March 16, 2006. The University of Miami Center for the Study of Human Rights sponsored their trip. The Institute for Justice and Democracy in Haiti (IJDH), a human rights organization that documents human rights violations in Haiti and pursues human rights cases in Haitian and international courts, and the *Bureau des Avocats Internationaux* (International Lawyers Office or BAI), which originally received its support from Haiti's democratically elected government and helps victims and justice system officials prosecute human rights cases in Haitian courts, provided informational and logistical support to the investigators.

The investigator's charge was to determine whether the United Nations Stabilization Mission in Haiti (MINUSTAH) was enforcing its mandate, particularly the requirement that it help "promote and protect human rights" by supporting "the Transitional Government as well as human rights institutions and groups in their efforts to promote and protect human rights" and "to monitor and



report on the human rights situations.” The investigators concluded that MINUSTAH has failed to live up to its mandate.

In reaching this conclusion, the investigators interviewed gang members, lawyers, human rights groups, United Nations officials, and Haitian National Police officials. They visited the infamous slum areas of Port-au-Prince – Cité Soleil and Bel Air – outdoor town halls, and attended a protest rally at the Palais de Justice conducted by women connected to political prisoners.

The purpose of the report is to encourage the United Nations to cure its failed mission and to live up to its mandate. The hope is that the United Nations will work more effectively with the newly elected government to help stop the needless suffering and violence inflicted on the Haitian people and to put Haiti on the road to democracy.



**Figure 2: UN armored vehicle in Cité Soleil.**

## REPORT

As human rights atrocities continue to occur across Haiti, the United Nations Stabilization Mission in Haiti (MINUSTAH) has received much criticism for failing to adhere to its mandate to “promote and protect human rights.”<sup>1</sup> Indeed this failure has been one of the major causes of the prolonged suffering of the Haitian people during the interim government’s reign between 2004 and 2006.

Resolution 1542 of the United Nations Security council created MINUSTAH with a mandate requiring it to respect the sovereignty of Haiti as an independent nation by supporting and working in coordination with the Haitian interim government. The mandate states that the role of MINUSTAH is “to support the Transitional Government as well as Haitian human rights institutions and groups in their efforts to promote and protect human rights, particularly of women and children, in order to ensure individual accountability for human rights abuses and redress for victims.”<sup>2</sup> The mandate further binds MINUSTAH “to monitor and report on the human rights situation, in cooperation with the Office of the United Nations High Commissioner for Human Rights, including on the situation of returned refugees and displaced persons.”<sup>3</sup> Although MINUSTAH claims to be monitoring the human rights situation, many human rights workers criticize it for failing to publish reports on human rights violations.

MINUSTAH has failed both to actively and aggressively investigate atrocities and to account for its own human rights violations. Not only has MINUSTAH failed to investigate and produce reports, but according to most human rights workers, including the chief of the Human Rights

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<sup>1</sup> S.C. Res. 1542, § III. (a), (U.N. Doc. S / RES / 1542 (April 30, 2004)

<sup>2</sup> *Id.*

<sup>3</sup> S.C. Res. 1542, *supra* note 1, § III (b)

Division of MINUSTAH, Thierry Fagart,<sup>4</sup> MINUSTAH's attempts to cooperate with Haitian non-governmental organizations and the interim government to bring human rights abusers to justice has, thus far, been inadequate. Moreover, MINUSTAH largely overlooks the ability of Haitian NGOs to do meaningful stabilization work, as well as to redress human rights violations. Even if MINUSTAH is incapable of initiating investigations, for practical, budgetary or political reasons, there is no excuse for it to ignore the reports of violations furnished to it by active NGOs.

Many Haitians are both frustrated with MINUSTAH and confused about its mission in their country, seeing it as merely a static presence rather than an active organization making progress toward stabilizing the country. While there has been a drop-off in the violence following the February elections, most do not consider the current peace as the product of MINUSTAH's efforts. Instead, they perceive the peace as an effect of a unilateral decision by the armed gang members to bring an end to the fighting. The cease fire is an effort to show their support for Preval and to show their desire to make democracy work in Haiti. Several young men in the slum neighborhood of Cité Soleil, a place so derelict even the police will not enter for fear of their lives, were very resolute in their determination to hold a cease fire until they receive economic aid. However, they leave no doubt that they will be quick to seek reprisal, and return Cité Soleil to the war zone it once was, if they do not see institutional improvements in the quality of life, such as increased economic opportunities in their neighborhoods.

