

**TOWARDS A POST-MINUSTAH HAITI: MAKING  
AN EFFECTIVE TRANSITION**

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## TOWARDS A POST-MINUSTAH HAITI: MAKING AN EFFECTIVE TRANSITION

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

Haiti is now marking the eighth year of the UN Stabilisation Mission in Haiti (MINUSTAH). Debate about its eventual withdrawal is intensifying under the one year-old administration of President Michel Martelly. Opposition to its presence stems from the country's nationalistic pride, anger at the cholera epidemic linked to UN peacekeepers and publicity surrounding unacceptable abuses by a small number of peacekeepers. Yet even its critics admit the country's still limited police force cannot guarantee the security needed to protect citizens, enforce the law and underpin political stability. The real debate is not whether MINUSTAH should leave but when, and what to change in Haiti and in the mission's mandate, structure and behaviour to ensure that a phased withdrawal is linked to stronger institutions and progress toward lasting stability and development.

On 8 March 2012, the UN Security Council welcomed progress in Haiti and confirmed a start toward MINUSTAH's military drawdown, returning to the levels before the devastating quake that rocked the island in January 2010. Before the October renewal of the peacekeeping mandate, with preliminary discussions already planned for August, consensus needs to be forged between the UN, Latin American nations which provide the bulk of the troops, other international contributors, donors and the Haitian nation. That consensus has to be built on an objective analysis of MINUSTAH's past performance and priorities for restructuring, Haiti's continuing political instability, weak institutions and extreme poverty.

Haiti remains ensnared in a deep political, social and economic crisis. Despite the past presence of 12,000 UN military and police and the resumption of significant post-earthquake aid, progress in reconstruction, development and rule of law is disappointing. Haiti needs at least double its current numbers of police, with adequate training and vetting, deployed and capable of protecting its citizens and borders from home-grown and transnational criminal threats. A second five-year national police development plan needs to be adopted and implemented to chart that growth and the police need to be part of a comprehensive and professional justice system securely founded on the

rule of law. The Martelly government should put on hold the reconstitution of the army until these goals are met.

Both the Haitian government and the UN Security Council are looking for a way out for MINUSTAH, but it would be foolhardy to rush that process given the serious gaps in consolidating security and justice. Despite the voices advocating for a more rapid exodus, it is unlikely that full departure can or should be accomplished before a third peaceful handover of democratic power takes place at the end of the Martelly presidency, five years from now, which also should correspond to the completion of the second five-year police development plan.

It is neither in Haiti's nor in the donors' interest to see a hasty withdrawal of the mission, but MINUSTAH needs rethinking and revamping. Based on other UN-assisted state transitions, like Sierra Leone and Liberia which faced or face comparable challenges, the UN presence in Haiti should see a reconfigured MINUSTAH, with reduced but still capable troop strength and a robust police presence. That transformation would move from a military dominated Chapter VII force to a Security Council sponsored political mission by the end of 2016, which would still be able to coordinate the full range of UN agencies under the special representative of the Secretary-General (SRSG) in support of an integrated peacebuilding agenda set with the Haitian government.

MINUSTAH has successfully deterred the potential threat of organised violent actors overthrowing the government by force, which was its fundamental *raison d'être*. It has improved security in much of the country mostly by reducing armed violence in Cité Soleil and other urban slums. The mission has also provided invaluable contributions to countrywide logistics operations, from assisting with the distribution and retrieval of material in the 2006, 2009 and 2010 elections to supporting disaster relief in the aftermath of the 2008 storms and the 2010 earthquake.

MINUSTAH needs to think beyond stabilisation and focus on consolidating its achievements by providing strategic support to strengthen rule of law institutions so reconstruc-

tion, private investment and development can flourish. It must also devise a more effective way to work with fragile state institutions whose continuing partisan composition has denied Haiti a functioning government for most of the past year. An assessment of MINUSTAH's contribution to stability since 2004 and the current status of reconstruction and development in the country are vital to understand the opportunities for sustained reduction of conflict and violence.

This report assesses MINUSTAH's impact and explores how its contribution might be improved. It also analyses the options available for an ordered eventual withdrawal of the mission enabling Haitian authorities and the international community to better cope with a post-MINUSTAH scenario. It provides recommendations for a better targeted peacekeeping agenda for security, rule of law and governance, as well as a planned transition that eliminates the need for a UN peacekeeping mission by the end of the Martelly presidency in 2016.

## **RECOMMENDATIONS**

*In order to work toward an orderly transition and handover*

### **To the UN Security Council:**

1. Incorporate in MINUSTAH's next mandate a requirement for a structured five-year transition plan, as Haitian state capacity builds, that:
  - a) reduces the current Chapter VII (under which MINUSTAH is placed) military-dominated contingent to one with robust police and back-up military to avoid any security vacuum;
  - b) shifts at the end of the next five years to a Security Council-authorized political mission that focuses on follow-on support for Haiti's continuing peacebuilding and development needs; and
  - c) maintains the Chapter VII mandate to enable continued major force contributors but recognises progress in Haiti by citing a lower "threat to international peace and security in the region".
2. Require that the timing of each MINUSTAH draw-down be consulted with Haiti and troop contributors but be based on continuing assessments of the security realities on the ground and not guided by donor impulses to turn focus elsewhere.

### **To the UN Secretary-General:**

3. Require that MINUSTAH and the UN Country Team collaboratively design a coordinated plan, for the latter to implement, under the UN special representative

of the Secretary-General (SRSG) to support government priorities for stability consolidation and development in view of the eventual MINUSTAH handover;

4. Pursue improved accountability for criminal acts committed by UN peacekeepers by setting out in the Memorandum of Understanding (MoU) – signed with each troop contributing country (TCC) – common binding standards of investigation, with participation by the UN internal oversight office, with fixed timelines to determine if there was criminal misconduct and, if so, guarantee appropriate prosecution and other necessary response.
5. Respond to the cholera epidemic by:
  - a) apologising for the perceived failures of some units to appropriately dispose of human waste in relation to the cholera epidemic, regardless of ongoing scientific disputes as to the devastating epidemic's origins;
  - b) directing that MINUSTAH undertake further actions in conjunction with the Haitian government to reduce the short-term spread of the disease prioritising vaccination in remote areas, access to drinking water, and treatment;
  - c) convening additional donors' commitment to the ten-year comprehensive water and sanitation infrastructure investment project now recommended by the Pan-American Health Organization (PAHO)/ World Health Organization (WHO) and the health ministries of Haiti and the Dominican Republic; and
  - d) reporting to the Security Council on the pace of implementation of the recommendations of the expert group on cholera for all peacekeeping missions.

### **To the UN Security Council and the Secretary-General:**

6. Urgently establish a comprehensive human rights vetting and orientation for peacekeeping missions and carry out systematic pre-deployment screening to ensure conformity to universal human rights principles and consistency with the UN's zero tolerance policy.

*In order to make the contribution of MINUSTAH more effective*

### **To the UN Security Council:**

7. Refocus MINUSTAH's mandate and reconfigure the mission to better match Haiti's development needs by helping strengthen security, law enforcement, and governance by:

- a) transferring greater responsibility to the Haitian National Police (HNP) for citizen security, assisting it in completing and implementing a five-year expansion plan to double the size of the current force and significantly improve its performance;
  - b) maintaining sufficient UN Formed Police Units (FPU) and a back-up rapid response military capability to guard against any threat to public order beyond the HNP response capacity;
  - c) deploying the needed numbers of core teams of skilled UN police officers, ideally from many of the Latin American countries reducing their military contribution, to support development of the HNP, particularly in border control and security, community policing, crime scene investigation and institutional and operational strengthening;
  - d) expanding the military engineering contingents to help support reconstruction, particularly community rebuilding in more violence-and-crisis prone and earthquake ravaged areas;
  - e) seeking government agreement on a governance/ rule of law compact that:
    - ❑ integrates police, justice and prison reform;
    - ❑ links security sector reform (SSR) with border and customs control as well as community violence reduction;
    - ❑ supports state capacity building for tax collection, land registration and national identification;
    - ❑ supports the new Permanent Electoral Council (Conseil électoral permanent, CEP) and provides technical support to manage electoral reforms, to empower political parties and to bolster the council;
    - ❑ accelerates revision of the penal and criminal procedures codes and enhances public understanding of those reforms; and
    - ❑ revives the MINUSTAH-led border task force to support the government in reinvigorating the Border Development Commission;
  - f) creating and implementing an adequate donor coordination mechanism to ensure the availability and better use of funds for the implementation of integrated police, justice and prison reforms.
9. Take concrete steps towards the organisation of senate, municipal and local elections by establishing the Permanent Electoral Council; installing the newly appointed director general; submitting the revised electoral law to parliament for approval; and announcing the electoral calendar.
  10. Design and implement in close partnership with MINUSTAH and the UN Development Programme (UNDP) a capacity-building plan to enable gradual national responsibility for electoral security and logistics currently led by MINUSTAH, at least for polls following the 2015 presidential election.
  11. Articulate a clear development strategy through an inclusive national consultation process and agree on a joint agenda that specifically targets consolidating stability, enabling an investment climate, and facilitating the handover of responsibilities from MINUSTAH to the HNP. Among other items, this agenda should include:
    - a) the continued strengthening of the police as an immediate security priority, notably with adoption by the Haitian government of a new five-year plan to:
      - ❑ increase police forces to around 20,000;
      - ❑ complete the vetting of all police officers and personnel;
      - ❑ agree on and implement a career plan that regulates merit-based promotions and improves working conditions;
      - ❑ improve procurement practices, internal inspection, administration and maintenance, and middle- and upper-level management training;
      - ❑ complete the training, equipping and deployment of the specialised forces, including the border police to guard all official border crossing points and patrol the unofficial ones, as well as the country's nascent coast guard; and
      - ❑ harmonise the legal framework regarding policing powers, including the HNP and other laws such as the Criminal Procedure and Penal Codes, customs and immigration laws;
    - b) putting army reconstitution on hold until there is greater national consensus and not before the HNP has reached full strength and tax revenues are at a satisfactory level;
    - c) continuing to strengthen the independence of the judiciary by providing the Superior Judiciary Council (CSPJ) with the human and material resources required for its immediate functioning, rapidly ensuring the appointment and operations of the Constitutional Court and improving work conditions and job security for judicial actors;

### **To the Haitian Authorities:**

8. Increase the level of understanding and awareness of Haitians citizens about the rationale and impact of the constitutional amendments voted in May 2011 and finally published on 19 May 2012.

- d) improving access to justice by designing and implementing a plan to expand existing legal aid offices into a public defender system and lessen impunity by providing for witness protection in cases of serious crimes; and
- e) reinvigorating the Border Development Commission and deepening cooperation on these issues with MINUSTAH and donors.

**To Donors:**

- 12. Provide political, financial and technical support to the government to help implement the national development strategy and to a restructured UN mission, as MINUSTAH's transition takes place over the next five years.
- 13. Increase use of the Haiti Reconstruction Fund (HRF) as a mechanism to rapidly provide funds to support government efforts on key areas such as modernisation of public administration, border security, control and management, customs and tax collection, human capital and economic infrastructure investment.

**Port-au-Prince/Bogotá/Brussels, 2 August 2012**

## TOWARDS A POST-MINUSTAH HAITI: MAKING AN EFFECTIVE TRANSITION

### I. INTRODUCTION

The current UN Stabilisation Mission in Haiti (known by its French acronym as MINUSTAH) was deployed in June 2004, amid political turmoil and violence.<sup>1</sup> Haiti had been drifting towards anarchy before the arrival of a Multinational Interim Force (MIF) led by the U.S., Canada and France with some 3,600 troops to restore order after former President Jean-Bertrand Aristide's ouster in February 2004.<sup>2</sup> MINUSTAH's principal mandate was to establish a secure and stable environment within which Haitian constitutional and political processes could take place.<sup>3</sup> This included support to reform the HNP; action to restore and maintain rule of law and public safety; assistance in the organisation of free and fair elections; and the promotion and protection of human rights.

The initial authorised peacekeeping force comprised 6,700 troops and 1,622 police.<sup>4</sup> It operated under the leadership of the special representative of the UN Secretary-General (SRSG), Juan Gabriel Valdés, a former Chilean foreign minister,<sup>5</sup> and the head of the military forces, Lieutenant Gen-

eral Augusto Heleno Ribeiro Pereira, from Brazil.<sup>6</sup> The hemisphere's governments strongly supported the mission.

Eight years later, Haiti continues to wrestle its way out of a deep political, social and economic crisis.<sup>7</sup> Two national elections, which restored constitutional rule, the presence of 10,000 UN military peacekeepers and police and the resumption of aid have contributed to relative calm but have not sufficiently addressed the underlying problems of governance that impede lasting stability and development. Some legitimate concerns about the lack of capacity of UN peacekeepers to buttress security by initiating action against criminals have represented a serious challenge for the mission.<sup>8</sup> Popular misgivings about the presence of foreign forces, the perceived responsibility of some UN peacekeepers for a devastating cholera epidemic and allegations of their involvement in a number of cases of sexual abuse are reflected in graffiti along Port-au-Prince streets. Nevertheless, MINUSTAH's contribution to generally improved security conditions is recognised both in Haiti and abroad.<sup>9</sup>

<sup>1</sup> On 30 April 2004, acting on the recommendations of the Secretary-General, the Security Council adopted Resolution 1542 establishing MINUSTAH, which took over from the MIF on 1 June 2004. For background on the context in which it was deployed, see Crisis Group Latin America/Caribbean Report N°10, *A New Chance for Haiti?*, 18 November 2004.

