



MEMORANDUM

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

To: Ambassador Albert R. Ramdin, Assistant Secretary General, O.A.S.

From: Santiago A. Canton, Executive Secretary, IACHR

Subject: Preliminary findings of the IACHR during the Technical Mission to Haiti
(March 18-21, 2007)

Date: April 20, 2007

At the conclusion of the technical mission to Haiti, which took place from March 18-21¹, 2007, the IACHR outlines in this memo, preliminary findings from the meetings held during this period.

The IACHR made significant progress in reaching its stated objectives of the mission: to engage in dialogue with key partners in the Haitian administration and stakeholders to identify priorities for reform and current challenges encountered; and to explore areas in which the IACHR may provide technical advice or assistance, within its mandate, to strengthen state institutions in the areas of human rights protection and to improve coordination and communication between state entities and the IACHR. Specifically, the IACHR sought to explore opportunities to further enhance and extend its promotional activities on the inter-American system. In this connection, the IACHR held fruitful discussions with representatives of the Foreign Ministry, Justice Ministry, Gender Ministry, Human Rights Ombudsman, representatives of the human rights and justice sections of the United Nations, the Coordinator of the Rule of Law Program at the UNDP, members of the Haitian judiciary, the president of the parliamentary human rights commission at the chamber of deputies, and members of civil society and the senior human rights officer at the OAS Special Mission.²

While noting that the IACHR acts according to a specialized mandate, including the competence to monitor human rights developments in the OAS member states, and in this case, Haiti, the implementation of projects in-country does not fall within the mandate of the IACHR. Accordingly, IACHR participation in this technical mission focused on reinforcing established links of communication and coordination with relevant government entities, international human rights agencies and members of the Haitian human rights community to improve respect for human rights in the country and foster a strong rule of law through the strengthening of the justice system, generally, and accountability mechanisms for human rights violations,

¹ IACHR attorney held meetings in connection with the technical mission objective between March 19-23, 2007.

² Meetings were held with: Prime Minister of the Republic of Haiti; Minister of Justice and Public Security; Director General at the Ministry of Justice and Public Security, Mr. Pierre-Louis; Director General at the Ministry of Women's Condition and Women's Rights; Director of Promotion, Ministry of Women's Condition and Women's Rights; Judicial Affairs Advisor to the Minister of Foreign Affairs; Human Rights Ombudsman; President of the Human Rights Commission, Chamber of Deputies; President of the Court of Appeals, Port-au-Prince; President of the Court of First Instance, Port-au-Prince; President of the Court of Cassation; OAS Senior Human Rights Officer; Chief, Human Rights Section/MINUSTAH; Chief, Justice Section/MINUSTAH; UNDP representative for human rights and justice issues; and members of the civil society (the Ecumenical Justice and Peace Commission; the Réseau de Défense des Droits Humains.; JILAP; MOUFHED; Réseau des Femmes Candidats pour Gagner).

specifically. At the same time, the Commission seeks to explore options for further cooperation with key partners, specifically regarding the possible expansion of promotional activities of the IACHR system, and overseeing the ratification, implementation and/or effective application of regional human rights instruments to which Haiti is a party. Regarding these objectives, the IACHR made considerable progress in identifying priority activities and areas of collaboration with key partners in the Haitian administration, international counterparts, and civil society. In particular, the IACHR intends to improve coordination in the following three areas:

- (1) improve coordination and communication with relevant state entities by assisting the Ministry of Foreign Affairs in its effort to establish an inter-ministerial committee that would serve as a liaison between the Haitian government and the IACHR and would be charged with the responsibility of responding to communications by the IACHR as part of the petition process before the Commission and Court;
- (2) strengthen the relationship of cooperation between the IACHR and the human rights section of the OAS Special Mission by engaging in targeted initiatives to build the capacity of relevant state entities and with civil society (human rights advocates/practitioners) in order to enhance engagement and use of the IACHR system for the protection of human rights in Haiti;
- (3) improve coordination and communication with members of Haitian civil society by channeling its promotional training of the IACHR system to organizations with an existing familiarity and interest in enhancing engagement with the IACHR. In this connection, the human rights section of the OAS Special Mission organizes capacity building activities with members of civil society, which it plans to strengthen by providing special skills building workshops for practitioners engaged in the defense and protection of human rights.