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<sup>4</sup> Interview with Thierry Fagart, chief of the Human Rights Division of MINUSTAH, Port-au-Prince, Haiti (March 15, 2006).



**Figure 3: UN barricade on a street corner in Bel Air.**

On July 6, 2005, the UN military launched an offensive attack in Cite Soleil against the slum gangs, an offensive frequently referred to as the “July Sixth Massacre.” Within days of the confrontation, international press agencies reported that civilians had been killed,<sup>5</sup> yet no investigation into the incident was made until six months after the massacre in January 2006. To date, MINUSTAH has failed to issue any report.<sup>6</sup>

<sup>5</sup> Death toll estimates range from as few as 8 to upwards of 50. Aina Hunter, *U.N. to Investigate Alleged Haiti Massacre: Local Red Cross tells of handing out body bags and shovels*, The Village Voice (2005), <http://villagevoice.com/news/0532,hunterweb,66630,2.html>; *Cité Soleil Community Turns Out En Masse For Funeral of Dread Wilme: Credible Estimates of Civilian Casualties during July 6th UN Military Operation in Cité Soleil Continue to Mount*, US Labor and Human Rights Delegation (2005) [http://www.ijdh.org/articles/article\\_recent\\_news\\_7-9-05.htm](http://www.ijdh.org/articles/article_recent_news_7-9-05.htm); Seth Donnelly, *Eyewitnesses Describe Massacre by UN Troops in Haitian Slum*, (2005), <http://www.democracynow.org/article.pl?sid=05/07/11/1351253>.

<sup>6</sup> See official MINUSTAH site, press releases: <http://www.minustah.org/compress.html>

General Adounante, head of the UN Guatemalan unit that investigates violations in which the UN is allegedly involved, claims he did not receive any report of human rights violations that occurred during the massacre until January 2006.<sup>7</sup> This late information made it difficult to get either ballistic evidence or accurate witness testimony. Further, Adounante claims this type of crippling delay occurs frequently. Even more serious, however, is that the UN failed to initiate its own investigation into the massacre when no one else stepped forward to report a violation.



**Figure 4: The remains of the police post in Cité Soleil.**

In response to questions concerning MINUSTAH's failures to conduct serious investigations and to issue reports, Fagart asserts that he is doing the best he can under the circumstances to report on violations. However, he concedes that there is no way to publish reports on every human rights violation, and enumerates several key limitations on the UN's ability to publish full reports.

The first problem Fagart cites is lack of manpower. MINUSTAH's human rights department comprises only 48 people, including drivers and assistants. Of those 48, only 16 are located in the capital, Port-au-Prince. Due to this shortage in manpower, not every claim brought to the attention of

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<sup>7</sup> Interview with General Adounante, chief investigator, UN Military Police, Guatemalan mission to MINUSTAH, Port-au-Prince, Haiti (March 15, 2006)



the UN, be it against MINUSTAH or against the Haitian government, will be heard or investigated in a timely manner. Fagart also claims that approximately 70 percent of allegations against the UN are false claims. General Adounante confirms that people often blame their injuries on MINUSTAH bullets in an attempt to collect money from the UN. Nevertheless, Fagart states that most, though not all, allegations made against the UN Military or Police will eventually be investigated.<sup>8</sup> This claim makes clear, however, that there is no driving will or incentive to report on the most glaring of violations, such as the July Sixth Massacre, which will remain undocumented if no one steps forward to report an abuse of human rights and if the UN does not investigate its own violations. This “limited manpower” excuse appears particularly weak considering of the 80 UN Military Police stationed in Haiti, only six investigate claims against MINUSTAH, while the remaining 74 secure the lock base, regulate UN military traffic and patrol other UN Military units.<sup>9</sup> Granting the possibility that “lack of manpower” adequately accounts for why some of the lesser or more isolated violations slip through the cracks, it does not explain why MINUSTAH has not issued anything substantive regarding the major Human Rights atrocities.

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<sup>8</sup> Interview with Fagart, *supra* note 4.

<sup>9</sup> Interview with General Adounante, *supra* note 7.