<sup>2</sup> "Workers struggle to aid flood survivors", *The Washington Post*, 29 May 2004; "Interim Government 2004-2006", *Global Security*, 8 February 2011. See also UNSC Resolution 1529, S/RES/1529 (2004).

<sup>3</sup> See UNSC Resolution 1542, S/RES/1542 (2004), 30 April 2004.

<sup>4</sup> See "Background Note: 1 June 2004 United Nations Peacekeeping Operations", UN Department of Public Information (DPI), June 2004. When first deployed on 1 June 2004, presence on the ground included 240 military, seven civilian police, 85 international and 38 local civilian staff. By 31 December 2004, military strength had reached 6,008 and police were 1,398, civilian staff counted 303 international and 300 local. See "Background Note: 31 December 2004 United Nations Peacekeeping Operations", DPI, January 2005.

<sup>5</sup> He only assumed the position on 12 July 2004, two and a half months after the adoption of Resolution 1542. Delays in making his appointment effective were said to have seriously ham-

pered the deployment and early functioning of the mission. The U.S., under George Bush's administration, reportedly initially obstructed his appointment because of Valdés' earlier opposition in the UN Security Council to the intervention in Iraq. Crisis Group interview, senior foreign diplomat, Port-au-Prince, 30 July 2012. See also Crisis Group Report, *A New Chance for Haiti?*, op. cit.

<sup>6</sup> Augusto Heleno assumed his functions as force commander on 31 May 2004 and David Charles Beer (Canada) joined the mission in September 2004 as head of the Civilian Police (CivPol), later named UN Police. See "Report of the Secretary-General on the United Nations Stabilisation Mission in Haiti", Security Council, S/2004/698, 30 August 2004.

<sup>7</sup> For background on the 2004 crisis, see Crisis Group Report, *A New Chance for Haiti?*, op. cit.

<sup>8</sup> MINUSTAH is not entitled to make arrests; UN troops and police can only intervene in support of the HNP. Crisis Group interviews, senior MINUSTAH officials, Tabarre; HNP high command officer, Pétion-Ville, March 2012.

<sup>9</sup> Crisis Group interviews, Haitian government officials, diplomats, civil society leaders, Port-au-Prince, 25-29 June 2012; Haitian businessmen, Washington DC, 7 May 2012; telephone interview, political science professor and analyst, 10 May 2012. See also Amélie Gauthier, "Voices of the Actors", Fundación

The UN Security Council (UNSC) has renewed MINUSTAH's mandate eleven times and adjusted it to political, security and socio-economic circumstances.<sup>10</sup> Between 2004 and 2006, the mission primarily focused on providing security for the 2006 elections. This required responses to four main challenges: disarmament, demobilisation and reinsertion (DDR) of former members of the Haitian Armed Forces (Forces armées d'Haïti, FAd'H) and their insurgent partners; neutralisation of the urban gangs and their incorporation into appropriate DDR programs; curbs on crime, especially in Port-au-Prince; and a purge of the HNP. None of these goals has been fully achieved. For instance, the bulk of officers who failed a joint MINUSTAH/HNP vetting process that began in 2007 still have not been dismissed or prosecuted. Action by the Superior Council of the National Police (Conseil supérieur de la police nationale, CSPN), the policymaking body that governs the HNP and is chaired by the prime minister, on 137 files of police accused of corruption or misconduct is still pending.<sup>11</sup>

Nonetheless, from 2006 to 2009, Haiti enjoyed relative political stability.<sup>12</sup> The role of the police began shifting

at the end of 2007 from targeting localised armed gang violence to more regionalised crime such as arms and drug trafficking, as well as robbery, corruption, murder, smuggling and other wrongdoings affecting government revenue. In 2007, MINUSTAH's mandate was amended to include technical support for comprehensive border management. In 2008, the mission began consulting with the Haitian authorities and international actors to identify key benchmarks to measure Haiti's emerging stability so that a consolidation plan, including troop reduction, could be prepared.<sup>13</sup> In 2009, in anticipation of presidential and parliamentary elections the following year, the UNSC added the promotion of political dialogue and reconciliation to the mandate and MINUSTAH began implementing the consolidation plan and reconfiguring its forces, including a small troop reduction.<sup>14</sup> The 2010 earthquake, which killed over 250,000 persons, including 102 UN staff, reversed these plans; the force levels of the mission were instead increased to boost security and support recovery and reconstruction.<sup>15</sup>

Since the earthquake, MINUSTAH's mandate and structure have changed twice and it now comprises 7,283 military, 3,126 police, including Formed Police Units (FPUs)

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para las Relaciones Internacionales y el Diálogo Exterior (FRIDE), 15 February 2008; and Robert Maguire, "The Challenge of Keeping Haitians Safe", U.S. Institute of Peace (USIP), 13 June 2011.  
<sup>10</sup> See Resolutions 1576 (2004), 1601 (2005), 1608 (2005), 1658 (2006), 1702 (2006), 1743 (2007), 1780 (2007), 1840 (2008), 1892 (2009), 1944 (2010), 2012 (2011). Originally, the mission was given six-month mandates until October 2007 when terms were extended to a year.

<sup>11</sup> Constrained by HNP laws, the force's leadership can only terminate officers on administrative grounds as opposed to direct dismissal for corruption or human rights abuses. 57 of the 137 officers have been terminated administratively by the current police chief, Mario Andrézol, while 80 remain active. They are entitled to plead their cases before a joint HNP-MINUSTAH committee but, since vetting began in 2007, no appeal procedure was put in place nor has any effort been made to file criminal complaints against any of them. Frequent government changes have produced five Superior Councils of the National Police (CSPNs) and none has succeeded in finalising action on the files. Crisis Group interview, HNP high command officer, Pétion-Ville, 13 March 2012. See Crisis Group Latin America/Caribbean Briefing N°26, *Keeping Haiti Safe: Police Reform*, 8 September 2011; and "Haiti National Police making progress, chief says", *The Miami Herald*, 28 February 2012.

<sup>12</sup> President René Préval was elected on 7 February 2006 and took office on 14 May. The 48th legislature was also sworn in in May. Most sectors accepted the results of the elections and Préval made efforts to open the government to representatives from other political forces. He has been credited by some international actors with a signal achievement during his term: no political persecution and violence derived directly from state apparatus and a relatively free press. Crisis Group interviews, senior foreign diplomat, 30 July 2012; senior official, multilateral organisation, Pétion-Ville, 15 March 2012; political party leaders, Pétion-Ville and Delmas, 13 March 2012.

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<sup>13</sup> The Security Council, through resolution 1780 (2007), directed the mission to begin preparation of the consolidation plan. The benchmarks included sustained progress in the resolution of political differences through dialogue; the creation of a sustainable security structure capable of responding to threats within the country and along its borders; the establishment of an independent and credible judicial and penal system that respects and upholds human rights and is accessible to all citizens; and the extension of state authority across the country through the establishment of legitimate, transparent and accountable democratic state institutions. See "Report of the Secretary-General on the United Nations Stabilisation Mission in Haiti", S/2008/202, 26 March 2008, p. 14.

<sup>14</sup> Force reconfiguration envisaged the replacement of up to 25 per cent of the mission's armoured personnel carrier capability with lighter patrol vehicles and the reduction of some 120 troops within the military component, down to 6,940. It also foresaw an increase in the mission's Formed Police Units (FPU) to replace the reduced military. An FPU is a team of 140 UN police officers with heavier weapons like the French gendarmerie and Chilean Carabineros, which is deployed in formed national units and which can handle riot and crowd control, protect UN material and staff when they must visit insecure regions, as well as reinforce the HNP if needed. See "Report of the Secretary-General on the United Nations Stabilisation Mission in Haiti", S/2009/439, 1 September 2009, pp. 6 and 14-16.

<sup>15</sup> See Resolutions 1908 (January 2010); 1927 (June 2010). Among UN fatalities were SRSG Hédi Annabi, Deputy SRSG Luiz Carlos da Costa, and Political Affairs and Planning Director Gérardo LeChevallier. See "Confirmed UN Peacekeeping Fatalities of January 2010" (online).



and 2,143 civilians.<sup>16</sup> It is the fifth largest and third most costly UN peacekeeping mission.<sup>17</sup> Under the leadership of the first post-earthquake SRSG, Edmond Mulet, challenges included security of displaced persons in camps and support for the holding of national elections to put in place a government and thus speed up reconstruction.<sup>18</sup> He attempted to promote a rule of law compact in partnership with the Haitian authorities, private sector, civil society and the international community. This compact aimed to bring together rule of law and economic development by encouraging public demand for justice and legal security and ensuring coordinated support from donors and the private sector for reforms. Instead of being able to pursue this initiative, his successor, Mariano Fernández,<sup>19</sup> was forced to spend most of his first year in office on hands-on diplomacy to end a standoff between the executive and parliament to enable government to function again.<sup>20</sup>

Talks of drawdown have begun and international attention is turning elsewhere. As put by Susan Rice, the U.S. ambassador to the UN, “Haiti stands at a moment of decision”<sup>21</sup> and MINUSTAH faces a dilemma about how to engage with this critical moment. The mission has just named an internal consolidation task force to establish a

clearer agenda to consolidate stability.<sup>22</sup> The work of this task force, following consultation with the Haitian government, private sector, civil society and the TCCs, and based on the findings of various UN assessment missions,<sup>23</sup> is essential to the August 2012 debate on the mission’s future as well as the renewal of its mandate in October.<sup>24</sup>

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<sup>16</sup> See “UN Peacekeeping Operation Fact Sheet”, 31 May 2012. Civilians include local and international staff and UN volunteers (UNVs).

<sup>17</sup> It comprises total personnel of 12,289. By its resolution 65/256 B of 30 June 2011, the General Assembly appropriated the amount of \$793,517,100 for the maintenance of MINUSTAH from 1 July 2011 to 30 June 2012. *Ibid.*, and “Report of the Secretary-General to the Security Council on the United Nations Stability Mission in Haiti”, S/2012/128, 29 February 2012, p. 15. See also “Approved resources for peacekeeping operations for the period from 1 July to 30 June 2012”, General Assembly, A/C/5/66/14, 13 January 2012.

<sup>18</sup> Mulet served two terms as SRSG during two critical moments of the mission. First, from 2006-2008 when MINUSTAH, in support of the Haitian government, began robust operations against armed gangs in urban slums. He was appointed again in the immediate aftermath of the 2010 earthquake to assist in recovery and provide support for the national elections. Crisis Group interviews, senior officials, MINUSTAH and UN Country Team (UNCT), Port-au-Prince, January-April 2012.

<sup>19</sup> Fernández took office in June 2011 after Mulet’s departure in May. The current Brazilian commander is Major General Fernando Rodrigues Goulart, who was appointed on 27 March 2012 by UN Secretary-General Ban Ki-moon. Marc Tardif, a Canadian, is the head of the UNPOL, in command of both civilian police and the FPU.

<sup>20</sup> Crisis Group interviews, Haiti political actors and diplomats. Port-au-Prince, 26 June 2012.

<sup>21</sup> Quoted in “Haiti mission head tells Security Council progress made in security, rule of law, but recent resignation of prime minister could threaten progress to democracy”, Security Council, SC/10572, 8 March 2012.

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<sup>22</sup> Crisis Group interview, senior UN official, Tabarre, 12 April 2012.

<sup>23</sup> UN Economic and Social Council (ECOSOC) officials visited Haiti from 21 to 24 May 2012. The delegation, led by Ambassador Gilles Rivard, Canada’s deputy permanent representative to the UN and former Canadian ambassador to Haiti, concluded that boosting the economy must go hand in hand with the rule of law, which will require support for governance, judiciary, police and prison systems. “End of Mission of the ECOSOC”, *Haiti Libre*, 25 May 2012. The ECOSOC report was presented at its General Segment on 24 July 2012. Its recommendations included the need for collaboration and integration of activities among UN entities and for further consideration of a phased handing over of some MINUSTAH activities to the UN Country Team. The report also underlined the need for planning and development for the phased and orderly transfer of tasks to the Haitian authorities. See Ambassador Guillermo Rishchynski, permanent representative of Canada to the UN and chairman of the ECOSOC Ad Hoc Advisory Group on Haiti, “Statement at ECOSOC on the report Ad Hoc Advisory Group on Haiti”, New York, 24 July 2012 (online).

<sup>24</sup> The current mandate expires on 14 October 2012. See UNSC Resolution 2012, S/RES/2012, 14 October 2011.

