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Note to Mr. Le Roy

Victims of SEA in Haiti

The attached open letter from FIDH and RNDDH came to the attention of the Secretary-General. He has expressed his concern about the reported lack of support for the victims of sexual abuse committed by the 111 Sri Lankans. In particular, he has noted the fact that the result of the inquiry conducted by the Sri Lankan authorities has not been communicated to the Haitian authorities or to the victims. The Secretary-General has asked that the matter be followed-up.

We would therefore be grateful if you could ascertain what steps have been taken to monitor the relevant disciplinary proceedings, and to inform the affected victims.

Many thanks.



Vijay Nambiar
12 October 2009

Cc: Ms. Malcorra
Mr. KIM



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MS

**International Federation for Human Rights (FIDH)
National Human Rights Defense Network (RNDDH)**

Port-au-Prince, New York – October 5th, 2009

Open Letter to Members of the United Nations Security Council

Re: Evaluation and Renewal of MINUSTAH

Your Excellencies,

On light of the upcoming renewal of the mandate of the United Nations Stabilization Mission in Haiti (MINUSTAH), the **International Federation for Human Rights (FIDH)** and the **National Human Rights Defense Network (RNDDH)**, member organization of FIDH in Haiti, wish to share with the UN Security Council their evaluation of the work of MINUSTAH since last October 2008, with the hope that it will guide the Security Council in its rewriting and improvement of MINUSTAH's mandate for the 2009-2010 period.

Through its Resolution 1840 of October 15, 2008, the UN Security Council renewed the mandate of MINUSTAH for another year, granting the mission with several tasks, on which FIDH and RNDDH provide below an evaluation, while taking into consideration the Secretary General's report of September 1st, 2009.

To support the political process under way in Haiti and to provide logistical and security assistance for the upcoming electoral process

On April 19 and June 21, 2009, partial senatorial elections for the renewal of a third of the Senate took place in the country. MINUSTAH provided broad logistical and security assistance to the realization of the elections. However, in some regions of the country, FIDH and RNDDH regret that MINUSTAH was very passive during the armed clashes which opposed some candidates and which led to the elections' cancellation in the 12 communes of the Centre department, the death of Jean-Pierre Wilfrid, killed following a clash in Moron in the Grand'Anse department, and assaults resulting in many persons being injured.

To secure Haiti's borders

Still to this day, the land border between Haiti and the Dominican Republic represents a source of concern for any Haitian, and for human rights defenders in particular. As the Secretary General stated in his report on the MINUSTAH of September 1st, 2009 (S/2009/439), *"the upgrading of the Customs data system, the physical improvement of the border crossing points and the intensification of patrols by security forces have together contributed to a 10 per cent increase in Customs revenue during the first six months of 2009, compared to the corresponding period in 2008"* (Para. 15). However, as far as human rights go, people's enslavement, rape of women and girls by clandestine border escorts, murders, and disappearances of Haitians remain quite ordinary.

FIDH and RNDDH can affirm that this situation at the border has not improved despite the presence of UN forces in some locations. The most recent example of this was when tens of Haitians were attacked with stones, machetes, picks, sticks and firearms by Dominicans while they were at the Ouanaminthe / Dajabon's market.

To support the Haiti National Police (HNP) by undertaking coordinated deterrent actions to decrease the level of crime and violence

As the Secretary General underlines in his report, concerted efforts of the HNP and the MINUSTAH led to a considerable decline of insecurity. As a matter of fact, between January and September 2008, 290 persons were killed by firearms, as opposed to 147 between January and September 2009.

Numerous interpellations and arrests have been operated by the HNP and the MINUSTAH. However, despite the decrease of criminal and violent acts, the security situation still remains fragile in the country because of the weakness of the judiciary, corruption, and impunity, which have become systematic in the country, and the blatant failure of the disarmament and reinsertion process. Indeed, regarding the support to the HNP in disarming illegally armed groups, the work of MINUSTAH is invisible. FIDH and RNDDH can affirm that the National Commission on Disarmament, Dismantlement and Reintegration remains totally nonexistent. Since its creation on August 29, 2006 up until today, this commission has not elaborated any national plan of disarmament. Arms which have plunged the population into mourning are still in the property of their owners. However, a legislative bill on firearms, their carrying and possession, has been elaborated jointly with MINUSTAH.

Reform of the National Police and vetting commission

The UN Secretary General explains in his report that "*MINUSTAH continues to work with the Haitian National Police to enhance its professionalism, develop institutional capacity and facilitate the establishment of necessary infrastructure*" (Para. 32). Despite these efforts, the HNP Reform Plan, established jointly with MINUSTAH, has not yet proven significantly efficient. Reports have been prepared as part of the process of certification by the vetting commission, composed of MINUSTAH's and HNP agents. However, up until today, there has been no follow-up to these reports. Consequently, the certification process of HNP agents has not produced the **expected** results.