In order to adequately meet these three priorities of the Commission with respect to Haiti, the IACHR seeks to have a more active and sustained presence in Haiti to effectively carry out its mandate of human rights monitoring and reporting as well as to carry out its planned promotional activities with government authorities and civil society. In particular, the Commission seeks to build upon its study of and report on the justice system in Haiti, follow-up on measures taken by the State to comply with the recommendations issued in that report, and analyze progress made by both the state sector and civil society. It is noteworthy that, during the technical visit by the IACHR, it was apparent that the general understanding of human rights and the IACHR system of government authorities and members of the judiciary continues to be seriously lacking, which has a direct impact on the capacity and willingness to apply human rights standards generally and to integrate them into the reform and policy planning processes in the security and judicial sectors. Thus, the mission confirmed and emphasized the continuous need for training, promotion and technical assistance in human rights and the IACHR system. Finally, the role of the IACHR is especially important in a politically charged context that is characterized by polarized sectors of Haitian society and between Haitian society and external actors. As a quasi-judicial body, well respected in Haiti and the hemisphere, and noted for its credible reporting and objectivity, the IACHR role in Haiti is critical to providing an objective and in-depth analysis of ongoing human rights and socio-political developments in the country.

Summary of key findings regarding the stated goals of the technical mission

- Discussions with the Director General at the Ministry of Women's Condition and Women's Rights were constructive in so far as the Ministry indicated that it will proceed to draw up a plan of action to elaborate a draft bill on violence against women, while the IACHR has indicated its support by providing international standards/principles on the protection of women from violence and discrimination to the Ministry so as to inform the drafting process of the bill.
- Discussions with the Director of Promotion of Women's Rights at the Gender Ministry indicated the Ministry's intent to launch a popular education campaign on the Convention of "Belem do Para", a decision adopted following the publication on March 8, 2007 (international women's day) of a study on Violence against Women in Haiti. The Director expressed interest in having the IACHR assist the Ministry in conducting promotional training for targeted communities on the Convention of "Belem do Para".
- Discussions with the Minister of Justice and his Director General introduced specific topics for further in-depth dialogue during the IACHR's official visit expected for April 16-20, 2007. In particular, the IACHR related the interest to extend its current promotional activities to judicial officials and/or legal practitioners, by, for example, extending its training activities, such as the proposal to integrate an IACHR module into the syllabus of the new School of Magistrates. While complementing a human rights module in the syllabus, an IACHR component of the syllabus would ensure greater understanding of the inter-American human rights system and human rights obligations amongst members of the judiciary, charged with applying the law in the courts.
- With the intent to draw the Commission's attention to the plight of women in Haiti and the need to address the situation of discrimination, violence and the critical living conditions of many rural women in Haiti, one NGO, working in the rural provinces of Haiti on women's empowerment and political participation, expressed interest in making a presentation on the situation of women in Haiti during the IACHR's upcoming regular period of sessions. The human rights section of the OAS Special Mission agreed to provide information on procedural requirements of making the request to the IACHR.
- A human rights advocate who met with the IACHR expressed interest in developing a network of human rights NGOs to coordinate and consolidate efforts to meaningfully engage the IACHR in relation to individual cases. According to the advocate, the network would act as a resource to victims seeking a legal remedy and with a particular interest in presenting claims to the IACHR. Once established, the network hopes to receive training from the IACHR on the rules of procedure/petition process at the Commission.
- Discussions with the representatives of the judicial section of the UN Mission were encouraging and require follow-up in terms of possible collaboration between the section and the IACHR in so far as the judicial section is charged with supporting the establishment of the School for Magistrates and for training of judicial officials/magistrates.
- Resource and capacity constraints of the Human Rights Ombudsman (OPC)

The Office of the Ombudsman, an independent human rights body, monitors human rights in the country and receives complaints against state agents, labor disputes and human rights violations. The office, with a small and talented team of investigators, is directed by the 'Protecteur du Citoyen' and is the office that is expected to carry on the human rights monitoring and protection role of the human rights section of MINUSTAH. However, the current capacity and the availability of resources of the office is seriously lacking, preventing the office from operating in all of the geographic departments of the country and thereby limiting its impact and effectiveness as a domestic human rights protection mechanism. Further, the OPC does not, as yet, have an operating legal framework or statute designating its formal composition, mandate, functions and powers, which greatly weakens its authority, pursuant to the UN Paris Principles for state institutions. The human rights section of MINUSTAH is charged with providing support to the OPC, securing the legal framework, and building its capacity in the coming year. In the IACHR's discussion with OPC staff during this mission regarding the needs of the office, OPC staff expressed interest in receiving training on the inter-American system with the intent of incorporating this information into the OPC's training activities and applying this knowledge to its human rights monitoring and reporting activities. It was clear from this meeting and previous meetings since 2005 in which the OPC has related a number of initiatives regarding its human rights protection and promotion efforts, that the OPC has progressively advanced its mission with scant resources and appears willing and committed to fulfilling its mandate. Finally, the OPC staff appears enthusiastic and well placed to receive additional training to render the office staff more effective in fulfilling its institutional mandate and functions. Such efforts to reinforce the OPC can be carried out in coordination with the human rights section of the UN mission.