## II. THE MARTELLY ADMINISTRATION AND MINUSTAH

Haiti's transition did not end with the successful holding of elections in 2006 and the power transfer from an interim to a freely elected president. Nor did it end with the peaceful handover in May 2011 to an opposition force that marked another positive stride in a democratic process, despite the fractious and flawed nature of the election. The country is still undergoing simultaneously four transitions – from armed violence to reconciliation and peace; from a non-democratic culture to a democratic society; from a failed to a modern nation-state; and from a situation of chronic and pervasive poverty and social injustice to a more thriving and equitable economy.<sup>25</sup> The earthquake added a fifth transition: from a destroyed country to one not only rebuilt but ideally transformed. Post-earthquake reconstruction is not a short-term fix. Long before the quake's devastation, Haiti wrestled with a crisis of poverty,<sup>26</sup> compounded by weak and overly centralised public administration and not always benign foreign involvement.

A humanitarian imperative amid ongoing political instability, sporadic violence and recurring natural disasters continues to suggest the need for a strong international presence. But MINUSTAH and other international partners will only be as effective as the government allows them. While in the past eight years, the mission has supported national dialogue, new rifts that risk undermining reconciliation have emerged during Martelly's first year.<sup>27</sup> The regrouping of Aristide's Fanmi Lavalas party,<sup>28</sup> the Martelly presidency's Duvalierist imprints,<sup>29</sup> and the reap-

pearance of former members of a once brutal army<sup>30</sup> began nurturing fears of a return to political volatility and stalled governance.<sup>31</sup> International pressure and the government's concerns about potential economic repercussions led to negotiations and a show of force by HNP, with MINUSTAH's support, to end the illegal occupation of state properties by the ex-FAD'H forces.<sup>32</sup> The Haitian population is now yearning for a new chapter that includes reconstruction, economic growth and rule of law. In President Martelly's words:

Eight million Haitians, out of an estimated population of 10 million, live without electricity. Five million cannot read and write and are in the dark both day and night. Eight Haitians out of every ten are living on less than \$2 a day. Two per cent of Haitians control 69 per cent of the country's wealth. With a working population that is put at 4.2 million, fewer than 200,000 have regular formal work. At least 80 per cent of university graduates live abroad.<sup>33</sup>

Haiti's macroeconomic outlook for 2012 is still encouraging, with a forecast of 6 per cent growth. However, the absence of a fully functioning government from October 2011 to mid-May 2012 dropped the original estimates of a near 8 per cent growth rate down by nearly two percent-

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crimes since Haitian judge Jean Carvès cleared him of charges of serious human rights violations in January 2012. "L'ambassadeur français refuse de serrer la main de Jean-Claude Duvalier", Radio Kiskeya, 23 June 2012.

<sup>30</sup> The army frequently is referred to by its French acronym (FAD'H).

<sup>31</sup> Crisis Group interview, senior government official, Port-au-Prince, 15 March 2012. In February 2012, former members of the Haitian army and younger would-be soldiers, some of whom were armed, began occupying public spaces. They wore new uniforms and in some cases drove rental cars, set up illegal checkpoints and invaded the parliament compound. Their activity was concentrated at the Lamentin former barracks, in Carrefour, south of Port-au-Prince, but they were reportedly present at some nine other points across the country. Estimates showed about 400 individuals with the likely ready support of over 1,000 sympathisers if needed. Their demands included the payment of pensions and the reestablishment of the army, disbanded seventeen years ago and whose reconstitution Martelly has promised. Crisis Group telephone interviews, senior MINUSTAH official, and independent security consultant, 3 May 2012. "Levaillant Louis Jeune condamne le comportement menaçant des militaires démobilisés", Radio Metropole, 18 April 2012.

<sup>32</sup> Crisis Group interviews, Haiti government and MINUSTAH officials, diplomats, 24-28 June 2012.

<sup>33</sup> "Message du Président de la République, Son Excellence Monsieur Joseph Michel Martelly sur la situation générale du pays" at the opening session of parliament, 9 January 2012, www.parlementhaitien.ht. Copy of translation from French to English provided by MINUSTAH to Crisis Group, 4 April 2012. Also cited in the statement of SRSF Mariano Fernández before the Security Council, 8 March 2012.

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<sup>25</sup> Crisis Group interview, senior MINUSTAH official, Pétienville, October 2009.

<sup>26</sup> "Haiti: The slow road to reconstruction: Two years after the earthquake", Oxfam, 10 January 2012.

<sup>27</sup> "UN Haiti chief: 'Rifts have taken over reconciliation efforts'", Caribbean Journal, 25 February 2012.

<sup>28</sup> Crisis Group interviews, political analysts, Port-au-Prince, February and March 2012; senior government official, Port-au-Prince, 15 March 2012. Fanmi Lavalas, former President Aristide's party, which split into different factions following his ouster in 2004, did not officially participate in the 2006, 2009 and 2010 elections. Since Aristide's return in March 2011, the factions have focused on remobilising under a single party in view of pending senate, municipal and local elections. Its political force is believed to be a significant determinant in future polls. Party spokespersons have announced national and regional congresses as part of its comeback. See "Entèvyou Maryse Narcisse ak Jounal Ayiti Libète", *Haiti Liberté*, 23 February 2012; and "Rassemblement de Fanmi Lavalas à l'occasion du 21<sup>ème</sup> anniversaire des élections libres et démocratiques en Haïti", Agence Haïti Presse (AHP), 17 December 2011.

<sup>29</sup> Crisis Group interviews, Haitian political analyst, Port-au-Prince, 5 June 2012; foreign diplomat, Port-au-Prince, 6 June 2012. Jean-Claude Duvalier enjoys impunity for his alleged

age points.<sup>34</sup> Martelly's promises of fast economic growth and security sector reform (SSR) resonated with the widespread demand for physical and financial security. In his first speech to the UN General Assembly in October 2011, the president stressed the urgent need to promote peace, stability and security through development. His message – that Haitians must eventually wrest control of reconstruction and development from donors and external institutions – is drawing international support.<sup>35</sup> His economic plan hinges on more foreign direct investment than aid as a sustainable stimulus to the Haitian economy.

The executive and legislative branches have thus far failed to achieve a consensus on those national priorities.<sup>36</sup> There is little margin for error. The onus is on Martelly to ensure his new administration does not fail in bringing positive change to the fate of those living in dire poverty. The president has little political experience and his first year has been a steep learning curve. He has had to put forward four candidates for prime minister, a testament to the frayed relations with the legislature, which must confirm his nominee. Cooperation between both branches in May 2012 to confirm his fourth choice, his close friend and Foreign Minister Laurent Lamothe, and the publication in June of constitutional amendments voted a year ago are early signs of improved relations, at least for the moment.<sup>37</sup>

Virtually each political task requiring action by both branches has been achieved with strong international prodding.<sup>38</sup>

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<sup>34</sup> Crisis Group interviews, senior UN official, 26 June 2012; International Monetary Fund (IMF) official, Pétion-Ville, 24 January 2012. See also "Haiti's economy to grow 7.8 percent, lead Caribbean in 2012: IMF report", *Caribbean Journal*, 25 April 2012; and "Western Hemisphere, Rebuilding Strength and Flexibility", *World Economic and Financial Surveys, Regional Economic Outlook*, IMF, April 2012, p. 25.

<sup>35</sup> See Kenneth Merten, U.S. ambassador to Haiti (2007-July 2012), "A new day in Haiti", *The Miami Herald*, 23 July 2012.

<sup>36</sup> The resignation on 24 February 2012 of Garry Conille after only four months in office as prime minister exposed the political rifts many feared would hinder recovery. Some analysts see Haiti as polarised today as it was in 2003. It took the executive and parliament over two months to confirm Martelly's fourth choice of prime minister in his first year, Foreign Minister Laurent Lamothe, who replaced Conille in May. See SC/10572, op. cit. See also Bernice Robertson, "Haiti winner-take-all politics hinders recovery", *The Miami Herald*, 9 January 2012; and "Two years after devastating earthquake, few major Haiti reconstruction projects have begun", *Associated Press*, 11 January 2012. Crisis Group interviews, senior government official, Port-au-Prince, 15 March 2012; Haiti analyst, Port-au-Prince, 2 April 2012.

<sup>37</sup> "New constitution gives Haitians abroad more rights", *The Guardian*, 20 June 2012.

<sup>38</sup> The nomination and approval of a prime minister, publication of constitutional amendments, the appointment of the CSPJ and the formation of the CEP are a few examples. See SRSF Fer-

MINUSTAH, under SRSF Mariano Fernández's leadership, and continuing diplomatic engagement by several countries and other international actors, stepped up efforts over the past year to assist the Haitian authorities in reaching the compromises necessary to ensure the country moves forward. Formation of the Permanent Electoral Council (CEP) and the Constitutional Court as well as the holding of senate, municipal and local elections are the next steps. Political support, through the good offices of the SRSF, will again be essential.

Martelly, during the presidential campaign and immediately after his election, seemed inclined towards an early departure for MINUSTAH.<sup>39</sup> He has since changed his view. Like his predecessor Préval, he expressed interest in the mission playing a greater role in development<sup>40</sup> and said that an early departure of the mission would be irresponsible.<sup>41</sup> Martelly's decision to maintain MINUSTAH until a national security alternative is available shows prudence but his early proposition – reconstituting the army – is questionable for budgetary, security and political reasons.<sup>42</sup> The mission aims at strengthening the national police, a task for which donors, who have funded up to 70 per cent of the national budget<sup>43</sup> and a very significant percentage of the HNP budget, have pledged continued support.<sup>44</sup> Many Haitians support army reconstitution as a matter of sovereignty and national pride,<sup>45</sup> and because they

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nández, "La sélection des membres du CEP: une décision historique", MINUSTAH, 25 July 2012 (online).

<sup>39</sup> "Michel Martelly, vainqueur des élections", *Radio-Canada*, 13 April 2011.

<sup>40</sup> "Martelly voudrait que la MINUSTAH devienne une mission de développement", *Haïti Libre*, 11 August 2011 (online).

<sup>41</sup> "Allocution de Son Excellence Monsieur Michel Joseph Martelly, Président de la République d'Haïti", UN General Assembly, MINUSTAH's website, 23 September 2011.

<sup>42</sup> "Ce discours à l'ONU marquera-t-il la présidence de Martelly?", *Le Nouvelliste*, September 2011. See Robert Fatton Jr., "Post-MINUSTAH Haiti: Between the Scylla of a Power Vacuum and the Charybdis of a New Haitian Military Force", presentation at the 23rd Annual Conference, Haitian Studies Association, University of the West Indies, Mona Kingston, Jamaica, "Haiti at the Intersection of the Caribbean: Tracing the Past, Mapping the Future", 10-12 November 2011. Copy provided to Crisis Group. See also "UN's popularity in Haiti hits all-time low", *Al Jazeera*, 20 February 2012, [www.youtube.com/watch?v=DeFKL\\_o928o](http://www.youtube.com/watch?v=DeFKL_o928o).

<sup>43</sup> The draft 2012-2013 national budget recently presented by the government to the business sector reportedly shows that 40 per cent of the investment budget now comes from national revenues. See "Présentation du projet de budget 2012-2013 au secteur des affaires", *Haïti Libre*, 24 July 2012 (online).

<sup>44</sup> Crisis Group interviews, senior officials, various embassies, Port-au-Prince, March 2012. See also SC/10572, op. cit.

<sup>45</sup> Many Haitians support its reconstitution because it was once the only security apparatus in the country. Abuse arose when the army, in the absence of a police force, undertook policing

are frustrated with MINUSTAH after the cholera outbreak, its alleged abuses and hesitance to take the lead to confront criminal gangs due to concern about peacekeepers resorting to gunfire in a heavily populated urban setting.<sup>46</sup>

The recent occupation of state property by former members of the FAd'H and some would-be soldiers, and their public defiance of government orders to disband was an uncanny reminder of the past army's recklessness.<sup>47</sup> It also confirmed that any reconstitution of the military must be carefully considered and planned. The army's dissolution was not followed with a fully effective disarmament process; many soldiers simply disappeared with their weapons. It also had a severe backlash: instead of generating credible democratic institutions, it caused a security vacuum that the first UN peacekeeping mission in Haiti (UNMIH), the Civilian Mission in Haiti (MICIVIH) and the establishment of a new HNP tried to fill, although in many areas it also was filled by illegal armed gangs.<sup>48</sup> A premature departure of MINUSTAH, without a solid police force in place, raises the same spectre.

Considering the hefty cost on the country's fragile economy and the lack of political consensus on the issue, army reconstitution should be put on hold. More than likely discouraged by the bold show of wilfulness put on by the former military for four months, Martelly has declared the HNP the government's security priority.<sup>49</sup> The president, government and parliament must agree on establishing a public security policy and strategy that prioritises the full development of the HNP, neutralisation of armed groups and regulation and control of the circulation of firearms; and which confirms that the state is capable of ensuring security. Martelly has reactivated the national defence ministry,

which adds another body to the confusion of institutions with often overlapping security responsibilities. The CSPN must clearly define the terms of reference of each, particularly for the supervision of and relations with the HNP.