The HNP and MINUSTAH also investigate the past of candidates to police agents' positions by undertaking local inquiries and working in collaboration with some human rights organizations such as RNDDH. The UN Secretary General outlines that "*certification and vetting activities continue to be conducted jointly by the Mission (United Nations police) and the National Police throughout the country*" (Para. 33). However, the collected information led to very little follow-up, and often, incriminated persons easily integrate the HNP. The most recent case is the one of police agent Ezéchiél JEAN BAPTISTE, involved in 2005 in the diversion of about 85.000 gourdes which were meant to be used in a clean-up project in the locality of Passe-Reine, in the Ennery commune. Conclusions of the RNDDH-led inquiry have been transmitted to the Direction of Schools and of Continuing Education (DEFP). However, no follow-up took place and

Ezéchiél JEAN BAPTISTE is now a member of the twentieth promotion of the National Police.

To implement, together with the National Prison Administration (NPA), a strategic plan to address prison overcrowding, and to remain engaged in supporting the mentoring and training of corrections personnel and strengthening of institutional and operational capacities of the NPA.

Most of Haitian prisons are former barracks of the Haitian Armed Forces. Cells are overcrowded, and aren't properly ventilated or lit. They are deprived of beds and mattresses. However, even in the case where cells would be furnished with beds, the problem of space remains, while bathrooms are in extremely poor conditions. Prisoners frequently die due to their conditions of detention. Some cases of contagious diseases such as scabies, tuberculosis, etc. are frequently detected. Furthermore, penitentiary space is estimated at 6751,42 square meters, which means 0,76 square meters per detainee, while international norms on penitentiary space require a minimum space of 4,50 square meters per detainee. On September 10, 2009, it was estimated that 8.829 detainees are imprisoned in Haitian jails, of whom 2.124 have been condemned, while 6.075 are in preventive detention.

Despite these conditions of detention violating human rights, up to now, MINUSTAH's contribution to the NPA work has not been sufficient, or significant. The improvements brought to some cells by the MINUSTAH are indeed very small accomplishments in light of the larger problematic issues of the prisons' system and the harsh conditions of detention.

To ensure full compliance of all MINUSTAH personnel with the United Nations zero-tolerance policy on sexual exploitation and abuse

The Haitian population is still waiting for the results of the zero-tolerance policy on sexual exploitation and abuse set up by the United Nations. In spite of the Secretary General stating that "*MINUSTAH continued to implement my zero tolerance policy with regard to sexual exploitation and abuse*" (Para. 66), there has been no follow-up with the victims, nor any reparation process pushed forward by MINUSTAH or the UN Secretariat.

Last year already, FIDH and RNDDH had stressed how the way with which MINUSTAH would ensure the follow-up with victims of these abuses was crucial. If MINUSTAH intends to promote the rule of law in the country, it must quickly and appropriately react to the allegations of crimes committed by its own agents by publishing inquiries' reports on these allegations and by providing support to the Haitian victims.

The 111 Sri Lankans involved in the rape of Haitian girls and women back in November 2007 have all merely been sent back to their country. It is not acceptable that, three years later, the results of UN and Sri Lanka's inquiries are still not known in Haiti, and that the victims remain without news or support from the MINUSTAH. Because they do not get informed on the evolution of the cases, the victims feel abandoned. It is urgent to

remediate to what constitutes in Haitians' view a situation of impunity, directly nourishing the resentment of Haitians towards the MINUSTAH.

Communication and public outreach

Regarding the public relations between HNP and MINUSTAH, an improvement has been noticed, in particular with regards to common patrolling and interventions. The same has been noted between the MINUSTAH and the Haitian population. MINUSTAH has always shown its ability to provide help to the population, mainly in face of natural disasters. However, a lot remains to be accomplished; indeed, the behavior of some members of the UN mission generates animosity amongst parts of the population, in particular when the UN force intervenes during conflicts between the Haitian population and the public administration.

Excellencies,

When evaluating the MINUSTAH's work, and working on its mandate renewal, FIDH and RNDDH wish that the above outlined concerns and limits in the implementation of MINUSTAH's mandate be fully taken into consideration in order to improve the expected results. This will facilitate the start of a process of substitution of UN forces by national security forces. Notably, FIDH and RNDDH would greatly appreciate that the questions regarding remedies to prisons' overcrowding, prolonged preventive detention, follow-up of HNP vetting reports, effective security improvements at the border, justice reform, follow-up of victims of sexual abuses by UN agents, the establishment of the Superior Council of the Judiciary, and MINUSTAH's withdrawal schedule, be incorporated in the agenda and discussed with great care.

FIDH and RNDDH hope that these points will retain your attention, and remain at your disposal to discuss them further.

Sincerely,

Souhayr Belhassen
FIDH President

Pierre Espérance
RNDDH Executive Director