**Figure 5: A primary school in Cité Soleil, riddled with bullet holes from the “July 6 Massacre.”**

When MINUSTAH receives reports of violations committed by the HNP or other Haitian nationals, and the Human Rights office does decide to investigate the claim, procedural regulations, which limit how the UN may investigate, present a second limitation to Human Rights division’s ability to publish a report. In the course of the preliminary investigation, UN officials may interview people and take photographs, but they are not allowed to take official statements or seize evidence. Only the Haitian National Police (HNP) is authorized to carry out a full investigation. In addition, the UN may not make arrests unless the circumstances warrant it, such as if UN Police or UN Military soldiers are directly threatened or under fire. Once the board of investigation finishes the report, the outcome is sent to UN headquarters in New York. This bureaucratically slow response is ineffective to deal with the urgent nature of the crisis in Haiti.<sup>10</sup>

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<sup>10</sup> Interview with Fagart, *supra* note 4.

AUMOHD (Association of University Students Working for a Lawful Haiti), a group which promotes human rights and individual dignity, offers legal and social assistance to illegally detained prisoners and other victims of human rights violations. Evel Fanfan, president of AUMOHD, is currently representing approximately 70 young people that have been illegally arrested, many of whom, he claims, were arrested by MINUSTAH with neither probable cause nor a warrant.<sup>11</sup> Fanfan is currently representing the mother of 16 year old Fedja Raphael, who was allegedly shot in broad daylight by MINUSTAH soldiers from an armored vehicle in Cité Soleil on April 9, 2005. Fanfan states that despite sending letters and speaking with Fagart, asking him to intervene, he has received no response. This lack of response, he claims, is typical.<sup>12</sup>

Contrary to Fagart's assertion that MINUSTAH does not have the authority to conduct arrests of its own accord,<sup>13</sup> Fanfan contends that MINUSTAH actually participates in certain arrests and illegal detentions.<sup>14</sup> This could be due to rampant corruption in the HNP that spreads over to the UNPOL, the branch of MINUSTAH dedicated to monitoring and reforming the HNP.<sup>15</sup> In a meeting with Ralph Stanley Brice, the director of the HNP for the western district of Port-au-Prince, and two UNPOL officers, a Haitian-American UNPOL officer and veteran of the NYPD asserted, "there are a few bad apples – or should I say bad Mangos."<sup>16</sup> Yet, all three insisted that instances of police corruption were few and far between.<sup>17</sup> If this is true, then the reports from the Haitian population and from international and Haitian aid organizations that recount numerous acts of unwarranted police aggression and

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<sup>11</sup> Interview with Evel Fanfan, president, AUMOHD, Port-au-Prince, Haiti (March 15, 2006).

<sup>12</sup> *Id.*

<sup>13</sup> Interview with Fagart, *supra* note 4.

<sup>14</sup> Interview with Fanfan, *supra* note 11.

<sup>15</sup> S.C. Res. 1542, *supra* note 1, § I (b), mandating MINUSTAH "to assist the Transitional Government in monitoring, restructuring and reforming the Haitian National Police, consistent with democratic policing standards, including through the vetting and certification of its personnel, advising on its reorganization and training, including gender training, as well as monitoring/mentoring members of the Haitian National Police"

<sup>16</sup> Interview with Ralph Stanley Brice, Director, HNP Western District of Port-au-Prince, Port-au-Prince, Haiti, (March 14, 2006).

<sup>17</sup> *Id.*



corruption,<sup>18</sup> are difficult to explain. If this statement is untrue, it begs the question: why are UNPOL officers covering up HNP violations? The situation is evidently extremely sensitive and extremely political. In the course of these investigations, Fagart claims that serious security concerns constitute yet another obstacle to conducting extensive investigations.<sup>19</sup> In locations too violent for police to enter, victims often die in their beds, afraid to leave. Other than Doctors Without Borders, an international organization that goes into dangerous slums to seek out and treat injured victims, there are few human rights organizations that enter these areas. Gathering reliable data on human rights violations borders on impossible when UN officials who do penetrate the turmoil of Haiti's most distressed neighborhoods do so from the safety of BTR-60 Armored Personal Carriers. This may be one reason that it has not been until recently that General Adounante and his associates have begun to re-enter these slums to collect data on the human rights violations of the July Sixth Massacre.<sup>20</sup>



**Figure 6: UN armored vehicle patrolling in Cité Soleil.**

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<sup>18</sup> Interview with Ali Besnaci, Director, Doctors Without Borders hospital at St. Joseph in Port-au-Prince, Port-au-Prince, Haiti (March 14, 2006). Besnaci claims that MINUSTAH UNPOL frequently enter the premises to arrest injured civilians. They come armed without warrants, ignoring the hospital protocol which requires them to leave their weapons at the gate, and respect the patients.