These are tasks that should form part of the 2012-2016 police development plan prepared by the HNP with MINUSTAH's support and submitted to the CSPN and top levels of the Martelly government for approval. A high-level meeting with President Martelly, cabinet members, parliamentarians, civil society representatives, diplomats, MINUSTAH and UN Country Team (UNCT) officials was held on 29 June 2012 with hopes for this approval.<sup>50</sup> Although the plan, presented by HNP Director General Mario Andrésol, was applauded, two important revisions were recommended. The first concerns the inclusion of the strategy for police coverage of all 570 communal (rural) sections throughout the national territory, which have largely been without police presence since the creation of the HNP in 1995. The second requires a deployment plan for 5,000 to 10,000 new officers expected to graduate under the proposed 2012-2016 plan.<sup>51</sup> The full adoption of the plan, according to participants, still depends on a meeting of the CSPN, although the president publicly said he expected that to occur shortly.<sup>52</sup>

It is now important for Martelly and the international community to decide together how best MINUSTAH, a security- rather than development-oriented mission, fits in with his government's business model for Haiti. All the other actors, including the government, presumably rely on its success to conduct their activities, while the mission helps build national security capacities. In the past, MINUSTAH has had difficulty in obtaining close coordination with other

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responsibilities for which it was not trained and came to act as a politically partisan enforcer. Crisis Group interview, senior government official, Delmas, 26 June 2012.

<sup>46</sup> Crisis Group interviews, government national defence adviser, Port-au-Prince, 25 January 2012; Haitian civil society leaders, Port-au-Prince, 27 February 2012. See also Fatton Jr., "Post-MINUSTAH Haiti", op. cit.

<sup>47</sup> On 18 and 19 May 2012, the HNP, with MINUSTAH support, forced the majority out of the bases after several months of occupation and at least 50 persons were arrested and are expected to face charges of illegal arms possession, among others. The number of arms recovered is unknown. Crisis Group interview, senior government official, Port-au-Prince, 15 March 2012. See "Remnants of Haiti's army march in the capital; two Americans were among those arrested", *The Miami Herald*, 19 May 2012; "Haiti's government orders former soldiers to clear old bases", *The Washington Post*, 21 March 2012; and "Haiti rogue army refuses to disband, says govt failed to honor promise of reinstating force", *The Washington Post*, 24 April 2012.

<sup>48</sup> See Fatton Jr., "Post-MINUSTAH Haiti", op. cit.; UN Mission in Haiti (UNMIH), 1993-1996 (online).

<sup>49</sup> "Martelly est préoccupé par le renforcement de la police", Radio Métropole, 13 June 2012.

<sup>50</sup> Crisis Group interviews, Haiti government official, 27 June 2012; MINUSTAH official, 28 June 2012; and diplomats, 26-28 June 2012. The meeting focused on three subjects: the draft 2012-2016 HNP development plan; the draft HNP career plan; and improving the system for cooperation with the HNP. Crisis Group interview, senior MINUSTAH official, Tabarre, 17 July 2012.

<sup>51</sup> Crisis Group interviews, senior MINUSTAH officials, Tabarre, 17 July 2012.

<sup>52</sup> \$1.35 billion over five years is needed to implement the development plan. A team including representatives of the six main HNP donor countries (U.S., Canada, Spain, France, Brazil and Chile), the UN and the government of Haiti is expected to be formed to establish the terms for an improved cooperation mechanism with the HNP and monitor the implementation of the development plan. The state is expected to provide about two thirds of the estimated five-year budget. Crisis Group email correspondence, senior foreign diplomat, 30 July 2012. Crisis Group interviews, senior officials, UNPOL, Tabarre, 17 July 2012. See also "\$1.3 billion disposed to reform Haitian National Police Force", defend.ht, 1 July 2012, <http://defend.ht/politics/articles/presidential/3160-1-3-billion-disposed-to-reform-haitian-national-police-force>.

partners whose work should also have helped consolidate security.<sup>53</sup> The HNP reform plan, which ended in 2011, clearly had some successes<sup>54</sup> but its implementation was unsteady for political as well as financial reasons. Much of the expectation for adequate security and law enforcement depends on more consistent and vigorous implementation of the second five-year police development plan once it is adopted.

MINUSTAH's presence should not be interminably perpetuated to deter coups d'état or respond to natural disasters. Martelly and his administration need to work with the mission to build Haitian law enforcement and governance capacity in an efficient and sustainable way to allow for a gradual drawdown and eventual withdrawal.<sup>55</sup> The exit strategy for the UN and the international community is to gradually shift from a military to a police focus. It should also leave a sufficiently robust capacity in the FPU contingents to avoid any security vacuum and, at the end of the Martelly administration, turn into a political mission with a clear peacebuilding agenda.

### III. MINUSTAH: ACHIEVEMENTS AND SETBACKS

Eight years after MINUSTAH's arrival, partly due to the mission's extensive military presence, political violence has significantly diminished and the threat of armed gangs which once had their roots in social conflict and political feuds has been reduced.<sup>56</sup> Support to elections has contributed to two peaceful presidential handovers and the resumption of parliament activity, thereby creating conditions for the democratic processes to move forward, an opportunity Haiti has not enjoyed in nearly its entire modern history.<sup>57</sup>

A five-year plan to reform the HNP under the mission's leadership has contributed to improved operational and institutional strength of the country's single security force. Under its watch, five classes of new cadets, after meeting recruiting standards and undergoing vetting, have graduated and taken up service, increasing the force to an overall current strength of approximately 10,000.<sup>58</sup> The completion of the appointment of the Supreme Court justices in early 2012 and forward movement on the appointment of the CSPJ members has raised hope for greater credibility in the justice sector, but they remain first steps. Actual change in the dysfunctional justice sector and an end to impunity will require providing resources, setting norms and monitoring compliance.

Taking into account the framework and realities under which MINUSTAH has operated in Haiti, this chapter examines its contribution and pending challenges in the areas of security, rule of law, reconstruction and disaster response, as well as its dilemmas in terms of integration and the sensitive issue of accountability. This analysis draws the diverse scenarios for a mission at a crossroads.

#### A. SECURITY AND RULE OF LAW

The interim government of Boniface Alexandre and Gérard Latortue (2004-2006) requested international assistance to shore up security for the transition following the

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<sup>53</sup> Social services, income support and small infrastructure improvement programs provided by the state and its partners to communities after armed pacification operations, which were expected to follow and complement MINUSTAH's 2006-2007 gang clean-up, were tardy and not well coordinated, reducing their impact. See Crisis Group Latin America/Caribbean Report N°32, *Reforming Haiti's Security Sector*, 18 September 2008. Brazil has used the same "stick and carrot" approach in 22 favelas where the state has regained control but with strong social programs which were immediately implemented to make change sustainable. Crisis Group interviews, senior government officials, Brasília, 8-11 May 2012.

<sup>54</sup> Successes include increased HNP forces, establishment of a police training school and an advanced training academy. A high number of applicants (27,000 for some 600 new training slots in 2012) and a strengthened internal accountability underscore this progress. Crisis Group interviews, Port-au-Prince, Washington DC, June 2012.

<sup>55</sup> Crisis Group interviews, senior MINUSTAH officials, Tabarre, 20 February, 15 March and 27 June 2012.

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<sup>56</sup> Gangs today are seen as more purely criminal elements and no longer as political activists. See Crisis Group Briefing, *Keeping Haiti Safe: Police Reform*, op. cit.

<sup>57</sup> MINUSTAH provided logistical and security support to presidential, legislative, municipal and local elections in 2006; partial senate elections in 2009; and presidential and legislative elections in 2010. See Crisis Group Latin America/Caribbean Report N°35, *Haiti: The Stakes of the Post-Quake Elections*, 27 October 2010; and Gauthier, "Voices of the Actors", op. cit.

<sup>58</sup> The 18th to 22nd classes, totalling 3,258 officers, graduated between 2006 and 2011 under the reform plan. See Crisis Group Report, *Keeping Haiti Safe: Police Reform*, op. cit.

insurgency that overthrew President Jean-Bertrand Aristide. In its early stages, MINUSTAH faced, and still does today, to some extent, organised urban crime perpetrated by a diversity of armed gangs, some of which were linked to political forces. This threat generated high levels of insecurity stemming from kidnappings, murders, arms and drug trafficking, gang rapes, widespread abuses, and a growing marginalised youth population; in short, causes and consequences of a fragile state, extreme poverty and dysfunctional law enforcement structures.<sup>59</sup>

Lacking an executive mandate to conduct law enforcement operations and absent a credible partner in a then poorly disciplined police force, the mission had difficulty in coping with security challenges. MINUSTAH had to adapt to this situation in improvised ways and its military peacekeepers undertook what were for the UN unique tasks, such as visible and unscheduled police patrolling in violence-prone urban neighbourhoods to generate a functional level of security. This period of adaptation resulted in initial delays in quelling urban violence but in late 2006, in response to directives from President Préval, the mission in support of HNP finally took more direct action to disperse the gangs, arresting some 800 members and reducing their threat to public order.<sup>60</sup>

The real challenge was and still is how to actually strengthen the police force to levels commensurate with the size of Haiti's population and promote judicial reform, which has lagged and where the mission did not take the lead.<sup>61</sup> These were not technical but highly political matters for which a sound partnership with Haitian leadership, donors, UNCT and other actors was essential. There was a clear need for DDR for armed urban gangs, the former FAd'H and those who took up arms against Aristide, but the traditional post-conflict formula was not successful.<sup>62</sup> It was not until the mission began its third year in Haiti that the UNSC provided guidelines to reorient efforts toward reducing community violence through a comprehensive pro-

gram tailored to the local context and directing assistance to rule of law.<sup>63</sup>

The Community Violence Reduction (CVR) program represents a unique approach in peacekeeping operations and its managers see it as a model for future interventions.<sup>64</sup> The program targets the urban slums in and outside of Port-au-Prince, areas that were historically politicised or under the influence or partial control of armed gangs. It aims to create economic and social opportunities with a view to extracting former gang members and at-risk youth, as well as women and other vulnerable groups, from violence. Its success is mixed. Among those targeted in 2010, only 31 per cent found permanent employment. In 2011, the CVR program opened the country's first Youth Placement and Career Orientation Office (Bureau de placement et d'orientation des jeunes, BPOJ) in Port-au-Prince and Cap-Haïtien.<sup>65</sup> The section benefits from a budget which is independent of the general mission funding.

While the MINUSTAH CVR section did not succeed in building a successful partnership with the now inactive government disarmament commission (Commission nationale de désarmement, démobilisation et réinsertion, CNDDR),<sup>66</sup> 70 per cent of its core staff are well-trained Haitians capable of continuing and expanding the program.<sup>67</sup> Local security projects should become a key component of SSR, as an early warning system to detect and resolve security problems and guarantee community involvement. Another product of DDR and CVR efforts that should be maintained is the crime and violence monitoring centre established with UNDP support. The ONAVC (Observatoire national de la violence et de la criminalité) is an autonomous institution partnered by Haiti State University (Université d'Etat d'Haïti, UEH), with support from the International Centre for the Prevention of Crime

<sup>59</sup> Crisis Group email correspondence, senior UN official, 25 April 2012. Crisis Group interview, senior official, UN Development Programme (UNDP), Tabarre, 12 April 2012. See also Gauthier, "Voices of the Actors", op. cit.

<sup>60</sup> See Crisis Group Latin America/Caribbean Report N°28, *Reforming Haiti's Security Sector*, 18 September 2008.

<sup>61</sup> Crisis Group telephone interviews, former senior MINUSTAH official, 17 May 2012; international security sector expert, 4 April 2012.

<sup>62</sup> It relies on a technical process following a political solution to an armed conflict, ideally with an actual peace agreement, or at least some durable accommodation. In Haiti, there were at least ten different armed groups whose members and hierarchy were not easily identifiable and no formal political process in which they all agreed to demobilise. Crisis Group Report, *A New Chance for Haiti*, op. cit.

<sup>63</sup> See UN Security Council Resolution 1702 (2006), S/RES/1702, 15 August 2006.

<sup>64</sup> Crisis Group interviews, senior officials, MINUSTAH's CVR section, Tabarre, 20 February and 16 March 2012.

<sup>65</sup> The BPOJ was opened in alliance with Haitian Partners for Christian Development and SOS Village associations. 34 women, trained in small business management with an initial capital grant, created 139 jobs the following year. In 2011, 2,330 victims of gender-based violence received psychosocial support in the underprivileged areas of Martissant, La Saline, Bel Air and Cité Soleil. MINUSTAH Factsheet, CVR Section (online).

<sup>66</sup> Coordination between donors, MINUSTAH, and the CNDDR suffered from inflexibility on all sides. See Crisis Group Latin America/Caribbean Report N°21, *Consolidating Stability in Haiti*, 18 July 2007; and "Désarmement: une arme contre l'insécurité?", *Le Matin*, 8 July 2011.

<sup>67</sup> Ibid. Between 2007 and 2012, the CVR section has managed a budget of \$29.7 million.

(ICPC).<sup>68</sup> This observatory will collect data and analyse crime and violence in communities.<sup>69</sup>

## B. RECONSTRUCTION AND DISASTER RESPONSE

MINUSTAH's prominence in natural disaster response also makes the mission unique within UN peacekeeping norms and practices. With the largest logistical and security capacity in the country, it played a crucial role in 2004 and 2008 as first responder to save lives, provide security and coordinate recovery efforts after storms killed thousands and left hundreds of thousands at risk from flooding.