- Obstacles to NGO engagement with the IACHR

While there is interest on the part of some NGOs to further engage the IACHR on specific claims, there are a number of factors that pose real challenges to victims' and petitioners' capacity to access the IACHR. In particular, the actual socio-economic context in the country and the general lack of available legal services creates widespread problems of access to justice at the national level for a majority of the population. In addition, the actual and perceived corruption in the police force and the justice system, combined with the fact that the state has not been able to successfully guarantee public security for its inhabitants are contributing factors leading to a very low rate of official complaints brought to authorities, either because victims lack confidence in the justice system to effectively investigate, prosecute and punish perpetrators and/or because they lack confidence that, once a complaint is filed, their personal security may be at risk and the police force will likely not be willing or able to provide adequate security for victims or witnesses wishing to pursue claims with authorities.

Considering the requirements set forth in the American Convention regulating the admissibility of petitions before the IACHR, one of the factors that presents a challenge to civil society's capacity to present petitions to the IACHR lies in the fact that there are nearly no legal service providers in the country equipped with the

capacity, staff and resources to provide pro-bono legal services to victims wishing to pursue human rights claims. In particular, the resources required to ensure the necessary follow-up of the case at the domestic level (including legal proceedings and fulfilling the requirement of exhaustion of domestic remedies) can not be guaranteed as most organizations are not equipped (lack funds) to provide such services. In this respect, the problem of lack of access to justice by victims should be highlighted by the Commission in its reporting on the human rights situation in Haiti with recommendations to the state to develop mechanisms, policies and practices to ensure greater access to justice by affected populations, to address their right to a legal remedy in Haitian courts, and to ensure that they have access to legal recourse at the regional level in instances where a domestic legal remedy is not provided or is ineffective.

**Results of Discussions during Technical Mission:
IACHR planned activities for 2007 and proposed initiatives³**

1. Creation of an inter-ministerial group by the Foreign Ministry—initial discussions with the representative of the Foreign Ministry indicate that the Ministry agrees to constitute a coordinating body or inter-ministerial group to facilitate communications between the government of Haiti and the IACHR regarding petitions, precautionary measures and other matters. The Ministry has requested that the IACHR provide training and technical assistance to the group in its initial stages to ensure comprehension of the IACHR petition system and communications in light of international obligations pursuant to the American Convention. Plans are underway with the Ministry to create and train this inter-ministerial group.
2. Draft law on Violence against Women---the Ministry of Women's Condition and Women's Rights is about to embark on a process to draft a law on violence against women in order to develop the legal framework to protect women and girls from violence pursuant to Haiti obligations under the Convention of Belem do Para. In support of this initiative, the IACHR has offered its assistance to provide information on international standards/principles to inform the drafting process.
3. Training on the Convention of Belem do Para---the Ministry of Women's Condition indicated its intention to elaborate a national education campaign on the Convention of Belem do Para in an effort to raise awareness on the situation of violence against women in Haiti, the rights of women to be free from discrimination and violence and the duties of the state. In this connection, the Ministry's Director of Promotion indicated its interest in inviting the IACHR to assist with conducting promotional training seminars on the Convention of Belem do Para.
4. Enhanced promotional training for human rights NGOs---a number of NGOs which have ongoing human rights training programs and accompaniment programs with affected communities expressed interest of having the IACHR organize a trainer of trainers program on the IACHR system so that participants can integrate this information into their activities with the wider population. (*proposed*)

³ These activities are in addition to the IACHR's expected on-site visit to Haiti in April (confirmed) and tentative-prospective on-site visit by a CIDH delegation later in the year, as well as the publication of a thematic report on violence against women in Haiti expected for 2007.

5. IACHR and the School for Magistrates --- a statute to legally establish the School for Magistrates is expected to be adopted by parliament soon, while plans for opening the school are underway. In an effort to enhance understanding of the inter-American system of human rights and related international obligations under the American Convention on Human Rights, the IACHR would like to explore the possibility of integrating a module on the IACHR into the syllabus for initial training as well as ongoing training for magistrates. (*proposed*)