<sup>19</sup> Interview with Fagart, *supra* note 4.

<sup>20</sup> Interview with General Adounante, *supra* note 7.

Fagart considers it unwise to publish a report without waiting for the end of judicial proceedings<sup>21</sup> which, in a court system known for corruption, are infamously long and do not often yield just results. When MINUSTAH investigates claims made against the HNP, it sends its report to Haiti's Central Director of the Judiciary Police (DCPJ). Often, these human rights claims are lost in the judicial proceedings and are rarely adjudicated.<sup>22</sup> Renan Hédouville, head lawyer for the Comité des Avocats pour le Respect des Libertés Individuelles (Committee of Lawyers for the Respect of Individual Liberties) (CARLI), an organization that Fagart recognizes for its impartial human rights work,<sup>23</sup> receives no pecuniary aid from MINUSTAH, and little or no response to the cases of human rights violations it reports.<sup>24</sup> Hédouville does not anticipate ever receiving a response to certain complaints filed against MINUSTAH because, as he says, "there is no justification for MINUSTAH's actions." Without Fagart's support, Hédouville states that to get a favorable result at trial, he is at the mercy of the DCPJ and the rampant corruption of the judiciary, a system in which "you need a lot of money to send someone to jail, and you need even more to get someone out."<sup>25</sup>

For example, on August 20, 2005, members of the Haitian National Police, acting in concert with gang members wielding machetes and guns, caused mayhem during a USAID-sponsored soccer match in the Grande-Ravine at Martissant slum neighborhood.<sup>26</sup> General Carlo Lochat of the Haitian National Police, was identified by Haitian investigators as one of the leaders of the massacre, and sent before a tribunal. However, in early March 2006, he was provisionally released, and it is unclear whether he will be further charged.<sup>27</sup> Fagart states that he is aware of the incident,<sup>28</sup> yet no report has been issued. The failure to issue timely reports on the Martissant massacre is a clear violation of the mandate which

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<sup>21</sup> Interview with Fagart, *supra* note 4.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Interview with Renan Hédouville, head lawyer, CARLI, Port-au-Prince, Haiti (March 13, 2006).

<sup>25</sup> *Id.*

<sup>26</sup> Interview with Michael Lusius, Director, Haiti's Central Judiciary Police, Port-au-Prince, Haiti (March 15, 2006).

<sup>27</sup> *Id.*

<sup>28</sup> Interview with Fagart, *supra* note 4.

stipulates that Fagart and his human rights officials are “to monitor and report on the human rights situation.”<sup>29</sup>

These cases of flagrant human rights violations as well as those of prominent political prisoners, such as Fr. Gerard Jean-Juste and former Prime Minister Yvon Neptune, have been cast into the world spotlight, receiving international attention in the press. Again, Fagart as well as the UN High Commissioner of Human Rights are aware of these cases. However, as an independent, sovereign country with an officially independent judiciary, Fagart contends that Haitian laws are to be followed.<sup>30</sup> He suggests that the fear of infringing on national sovereignty, as well as a perpetual series of obstacles blocking his path, prevent him from securing the release of prominent political prisoners. Fagart’s inability “to ensure individual accountability for human rights abuses and redress for victims,”<sup>31</sup> as the mandate demands, by securing their release from prison where they are being illegally detained, is a breach of the mandate.

These cases of outright police violence, corruption, and illegal detentions represent the most glaring violations of human rights, and Fagart has not made any significant advances toward getting these claims adjudicated. If the most famous of cases do not warrant a UN report to be published, there is little hope for the forgotten poor living in the slums who suffer abuses daily.

The Disarmament, Demobilization, and Rehabilitation program (DDR), funded by UNDP, aims to reduce violence while giving those who surrender their weapons a chance to learn new skills and reintegrate as productive members of a more lawful society.<sup>32</sup> While DDR is not a stated part of the human rights mandate, it is critical to a more lawful society which will serve the goals of the mandate

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<sup>29</sup> S.C. Res. 1542, *supra* note 1.