The 12 January 2010 earthquake – the deadliest in history in the Western Hemisphere – caused a major setback to the country's political, social and economic revival and to the pursuit of MINUSTAH's goals. The loss of HNP facilities, including its headquarters, drastically reduced its operational capacity. The escape of some 5,000 prisoners, among whom were about 600 hardened criminals, across the country and the proliferation of tent camps in the capital and the surrounding affected areas added new challenges.<sup>70</sup> MINUSTAH also suffered damage, which disrupted its activities, due to the deaths of 102 mission members, including the top civilian and police leadership. In the aftermath of the earthquake, UNPOL had to focus efforts on restoring the HNP rather than reforming it. The Security Council reoriented the mission's support to immediate recovery and reconstruction.<sup>71</sup>

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<sup>68</sup> The ICPC is located in Montreal, Canada, and is a global non-governmental organisation (NGO) focused exclusively on crime prevention and community safety. It is an international forum and resource centre dedicated to sharing ideas and knowledge on crime prevention and community safety through effective exchange between criminal justice systems and civil societies across countries and cities.

<sup>69</sup> See Crisis Group Report, *Reforming Haiti's Security Sector*, op. cit.

<sup>70</sup> See Crisis Group Report, *Keeping Haiti Safe: Police Reform*, op. cit. Before 13 January 2010, the HNP had a formal headquarters constituting 253 stations and sub-stations, only 39 of which were not functional. On the day after the earthquake, a further 55 was destroyed or damaged. It took fourteen months merely to relocate the damaged office of the then chief inspector general (inspecteur général en chef, IGC) Fritz Jean. Two and a half years after the earthquake, the office of Director General Andrésol still functions in a container donated by Germany.

<sup>71</sup> "Bi-Annual Report, Haitian National Police Reform Plan, January to June 2010", Office of the Deputy Police Commissioner for Development, MINUSTAH, June 2010. Copy provided to Crisis Group.

## C. MULTIDIMENSION AND INTEGRATION DILEMMAS

MINUSTAH is a multidimensional integrated mission, which means it combines military, police and civilian components and works in close coordination with other UN offices present in the country to realise its goals.<sup>72</sup> The special representative of the Secretary-General (SRSG), supported by two deputies (DSRSG), holds overall leadership of the mission<sup>73</sup> as well as of all UN offices in Haiti, which are referred to as the UN Country Team (UNCT).<sup>74</sup> He is also supported by the humanitarian coordinator (HC) and the resident coordinator (RC),<sup>75</sup> who heads the UNCT and also serves as the second DSRSG as well as the country representative of the UNDP.

The challenge for the SRSG is to ensure that the mission and all UNCT members act in pursuit of the objectives of the mandate.<sup>76</sup> All too often, each UN agency (or fund or program) is guided by and responsive to the regulations and directives of its board of governance. Differences in mandates, reporting lines and budgets have impeded co-

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<sup>72</sup> The multidimensional nature of the mission provides a framework to ensure that all UN and international activities are pursued in a coherent and coordinated manner. "United Nations Peacekeeping Operations Principles and Guidelines", Department of Field Support, 2008 (online).

<sup>73</sup> MINUSTAH is divided into sections, including political affairs and planning, electoral affairs, civil affairs, human rights, community violence reduction (CVR), justice, corrections, and a joint mission assessment cell (JMAC), which serves as its intelligence unit. Each is headed by a section director and deputy. It is composed of 557 international civilian personnel, 1,355 local civilian staff and 224 UN volunteers (UNVs). "UN Peacekeeping Operation Fact Sheet", 29 February 2012.

<sup>74</sup> The UNCT includes all UN agencies, programs and funds, as well as the International Organisation for Migration (OIM), the World Bank and the International Monetary Fund (IMF). For a list of all UN agencies in Haiti, see MINUSTAH's website, [minustah.org](http://minustah.org).

<sup>75</sup> Kevin Kennedy, an American, serves as one of the DSRSG. The second DSRSG position is filled by Nigel Fisher, a Canadian, who also serves as RC and HC and UNDP/Haiti head. The RC position usually represents the UN system in a country and functions pursuant to a formal agreement between the government and the UN. His role in Haiti is particularly important to ensure the proper planning and implementation of UN development assistance. In multidimension settings, the RC has the added role of DSRSG. Close coordination between them is particularly important as mission priorities shift and the UNCT also bears greater responsibility for a focus on job creation and development. Crisis Group email correspondence, senior international official, 31 July 2012.

<sup>76</sup> Resolution 1542, which established MINUSTAH, requires the UNCT to coordinate its work with the mission.

hesion.<sup>77</sup> This frequently leaves the SRSO little influence over UN agencies to fulfil MINUSTAH's mandate.<sup>78</sup> The UNCT is not tasked to deal with the types of crises that the peacekeeping operations face. Its timeframe for development assistance, particularly in situations like Haiti, is medium- to long-term whereas the mission's goals are more urgent and immediate. One example of this clash of vision between development and humanitarian imperatives was the year-long argument over the appropriate resettlement and housing policy to respond to the displaced in camps. This lack of clear, unified, international leadership prolonged the affected population's plight. It also took months to persuade anyone to mount effective security patrolling of the camps.<sup>79</sup>

Following the earthquake, the Security Council directed MINUSTAH forces to collaborate with the Office for the Coordination of Humanitarian Affairs (OCHA) and the UNCT in supporting humanitarian and recovery efforts and further encouraged joint planning and coordination at the national and local level.<sup>80</sup> The challenge for the mission was to combine its direct security support with UNCT's work and provide relief and recovery while all international actors were pursuing reconstruction of state institutions. Similarly, there was no clear direction for UN agencies such as UNDP to sustain, through development initiatives, MINUSTAH's initial achievements in security and stability. For instance there was not a concentration of rapid priority actions by UN agencies to coordinate efforts in violence-prone neighbourhoods and communities. Also, the HNP requires support to build up internal systems for finance, procurement and administrative processes. Long-term managers from UNDP, who have experience in building such capacities within ministries, could have assisted MINUSTAH advisers.<sup>81</sup>

MINUSTAH understands its role as one to create a semblance of normality so that others can work directly on development, reconstruction and job creation.<sup>82</sup> It is per-

ceived as the "centrepiece" of international efforts on security and stabilisation, but in practice other UN offices and multilateral agencies or large bilateral donors tend to follow their own paths based on their own mandates and views.<sup>83</sup> As long as international priorities remain set within each agency and donor, and not on a comprehensive coordinated strategy directed by the SRSO toward MINUSTAH's goals, gains in security will take longer and risk reversal. Efforts to alter that process through joint programs designed with an emphasis on reducing political violence should have begun eight years ago and their implementation consequently remains a work in progress.<sup>84</sup>

#### D. ACCOUNTABILITY: CHOLERA AND MISCONDUCT

The 2010 outbreak of cholera, whose origin has been attributed by several studies to Nepalese peacekeepers, has nourished anti-MINUSTAH sentiments among Haitians.<sup>85</sup> As of 10 June 2011, the Haiti health ministry had recorded 555,300 cases, including 7,260 deaths.<sup>86</sup> The UN commissioned an independent study, which did not assign blame to the mission but traced the strain to Asia as other studies had already concluded.<sup>87</sup> In this sensitive case, perception

<sup>83</sup> Crisis Group interviews, Port-au-Prince, 26 June 2012.

<sup>84</sup> Crisis Group interviews, Port-au-Prince, 28 June 2012.

<sup>85</sup> Evidence suggests that the disease was inadvertently brought to Haiti by a UN battalion from Nepal, where cholera is endemic. Bacteria from poorly sanitised waste leaked into a tributary of one of the country's biggest rivers used for bathing, laundry and drinking. Renaud Piarroux, "Rapport de mission sur l'épidémie de choléra en Haïti", undated, [www.ph.ucla.edu/epi/snow/piarrouxcholera-report\\_french.pdf](http://www.ph.ucla.edu/epi/snow/piarrouxcholera-report_french.pdf). "As Cholera returns to Haiti, blame is unhelpful", *The Lancet*, December 2010; and Renaud Piarroux, Rachel Haus, et al., "Understanding the Cholera Epidemic, Haiti", Centre for Disease Control and Prevention (CDC), July 2011. See also "Haiti cholera outbreak: UN investigates epidemic's origin", Associated Press, 28 October 2010; and "In Haiti, global failures on a cholera epidemic", *New York Times*, 31 March 2012. A recent report, which suggests that a strain existed in Haiti prior to the arrival of the Nepalese battalion, has reignited controversy over the true origin of the disease. See Rita Colwell, et al., "Genomic diversity of 2010 Haitian cholera outbreak strains", *Proceedings of the National Academy of Sciences of the United States of America (PNAS)*, 17 May 2012, [www.pnas.org/content/109/29/E2010.full?sid=a78c7fec-2888-40b8-973e-4c8a9b8de058](http://www.pnas.org/content/109/29/E2010.full?sid=a78c7fec-2888-40b8-973e-4c8a9b8de058). See also "Cause of Cholera in Haiti goes under microscope", Associated Press, 18 July 2012.

<sup>86</sup> See "Rapport de cas", ministère de la santé publique et de la population (MSPP), 10 June 2011.

<sup>87</sup> See "Final Report of the Independent Panel of Experts on the Outbreak of Cholera in Haiti", UN, (undated, approximately May 2011). According to the report, "the Haitian strains are: 1) clonal (genetically identical) indicating a point-source for the outbreak; and, 2) very similar but not identical to the South Asian strains of *Vibrio cholerae* O1". The report also concluded that the outbreak "was not the fault of, or deliberate action of, a group

<sup>77</sup> Funding for MINUSTAH, like most peacekeeping operations, comes from assessed contributions, which are determined on an annual basis. UNCT funds mainly come from voluntary contributions raised by the different entities and are often tied to specific projects and activities. Crisis Group interviews, senior MINUSTAH official, 27 April 2012; senior official, OCHA, Delmas, 12 April 2012.

<sup>78</sup> Crisis Group interview, senior MINUSTAH official, 27 April 2012.

<sup>79</sup> See Crisis Group Latin America/Caribbean Briefing N°25, *Post-quake Haiti: Security Depends on Resettlement and Development*, 28 June 2011.

<sup>80</sup> See UN Security Council Resolution 1927, S/RES/1927 (2010), 4 June 2010, p. 2.

<sup>81</sup> *Ibid.*

<sup>82</sup> Crisis Group email correspondence, senior UN official, 25 April 2012.



plays an important role and virtually everyone in Haiti – Haitians and foreigners<sup>88</sup> – believes the UN battalion introduced the disease. Human rights organisations judge the UN response less than satisfactory.<sup>89</sup> In November 2011, the Institute for Justice and Democracy in Haiti, a Boston-based legal NGO which has an office in Port-au-Prince, asked the UN to form an independent commission to review a complaint it filed on behalf of some 5,000 cholera victims and award them financial compensation for suffering and economic loss.<sup>90</sup> International legal experts are reviewing the case as of publication of this report.<sup>91</sup>

On 7 March 2012, UN Special Envoy to Haiti Bill Clinton said that the peacekeepers carrying the cholera strain were the proximate source of the disease but the real cause was the country's lack of proper sanitation.<sup>92</sup> He called for an urgent solution, which will require major rehabilitation and construction of adequate water and sanitation facilities. Post-earthquake requirements were estimated to be

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or individual", p. 29. See also "U.N.-sponsored report on Haiti's cholera outbreak points to U.N. itself as culprit", Fox News, 5 May 2011.

<sup>88</sup> See "Haiti, cholera and the UN", *The Miami Herald*, 30 April 2012. 80 per cent of 2,805 respondents – 1,800 from the general population and 1,005 from 30 post-earthquake camps – in a security survey carried out in 2010-2011 indicated strong agreement that MINUSTAH was responsible for the cholera epidemic. 60 per cent of the total population surveyed who were victims of crime strongly agreed. Robert Muggah, "Security from the Bottom-Up in Haiti: Before and After the Quake", presentation, Australian Civil-Military Centre, 7 November 2011, [www.slide.net/CivMilCoE/robert-muggah](http://www.slide.net/CivMilCoE/robert-muggah). See also "Epidémie de choléra: L'Etat haïtien doit fixer la responsabilité de la MINUSTAH", press release, National Human Rights Defence Network (Réseau national de défense des droits humains, RNDDH), 4 November 2012.

<sup>89</sup> Through its Quick Impact Projects budget, by February 2012 MINUSTAH had invested \$1.09 million in water and sanitation improvements in various communities across the country. The Community Violence Reduction section of the mission has also spent \$2.2 million in rehabilitating and constructing water and sanitation infrastructure. Crisis Group interview, senior official, MINUSTAH's public information office, Tabarre, 3 April 2012. See also MINUSTAH Factsheets (online).

<sup>90</sup> "Haiti Group demands UN pay for cholera outbreak", Associated Press, 8 November 2011.

<sup>91</sup> Crisis Group interviews, senior MINUSTAH official, Tabarre, December 2012; senior UN official, New York, June 2012. See also Jason Hayes, "In Haiti, Cholera Case Needs a Court" Pulitzer Center, 11 July 2012, <http://pulitzercenter.org/reporting/haiti-cholera-united-nations-peacekeepers-artibonite-lawsuit-muggah>.

<sup>92</sup> "Clinton: UN soldier brought cholera to Haiti", Associated Press, 7 March 2012. Subsequently, the report, "Genomic diversity of 2010 Haitian Cholera outbreak strains", was published in the Proceedings of the National Academy of Sciences, which found two cholera bacteria strains, one with South Asian origins and one with local origins, perhaps indicating more than one source for the epidemic.

around \$160 million.<sup>93</sup> Cholera, absent from the country for over a century, has killed over 7,000 and sickened more than half a million. It will take at least several more years to eradicate the disease, which regains force each rainy season. A vaccination campaign was launched early this year, but this must be combined with large scale investments in the water and sanitation system for any hope of successful eradication.<sup>94</sup>

In light of these accusations against MINUSTAH, analysts have raised serious questions about UN accountability for its peacekeeping operations, not only in Haiti but at the global level.<sup>95</sup> These missions are often deployed in fragile states where effective law enforcement systems do not exist and only rarely does the UN mandate incorporate direct responsibility for law enforcement. In Haiti, the Claims Commission, foreseen in the Status of Forces agreement between the UN and the state to examine complaints filed against the mission, has reportedly never been set up. In the absence of formal mechanisms for vindication, there will likely be an increase in public pressure on the mission, which will weaken its credibility and its ability to execute its mandate. Discontent with the UN response has already been expressed through multiple public demonstrations both in and outside of Haiti and advocated through cultural events.<sup>96</sup>

Three measures could defuse tensions: an apology by the UN, implementation of the experts report's recommendations on cholera in Haiti and elsewhere, and immediate action to prevent the spread of the disease. This includes improving access to potable water, both by alerting Haitians on how to disinfect it and providing water to large populated areas, and to medical treatment where possible,

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<sup>93</sup> "Action plan for national recovery and development of Haiti", government of Haiti, presented on 31 March 2010 at the international donors conference on Haiti, UN, New York, p. 39.

<sup>94</sup> "Haiti prepares for cholera vaccination but concerns remain", *The Lancet*, 7 January 2012. Partners in Health, co-founded by Paul Farmer, Harvard Public Health professor and now deputy UN special envoy to Haiti, and Gheskio, a Haitian NGO, led the campaign.

<sup>95</sup> Amy Lieberman, "Haiti Cholera Raises Questions about UN Accountability", *World Politics Review* (1 December 2011); "Human rights groups applaud U.S. call for UN accountability in Haiti cholera", Canada Haiti Action Network, 5 March 2012.

<sup>96</sup> See "Haiti's troubled peacekeepers", *The Economist*, 27 April 2012. Criticism of the mission for its link to the cholera epidemic was the subject of various 2012 carnival songs (Minista pote kolera) as well as of a film featured in the Tribeca Film Festival in New York. See also "First, do no harm", *The Economist*, 28 April 2012. The World Bank, Inter-American Development Bank (IDB), some UN offices, MINUSTAH and other organisations are financing some water and sanitation projects but those needs are so immense that they remain unmet. Crisis Group email correspondence, senior foreign diplomat, 30 July 2012.

as well as undertaking a vaccination campaign, at least in rural areas where health facilities are scarce to non-existent. If successful, others reportedly including Dr Paul Farmer, whose credibility stems from many years running Haitian health clinics and who now serves as deputy UN special envoy to Haiti, want to expand it to nationwide coverage.<sup>97</sup>

The longer-term answer involves donor support to the Haitian and Dominican Republic governments and the Pan-American Health Organization/World Health Organization (PAHO/WHO) on their planned ten years/several billion dollars water and sanitation infrastructure project. This plan was announced on 4 June 2012 at a meeting of inter-American sanitary engineers, reiterated at the Rio +20 conference, and again on 29 June at the Organization of American States (OAS), with Haiti's public health minister.<sup>98</sup>

Cases of allegations of sexual abuse have also fuelled criticism of the mission. In 2009, the National Human Rights Defence Network (Réseau national de défense des droits humains, RNDDH) and the International Federation for Human Rights (Fédération internationale des droits de l'homme, FIDH) called on the UNSC to ensure full compliance of all MINUSTAH personnel with the UN zero-tolerance policy on sexual exploitation and abuse.<sup>99</sup> Three allegations of sexual violence by UN peacekeepers have received high publicity, but the UN's Conduct and Discipline Unit between 2007 and 13 April 2012 records some sixty allegations of sexual abuse, the majority of which are levelled at the military.<sup>100</sup>

Based on a Memorandum of Understanding (MOU) signed between the UN and each TCC, the role played by the UN mission or secretariat in allegations of sexual misconduct, abuse or exploitation of military peacekeepers (as opposed to police or civilian personnel) is minimal. Despite being under direct contract with the UN, TCCs conduct their own investigations of their military personnel. The UN reviews cases and urges countries to provide faster follow-up but does not investigate to determine if discipline or punish-

ment is needed.<sup>101</sup> Each TCC follows its own standards at its own pace and under its own legislation and procedure.

In 2007, a unit of some 100 Sri Lankan peacekeepers was repatriated following several allegations of sexual abuse. According to the U.S. State Department's 2010 human rights country report on Haiti, 23 of those returned peacekeepers were sanctioned in late 2008; twenty were discharged, demoted, formally reprimanded or otherwise punished and three were killed in military action.<sup>102</sup> An eighteen-year-old Haitian man testified in Uruguay in May 2012 before an investigating judge against five Uruguayan marines he alleges raped him in July 2011 in Port Salut, a southern seaside town.<sup>103</sup> In a military trial set up in Gonaïves (north of Port-au-Prince) in March 2012 by the Pakistani authorities, two UN peacekeepers from Pakistan were found guilty of raping of a fourteen-year-old Haitian boy from that town and sentenced to one year in prison.<sup>104</sup> These incidents, along with earlier alleged human rights abuses in operations to clean up the Port-au-Prince slums, have increased calls for the UN to embody the principles it advocates and the perception that the mission has outlived its welcome.<sup>105</sup>

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<sup>101</sup> Crisis Group interview, senior official, Conduct and Discipline Unit, MINUSTAH, Tabarre, 20 December 2011.

<sup>102</sup> See Crisis Group Asia Report N°217, *Sri Lanka: Women's Insecurity in the North and East*, 20 December 2011, pp. 16-17. The report examined women's insecurity in areas where the Sri Lankan government denied sexual violence by security forces and cited the case of Sri Lankans accused of sexual abuse in Haiti as an example of questionable state response.

<sup>103</sup> Verbatim, MINUSTAH weekly press conference, 26 April 2012, copy emailed to Crisis Group; and "Johnny JEAN heard before Uruguayan magistrate: RNDDH calls for full involvement of the Haitian authorities", press release, RNDDH, 16 May 2012. The press release expressed some misgivings about the trial but acknowledged that the Uruguayan government had shown willingness to lead an investigation. See also "Haiti 'rape victim' set for court testimony", Al Jazeera, 10 May 2012. In a preliminary investigation, the Uruguayan navy determined that the man was not raped, but said peacekeepers broke rules.

<sup>104</sup> "Pakistani U.N. peacekeepers sentenced in Haiti rape case", Reuters, 12 March 2012. President Mujica acknowledged responsibility and apologised on behalf Uruguay. "Uruguay le pide disculpas a Haití y marinos siguen retenidos por ONU", *El País of Uruguay*, 7 September 2011.

<sup>105</sup> Mark Schuller, "Haitian People Want UN Troops to Leave" (survey), 23 February 2012, [www.anarkismo.net/article/22060](http://www.anarkismo.net/article/22060). Another survey supported by students of the School of Ethnology of Haiti's State University conducted from 3 to 12 August 2011 in two low-income (Cité Soleil and Martissant) and two mixed-income (Delmas and Canapé Vert) communities, including eight camps, found that of 800 responding households, 43 per cent wanted MINUSTAH to leave immediately, within six months or a year. Muggah, "Security from the Bottom-Up in Haiti, op. cit. Of 2,805 respondents to the survey in Port-au-Prince and camps, 25 per cent of crime victims, 15 per cent of camp residents, and 10 per cent of the general population strongly disagreed that MINUSTAH should leave. In Muggah's sur-

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<sup>97</sup> See "An urgent message from Dr Paul Farmer", Partners in Health, 23 February 2012 (online).

<sup>98</sup> Crisis Group interview, PAHO/WHO official, Washington DC, 12 June 2012. "The health of the island of Hispaniola at the heart of Rio+20", PAHO's website, 21 June 2012; and "Launch of the regional coalition for water and sanitation to eliminate cholera from the island of Hispaniola", PAHO's website, 29 June 2012.

<sup>99</sup> See "Open Letter to Members of the United Nations Security Council", International Federation for Human Rights, 6 October 2009.

<sup>100</sup> "Allegations by category of personnel per mission, sexual exploitation and abuse", UN Conduct and Discipline Unit, July 2012 (online).

As the UN independent expert on human rights in Haiti stated in his latest report:

Silence or denial [on the cholera issue] will do nothing to promote a good understanding of the activities of MINUSTAH in a context marked by several distressing episodes of sexual assault in which MINUSTAH military personnel have allegedly been implicated.<sup>106</sup>

## E. MISSION AT A CROSSROADS

The Martelly administration, Haiti's private sector, human rights observers and the UN do not desire a hasty withdrawal of MINUSTAH, but they are all aware that it needs a well-planned and conceived exit strategy.<sup>107</sup> The main donors worry about its burdensome costs and the troop contributing countries (TCCs), mostly from Latin America, favour more actions tailored to Haiti's development needs (also enabling them to draw down their current troop personnel contributions). However, they also recognise the mission's primary role as a deterrent to further violence, political turbulence, civil unrest and trafficking.<sup>108</sup> All agree that it should continue to support greater police capacity and to provide logistics and security support at times of natural disasters and elections.<sup>109</sup> The one-year-old administration of President Michel Martelly, in its quest to revive the economy through foreign investments, would like to remove Haiti's label as a "threat to international peace and security", generally present in nearly every UN peacekeeping mission resolution under Chapter VII of the Charter.<sup>110</sup>

Options for a redefined mandate are numerous and at times contradictory. The mission concept refers to the transfer

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vey close to 60 per cent were indifferent as to whether MINUSTAH leave or leave by a specific date; in Schuller's 40 per cent did not respond. See also Fatton Jr, "Post-MINUSTAH Haiti", *op. cit.*

<sup>106</sup> See "Report of the Independent Expert on the Situation of Human Rights in Haiti, Michel Forst", Office of the High Commissioner for Human Rights, A/HRC/20/35, 23 April 2012, p. 18.

<sup>107</sup> "Ban and Haitian leader discuss plan to reduce military component of UN mission", UN News Centre, 19 September 2011.

<sup>108</sup> Crisis Group interviews, senior foreign diplomats and UN officials, Port-au-Prince, 12-16 March 2012.

<sup>109</sup> See Crisis Group Briefing, *Keeping Haiti Safe: Police Reform*, *op. cit.*

<sup>110</sup> The UNSC qualifies Haiti as a threat to international security in its various resolutions on MINUSTAH. During the February 2012 visit of Security Council members, President Martelly requested that the phrase be omitted in the next resolution since conditions were no longer comparable to 2004 when the mission was created. See "UN Security Council ends 4-day visit in Haiti", *defend.ht*, 17 February 2012, <http://defend.ht/politics/articles/international/2664-un-security-council-ends-4-day-visit-in-haiti>.

of security responsibilities to the Haitian state, which is far from ready, or a handover of oversight and monitoring to the UNCT, which is losing funds and also downsizing.<sup>111</sup>

MINUSTAH must now seek to help build state capacity to anchor its achievements in a sustainable way. The UN and Haiti have not turned the constant international attention the country has received over the past eight years into sufficiently sustainable public institutions and economic progress, even taking into account the huge damage from a series of natural disasters.<sup>112</sup> Drastic and sudden downsizing without a clear agenda agreed upon by the state, the UN and donors to successfully develop a Haitian-sustained level of stability would be a serious mistake. The confirmation of Prime Minister Laurent Lamothe and his cabinet by parliament on 16 May 2012 provides the opportunity for all sides to agree on that agenda and negotiate a partnership for its implementation.<sup>113</sup>

MINUSTAH comprises mainly Latin American contingents, which has influenced its evolution. Contrary to previous international efforts,<sup>114</sup> the military component is Brazilian-led and nine Latin American countries contribute close to 70 per cent of the troops.<sup>115</sup> This reflects a clearer regional interest in dealing more effectively with

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<sup>111</sup> Crisis Group interviews, senior UNCT and MINUSTAH officials, Port-au-Prince, January, March, April and June 2012. The World Food Programme (WFP) announced that it was facing a critical financial situation and was in need of \$54.6 million to maintain its school feeding program until the end of the year. This deficit could lead to a reduction of beneficiaries from 1.1 million to 685,000. "Le PAM renforce son engagement en Haïti", *Le Nouvelliste*, 13 June 2012.