<sup>30</sup> Interview with Fagart, *supra* note 4.

<sup>31</sup> *Id.*

<sup>32</sup> Interview with Robert Montinard, Director, Zakat Zanfan, Port-au-Prince, Haiti (March 12, 2006)

“to support the Transitional Government as well as Haitian human rights institutions and groups in their efforts to promote and protect human rights, particularly of women and children.”<sup>33</sup>

Robert “Bob” Montinard, bearing a card which identifies him as a UN affiliate, leads Zakat Zanfan, an NGO in the Bel Air community dedicated to disarming young children involved in gang violence. Zakat Zanfan aims to give the children a haven where they can go to school, obtain nourishment, and be free of the influence of gang violence. However, he receives no funding from MINUSTAH or UNDP for his disarmament program.<sup>34</sup>



**Figure 7: One of Zakat Zanfan's former child soldiers, giving the peace sign.**

Like Zakat Zanfan, many other Haitian NGOs aim to rebuild their society not only by making human rights abusers accountable for their actions, but also by providing redress to victims through the courts as well as through programs that provide education and support for victims of abuse. Vizyon Dwa Ayisien (Haiti Rights Vision) (VDA), is one of the few organizations that ventures into neighborhoods such as Cité Soleil.<sup>35</sup> It uses a network of community members and former victims of sexual assault to help identify and reach people who need assistance. VDA provides health care and

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<sup>33</sup> *Id.*

<sup>34</sup> Interview with Montinard, *supra* note 32.

<sup>35</sup> Interview with anonymous VDA coordinator, Port-au-Prince, Haiti (March 12, 2006)

education, psychological and social services, as well as micro-credit loans which provide an economic alternative to those in the slums who are admittedly likely to resort to violence. Yet, VDA receives no funding from MINUSTAH, and little or no response when it files cases of human rights violations with MINUSTAH.<sup>36</sup> Although the DDR program is administered by UNDP, not MINUSTAH, supporting local NGOs working towards disarmament and rehabilitation on a small neighborhood scale, would serve to further MINUSTAH's mandate.

If Fagart is correct in claiming that a lack of manpower, procedural regulatory limitations on investigations, serious security concerns, and the inability to make extrajudicial pronouncements of guilt limit MINUSTAH's ability to live up to its mandate, then MINUSTAH would be much more effective by supporting existing local Human Rights organizations.

While the main obstacles facing MINUSTAH are logistical, the main obstacles facing most local NGOs are fiscal. Not one of the aforementioned NGOs was receiving any substantial aid from the UN, either programmatic or pecuniary. Instead of placing funding restrictions and oversights on money to ensure it is properly spent and to eschew corruption, the UN has decided to completely write off any meaningful collaboration with these groups. If MINUSTAH refocused its efforts on supporting local groups, peace and stabilization would likely come from within Haiti, as attempts to impose peace from without have proved ineffective. The sooner MINUSTAH recognizes that Haiti's hope lies with its own people, as evidenced by the call to lay down arms following Preval's election, the sooner we will see a peaceful Haiti.

## Conclusion:

MINUSTAH has been largely unsuccessful in curtailing the violence and oppression in Haiti. The criticism by the international community is thus merited. However, just as MINUSTAH is

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<sup>36</sup> *Id.*

misdirecting its efforts by failing to acknowledge the capacity of NGOs to help stabilize Haiti, perhaps the international community is misdirecting its efforts by criticizing the UN. In other words, perhaps the great disappointment in the UN is due to overzealous expectations considering the essential nature and function of the UN. An anonymous high-ranking MINUSTAH official stated that the political factions that compose the UN itself may function as an obstacle to the successful completion of its mission. Haiti is a stage upon which UN member nations vie for power and recognition. Each actor in the UN is primarily concerned with how the action will affect his or her home state; and only secondarily concerned with the effect it will have on peace in Haiti. It may even be in the interest of some nations not to let other nations achieve apparent success in the Haiti mission. The extent to which such politics actually affect policy decisions on a daily basis is unclear. Rather than attempting to effectuate change in an organization as large, bureaucratic, and politically charged as the UN, perhaps international actors concerned with stability in Haiti should expend their energy and resources identifying and supporting those organizations that are actually offering solutions to Haiti's many social and political problems; those who are making concerted efforts to stabilize a nation that is as volatile as it is hungry for peace.