<sup>112</sup> Crisis Group interview, senior government official, Port-au-Prince, 15 March 2012.

<sup>113</sup> Lamothe and his cabinet took office on 16 May 2012. See "Haiti prime minister, cabinet members take office", *Jamaica Observer*, 17 May 2012.

<sup>114</sup> During former U.S. President Clinton's 1992-1996 term, for instance, only Argentina was seen as an ally in providing assistance to Haiti. "Bill Clinton sees big opportunity for Haiti", *The Miami Herald*, 30 September 2009.

<sup>115</sup> The mission has a current mandated military strength of 7,340. Of that force, some 4,900 came from Brazil, the largest contributor, Uruguay, Argentina, Chile, Peru, Bolivia, Guatemala, Paraguay, and Ecuador. In addition, 82 officers of UNPOL come from seven police contributing countries in Latin America and the Caribbean. They are Argentina, 20; Brazil, 3; Chile, 12; Colombia, 25; El Salvador, 16; Uruguay, 5; and Jamaica, 1. Crisis Group email correspondence, senior public information officer, MINUSTAH, 20 July 2012. Brazilian President Dilma Rousseff announced a reduction of Brazilian military troops within MINUSTAH from 2,200 to 1,900. "Dilma Rousseff annonce à Port-au-Prince un désengagement militaire et la fin de l'immigration clandestine", *Radio Kiskeya*, 1 February 2012. "Declaração à imprensa da presidenta Dilma Rousseff no Haiti", 1 February 2012, [www.youtube.com/watch?v=62O8dWoFtvY&feature=endscreen&NR=1](http://www.youtube.com/watch?v=62O8dWoFtvY&feature=endscreen&NR=1).

some of the drivers of instability in Haiti that also challenge neighbouring countries, such as organised crime, kidnapping and drug and arms trafficking. This also highlights some Latin American leaders' desire to show they are capable of adequately responding to a regional crisis.

Nonetheless, this heavily regional composition triggered political infighting for influence in Haiti between some Security Council members. Emerging countries like India and Brazil have a much stronger focus on development. From the outset, this led Latin American TCCs to propose the evolution of MINUSTAH into a development mission in contrast to the preference of traditional donors to keep security and development operations separate. This distinction is in part based on funding considerations: peacekeeping missions are funded through mandatory assessed contributions while development programs function with voluntary funding.<sup>116</sup> This debate has lost some intensity today but Latin American TCCs continue to expect better development results from the mission, particularly given the business thrust of Martelly's economic strategy.<sup>117</sup>

UN police, on the other hand, did not benefit from that regional focus. Latin American countries are less willing to contribute their police, given their own domestic troubles. UNPOL comes from 51 countries, most of whom do not speak French or Creole. This posed enormous difficulties to the mission from the start. Given the seriously discredited state of the HNP in 2004, assisting and mentoring the police was a politically delicate task but a core responsibility of the mission. Without an executive mandate, the reasonable alternative was co-location with the HNP.

On 8 March 2012, UN SRSR Mariano Fernández told the Security Council that despite setbacks caused by the earthquake, the goals of peacekeeping were in sight.<sup>118</sup> The main challenge to the UN will be maintaining those goals as a drawdown begins while many of the problems causing instability at the inception of the mission remain, notably: the deterioration of political conditions, the post-quake

prison escape, the regrouping of armed elements in urban slums, the remobilisation of armed former FAd'H members, and countless social grievances. These factors heighten an overall tenuous situation and increase reliance on MINUSTAH's deterrent presence to maintain minimal stability.<sup>119</sup> The HNP is not yet prepared to assume full responsibility for the provision of internal security<sup>120</sup> and a cohesive criminal justice system to complement their work is still not in place.<sup>121</sup> Citizen safety and the protection of human rights remain a concern, particularly in the capital, where some 390,000<sup>122</sup> persons continue to live in camps and criminal violence seems on the rise.<sup>123</sup>

The mission has completed the drawdown of troops and police mandated in UNSC Resolution 2012, voted on 12 October 2011. On 30 June 2012, military strength stood at 7,297 and police at 2,866, bringing force numbers back to pre-quake levels.<sup>124</sup> This troop reduction has resulted in the withdrawal of military presence from Grande Anse, Nippes, South, and North West Departments, where UN Formed Police Units (FPUs)<sup>125</sup> have taken over MINUSTAH's security tasks.<sup>126</sup> The metrics justifying withdrawal from these areas, beyond the need to downsize, have not been set out in detail, but they reflect judgment on threats

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<sup>119</sup> Ibid. See also "Report of the Secretary-General on the United Nations Stabilisation Mission in Haiti", Security Council, S/2012/128, 29 February 2012; and "UN Haiti chief: 'Rifts have taken over reconciliation efforts'", Caribbean Journal, 25 January 2012.

<sup>120</sup> For more on police reform, see Crisis Group Briefing, *Keeping Haiti Safe: Police Reform*, op. cit.; and S/2012/128, op. cit.

<sup>121</sup> President Michel Martelly named and swore in the chief justice and five judges of the Supreme Court (Cour de cassation) between October 2011 and February 2012. In July, he appointed the members of the CSPJ. See "Le CSPJ installé après sept ans d'attente", *Le Nouvelliste*, 3 July 2012. See Crisis Group Latin America/Caribbean Briefing N°27, *Keeping Haiti Safe: Justice Reform*, op. cit.; "Quatre juges installés à la Cour de cassation", defend.ht, 18 February 2012, <http://defend.ht/fr/politics/articles/judicial/2670-haiti-four-judges-installed-to-the-court-of-cassation>; "End of certification process of members of CSPJ", *Haiti Libre*, 31 March 2012 (online).

<sup>122</sup> "Haiti's camp population has fallen by 75% in the last two years", International Organisation for Migration (IOM), 27 June 2012 (online).

<sup>123</sup> See "Le RNDDH s'insurge contre les attaques en série d'agents de la PNH", RNDDH, May 2012. This report, from a respected local human rights network, expresses concerns about the lack of state control over armed gangs and arms circulation, insufficient cohesion between the work of the police and justice, and continued influence of government officials on the judiciary.

<sup>124</sup> See "UN Peacekeeping Operation Fact Sheet", 30 June 2012.

<sup>125</sup> Among the countries that have provided FPUs are China, Senegal, Nigeria and Jordan. Crisis Group interviews, senior MINUSTAH officials, Port-au-Prince, June 2012.

<sup>126</sup> Crisis Group interviews, senior MINUSTAH officials, April, May, June 2012.

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<sup>116</sup> Assessed contributions finance the UN's regular budget, peacekeeping operations, and specialised agencies like the International Atomic Energy Agency (IAEA) and are payments made as part of the obligations that nations undertake when signing treaties or becoming UN members. They are largely based on country GDP per capita. Voluntary contributions fund most of the UN humanitarian and development activities and agencies. See "U.S. dues and contributions to the United Nations", Better World Campaign (online).

<sup>117</sup> Crisis Group interviews, senior foreign diplomat, Port-au-Prince, November 2011 and March 2012; senior government officials, Brasilia, 8-11 May 2012. Brazilian officials have expressed that the priority for Haiti now is to shift from a military-oriented MINUSTAH to an operation that can better support the government's economic strategy.

<sup>118</sup> See SC/10572, op. cit.

of violence, and the situation has remained stable to date.<sup>127</sup> Based on continuous assessments by MINUSTAH and the UN Department of Peacekeeping Operations (DPKO), further drawdown is expected but neither the timeline nor the conditions to substantiate future reductions are yet known.<sup>128</sup>

MINUSTAH leadership estimates that by 2016 there will be enough trained Haitian police officers – at least 15,000 and ideally 20,000 – to allow further drawdown.<sup>129</sup> The second figure can be understood when comparing it to neighbouring countries,<sup>130</sup> but it would mean doubling current Haitian police strength in four years. The first phase of police reform, from 2006 to 2011, produced just over 3,000 new officers. Reaching 15,000 police by 2016 will require graduating at least 1,000 new officers each year; reaching 20,000 by that date would require significantly upgrading recruiting and training capacity and possibly decentralising the process.<sup>131</sup> Increases in police strength also entail economic improvements to ensure the national budget can effectively sustain a larger force and must square with the UNSC drawdown timeline, which is still not publicly known.

MINUSTAH is also refocusing its efforts on key mandated tasks, including supporting the political process, consolidating state authority, strengthening institutions and bolstering rule of law. Progress in these areas is slow and unsteady. Considerable efforts, time and resources will be required to consolidate rule of law. For example, since the publication of the law on the CSPJ in 2007, authorities, with national and international support, have only recently

officially appointed council members and are now struggling to render it functional.<sup>132</sup>

Various UNSC members and other observers and actors agree that any drawdown should advance in a gradual and responsible manner to ensure that MINUSTAH will be the last peacekeeping operation needed in the country.<sup>133</sup> The mission is already under pressure from its New York headquarters to make decisions on additional reductions,<sup>134</sup> but there is still no clear idea of how progress on stabilisation will be benchmarked and how long it will take to indicate when MINUSTAH's job is done. Despite calls by Security Council members, Haitians and others, the availability of financial resources – as opposed to the achievement of the mission's goals or improvements in the country – appears to guide MINUSTAH's withdrawal. In this context, it is urgent for the mission to define what conditions on the ground would allow for a reassuring and confident handover and identify the steps to an exit strategy.

An unfavourable political context and a troubled public image are challenging the mission's ability to carry out mandated activities. Public perception of the mission is mixed.<sup>135</sup> It is psychological succour to some Haitians who feel reassured by its presence in time of disaster and rely on it as the barrier to major civil unrest and political turbulence.<sup>136</sup> Others, reflecting a sense of nationalism, perceive the mission as an occupation force and ask for its departure; but only a few want it to take place “tomorrow”.<sup>137</sup>

As of 30 June 2012, MINUSTAH is the UN's fifth largest and third most costly peacekeeping mission.<sup>138</sup> For many

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<sup>127</sup> According to MINUSTAH, “the force commander determines what is the best way to deploy or position the available forces based on the current security needs and how to best fulfil the objectives of the mandate”. Crisis Group email correspondence, senior official, MINUSTAH's public information office, 20 April 2012.

<sup>128</sup> Crisis Group interviews, senior MINUSTAH officials, Tabarre and Pétion-Ville, 25 and 27 June 2012.

<sup>129</sup> Ibid. Crisis Group interview, senior officer, UNPOL, Tabarre, 20 February and 17 July 2012. See also “Vers le renforcement durable de la PNH”, Radio Nationale d'Haïti, 1 July 2012.

<sup>130</sup> UN Office on Drugs and Crime (UNODC) data show El Salvador with 362 police per 100,000, Costa Rica, (similarly without armed forces) at 465 per 100,000. “Crime and Development in Central America”, UNODC, May 2007, p. 31.

<sup>131</sup> The HNP training school (Direction des écoles et de la formation professionnelle, DEFP) has a current capacity to graduate two classes of 600 cadets each per year. Crisis Group interviews, HNP high command officer, Pétion-Ville, 13 March 2012; senior official, UNPOL, Tabarre, 20 February 2012; foreign diplomats, Port-au-Prince, 15 March 2012.

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<sup>132</sup> See “Le CSPJ installé après sept ans d'attente”, *Le Nouvelliste*, 3 July 2012. President Martelly appointed the nine members of the CSPJ by presidential order published in the official gazette, *Le Moniteur* (no. 106) on 3 July 2012. See Presse nationale d'Haïti, [www.pressesnationales.ht/moniteur/sommaires.php](http://www.pressesnationales.ht/moniteur/sommaires.php).

<sup>133</sup> Crisis Group interviews, senior MINUSTAH officials, Tabarre and Pétion-Ville, 13 and 16 March 2012. See also SC/10572, op. cit.

<sup>134</sup> Crisis Group interviews, senior MINUSTAH officials, Tabarre, January-March 2012.

<sup>135</sup> In 2011, anti-MINUSTAH sentiments triggered 76 violent public demonstrations. Copy of “Annual comparison of civil unrest for 2009-2010-2011” provided by MINUSTAH to Crisis Group.

<sup>136</sup> Crisis Group telephone interviews, Haitian analysts, 1 May 2012 and Pétion-Ville, 21 November 2011.

<sup>137</sup> “En Haïti está en juego un nuevo escenario de colonización”, Radio Informaremos, 25 April 2012. Crisis Group interviews, political and business leaders, 24-28 June 2012.

<sup>138</sup> MINUSTAH's budget from 1 July 2011 to 30 June 2012 is \$793,517,100. See “Approved resources for peacekeeping operations”, A/C.5/66/14, UN General Assembly, 13 January 2012. See also “UN Peacekeeping Operations Fact Sheet”, 30 June 2012 (online). Its total personnel stood at 12,289 on 30 June 2012, a reduction from 14,707 in October 2011 when the UNSC man-

national and international observers, including Haitian officials, it is difficult to justify the presence of a large military operation in a country where the main problems do not stem from an armed conflict, but are of a criminal, not military, nature, and due to political discord, institutional weaknesses, lack of development and social despair.<sup>139</sup> According to this view, the solution to violence in Haiti does not lie with MINUSTAH or even with the police but is tied to job creation and other forms of poverty alleviation. Because of a popular misconception in Haiti that the peacekeeping operation can shift to a predominantly development force, some Haitians had hoped the mission would directly generate major social and economic change.<sup>140</sup> Its inability to meet these expectations creates misperceptions of a failed or failing MINUSTAH.<sup>141</sup>

#### **IV. STABILITY IN HAITI: MINUSTAH'S EXIT STRATEGY**

Trying to determine when a UN peacekeeping operation has achieved its goal can be difficult to pin down when the mandate spans amorphous objectives covering security, human rights, governance and stability. That analysis becomes even more problematic in the case of Haiti, which has 80 per cent of its population still living in poverty and where the worst natural disaster in the hemisphere's recent history nearly entirely levelled the capital and caused severe destruction to already fragile state structures. As discussed earlier, Haiti does not fit squarely into UN peacekeeping doctrine. There is no clearly identified conflict – the situation has never escalated into an internal armed conflict – and consequently no clearly identified parties to a conflict. Thus, there is neither an end to the fighting nor a peace agreement to implement. An eventual withdrawal of MINUSTAH and a transition to follow-up phases of UN engagement are determined by measuring progress in ensuring state control of the use of force; rule of law; full respect for human rights; emerging governance institutions; and sustained socio-economic recovery.

Any abrupt removal of the mission will create a security vacuum and encourage organised crime and violence. There is no transition or exit strategy as yet. Repeated security assessments continue to be made but the urgent always overrides longer-term planning. That reality is exacerbated in a multidimensional mission where different agencies have fiefdoms to protect. They are reluctant to give up authority to the SRSG and to a central plan that he should coordinate.<sup>142</sup>

MINUSTAH has begun to determine when it can assert that its original goals have been met sufficiently for it to depart. Three years ago, the mission carried out an internal consultative exercise to develop a measuring tool for security and stability to help inform decisions on its then-planned reconfiguration. The methodology was based on a quarterly assessment of each of the ten geographic departments of the country based on the potential for civil unrest, crime rates, government performance, HNP capacities, frequency and level of security support requested from MINUSTAH, main security and stability threats, and progress on border management.<sup>143</sup> One approach being considered is to expand the analysis to include underlying structural causes of poverty and factors limiting economic growth. A new Consolidation Task Force has been established by the office of the SRSG to start the process anew.<sup>144</sup>

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dated a drawdown. See "UN Peacekeeping Operations Fact Sheet", 30 October 2011 (online). The budget noted above also shows a reduction from the previous year's, which stood at \$853,827,400. Crisis Group interview, senior MINUSTAH official, Pétion-Ville, 27 June 2012. See also "UN Peacekeeping Operations Fact Sheet", 31 May 2011 (online).

<sup>139</sup> Crisis Group interviews, executive coordinator, alternative development platform, Port-au-Prince, January 2012; senior officials, bilateral and multilateral donors, Port-au-Prince, June 2012.

<sup>140</sup> Crisis Group interview, senior parliamentary official, Port-au-Prince, 14 March 2012.

<sup>141</sup> Ibid.

<sup>142</sup> Ibid.

<sup>143</sup> "Monitoring Peace Consolidation: United Nations Practitioners' Guide to Benchmarking", 2010.

<sup>144</sup> Crisis Group interviews, MINUSTAH officials, Port-au-Prince, 27 and 28 June 2012.

Small signs of an improved political context have recently emerged as parliament and the executive worked together to end an impasse and form a new government. The time is opportune for Haitians to negotiate a partnership with the UN on how to conduct its activities so the country draws optimal benefit. However, a divide within the Security Council has existed for some time. Brazil, the main troop contributor, has led several UNSC discussions on strengthening the linkages between stabilisation and development,<sup>145</sup> while donors have expressed a preference for the continued separation of security and development budgets. At the same time, the UNCT is pressed to partner with MINUSTAH to link support for economic and social development to the mission itself.<sup>146</sup> TCCs and donors concur that the mission should continue under its current mandate and focus on building national capacity for security and rule of law, but they add the proviso that the mission should balance those actions with a larger portion of the military component being comprised of engineering battalions able to help build infrastructure.<sup>147</sup>

With MINUSTAH in the lead, efforts, however uneven, have been rightly centred on developing the police as the key security force in law enforcement and capable of preventing armed threats to the government itself. SRSG Mariano Fernández said MINUSTAH should not close until it is clear it would be the last UN peacekeeping mission in the country.<sup>148</sup> Development of a new five-year police development plan and its implementation remain priority steps. Fernández also explained that the transition would require a much more competent state, able to protect its citizens and itself and working towards strengthening governance and the legal system. One measure of the former would be a functioning and credible Permanent Electoral Council (CEP) and of the latter, a transparent land registry.<sup>149</sup>

With mandate renewal in October,<sup>150</sup> the new government and the mission must now set an agenda of priorities for the “five-year transition period” to pave the way for a smooth exit for MINUSTAH. According to current timelines, such closure will be at the conclusion of the second five-year police development plan and correspond to the post-election transition to the next presidency, and if all goes well, should be possible without creating any security vacuum. Scaling down troops should be based on ground realities – not donor fatigue or political agendas in the capitals – and particularly on progress in building effective state capacity to provide security, uphold the rule of law and correct the many imbalances that make the country unstable.

## A. PRIORITIES

The UN and donors have always defined stabilisation as the primary objective and guide to international action in Haiti. That includes ensuring firm progress toward justice reform and twice as many police officers with enhanced capabilities. Additionally, broad support exists for the current government’s policy of fostering economic growth through boosting foreign direct investment, while maintaining high levels of remittances and encouraging the diaspora to bring its economic muscle behind the objectives of poverty reduction and sustainable development. The question addressed here is how best to support these priorities to ensure a safe phase out of MINUSTAH.

Three essential tasks need to be undertaken before setting a phase-out agenda. First, a cohesive foundation of the rule of law requires a well-trained, well-paid HNP, significant progress on justice reform and substantial steps to assure adequate witness protection. Secondly, more effective governance is necessary at both the central and local levels, through consensus building, electoral reforms and greater public transparency. Thirdly, socio-economic improvements are essential to buttress security and rule of law reforms. Finally, state accountability should mirror state capacity building.

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<sup>145</sup> Crisis Group interview, senior diplomat, embassy of Brazil, Pétion-Ville, January and March 2012.

<sup>146</sup> Crisis Group interviews, foreign diplomats, Port-au-Prince, 14 and 15 March 2012.

<sup>147</sup> Crisis Group interviews, senior officials, MINUSTAH and diplomats, Port-au-Prince, 27-28 June 2012. Creative financing for these engineering projects may be required from donors, international financial institutions and the UN to use battalions to the fullest, according to those officials.

<sup>148</sup> “Time for the peacekeepers to start handing over, but not to a new army”, *The Economist*, 15 October 2011. Martin Briens, deputy permanent representative of France to the UN also reiterated on 8 March that MINUSTAH should be the last mission to Haiti. See SC10572.

<sup>149</sup> *Ibid.* At the high-level meeting on the HNP held at the Haitian presidential palace on 29 June 2012, Fernández also reportedly requested that Haitian authorities ensure the graduation of officers take place as scheduled in order to facilitate MINUSTAH’s departure. Crisis Group interview, senior officer,

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UNPOL, Tabarre, 17 July 2012. Secretary-General Ban Ki-moon, a year earlier stressed that for MINUSTAH to be the last mission to Haiti, the State should assume the responsibility for its stability. This, he said, would require a stronger presence of the State throughout the country, namely the HNP, the judiciary and public administration to provide basic services. “Compte rendu de la Réunion du Conseil de sécurité du 16 septembre 2011 sur Haiti – Briefing du Représentant spécial Mariano Fernandez et débat”, MINUSTAH’s website, 16 September 2011.

<sup>150</sup> Discussions on the future of MINUSTAH are expected to take place in August 2012 at UNSC.

In 2008, MINUSTAH sought to set benchmarks for a hand-over to the government in a Consolidation Plan.<sup>151</sup> These criteria included: security and stability; political dialogue and free and fair elections; the extension of state authority; improvements in the rule of law and human rights; and socio-economic development. To judge progress, future benchmarks will require further advances, such as deployed qualified police along with a lower serious crime rate, implementation of judicial reforms and reduction of untried detained prisoners, as well as elections under a CEP organised with greater competence (and thus greater public acceptance), and far lower evasion of taxes and duties.

## 1. Rule of law

Haiti still needs to enshrine the principle that all are equal under and before the law. This requires the promotion and respect of civil and political rights and far-reaching improvements to economic, social and cultural rights as part of the conditions for the handover by MINUSTAH. Consolidating rule of law would require a cohesive criminal justice system to complement police reform.<sup>152</sup>

On 23 September 2011, President Martelly declared at the UN General Assembly that stability requires construction of the rule of law, which he regularly identifies as a key priority. Bolstering a strong, independent and accountable justice system is necessary, but it is a daunting challenge. Since President Aristide disbanded the army in 1995, the mission and other international actors have tended to focus mainly on the HNP.<sup>153</sup> However, the equally important judicial and prison components have yet to be addressed with the same vigour.<sup>154</sup> MINUSTAH erred in 2004 when it did not take the lead on justice reform as it did on police, and this has only recently begun to change.<sup>155</sup> It must support the HNP and the justice and public security ministry in including strategies to improve cohesion between justice and police in the 2012-2016 HNP development

plan, which is to be approved by the Superior Council of the National Police (CSPN) and presumably later signed by the government and the UNSC as was done in 2006.<sup>156</sup> Following a day-long retreat in June 2012, President Martelly indicated his support for early approval of that plan.<sup>157</sup>

Political showdowns during the Préval years with the parliament meant delay in implementing three key pillars of justice reform: the formation and functioning of the CSPJ, the opening and running of the judicial academy, and penal and criminal procedures codes reform. Political logjam also meant a failure to appoint members to the Supreme Court (Cour de cassation), whose head chairs the CSPJ, which, in turn, oversees the judiciary. Reform now appears to be moving forward, albeit slowly.

After a year, as mentioned earlier, Martelly has appointed the full contingent of members of the Supreme Court and of the CSPJ.<sup>158</sup> The CSPJ, whose members were installed on 3 July 2012, is crucial not merely for reforming the judiciary but also to Haiti's electoral roadmap, as it names three members to the new CEP.<sup>159</sup> With the publication of constitutional amendments on 19 June 2012,<sup>160</sup> Haiti also will have a Constitutional Council to oversee the constitutionality of laws and address disputes between different public institutions.<sup>161</sup> Its members will hopefully quickly be named, sworn in, and bylaws and procedures established.

A central goal of donor support for institutional reform since 1994 has been to create a cohesive law enforcement and justice sector to help underpin the rule of law. However, reform projects in each of its components – police, justice (including prosecutors, public defenders and judges) and prisons – were undertaken separately and never fully integrated. This lack of cohesion prevents the emergence of an efficient criminal justice system.<sup>162</sup> Donors are currently struggling to help local authorities improve the judiciary and the prisons so that they complement the performance of the police. Legal aid has always been defi-

<sup>151</sup> See Crisis Group Latin America/Caribbean Report N°32, *Haiti: Stabilisation and Reconstruction after the Quake*, 31 March 2010. The Consolidation Plan was first presented in the "Report of the Secretary-General to the Security Council on Haiti" of 27 August 2008; updates on the indicators of progress were published in the March and September 2009 reports.

<sup>152</sup> For an update on police reform, see Crisis Group Briefing, *Keeping Haiti Safe: Police Reform*, op. cit.; and SC/10572, op. cit.

<sup>153</sup> Crisis Group interview, senior UNPOL official, Pétion-Ville, 7 September 2009; and Charles T. Call, "UN Peace Operations and State-Building: A Case Study of Haiti", Center on International Cooperation, May 2009.

<sup>154</sup> Crisis Group interviews, director, HNP training school, Tabarre, 9 June 2009; senior UNPOL official, Pétion-Ville, 7 September 2009.

<sup>155</sup> Crisis Group telephone interview, former rule of law adviser to MINUSTAH, 4 April 2012.

<sup>156</sup> Crisis Group interview, senior official, UNPOL, Tabarre, 20 February 2012.

<sup>157</sup> "\$1.3 billion disposed to reform Haitian National Police Force", op. cit.

<sup>158</sup> The chief justice and five judges of the Supreme Court have been sworn in and installed. See "Quatre juges installés à la Cour de cassation", defend.ht, 18 February 2012, <http://defend.ht/fr/politics/articles/judicial/2670-haiti-four-judges-installed-to-the-court-of-cassation>; "End of certification process of members of CSPJ", *Haiti Libre*, 31 March 2012 (online).

<sup>159</sup> "Martelly se prépare à mettre en place le CSPJ", *Radio Métropole*, 29 June 2012.

<sup>160</sup> See *Le Moniteur*, no. 96, *Presse nationale d'Haïti*, 19 June 2012.

<sup>161</sup> *Le Moniteur*, no. 96, Article 190.

<sup>162</sup> Crisis Group interviews, Port-au-Prince, July-September 2011.



cient, leaving major gaps in access to justice by the large poor majority of Haitians in urban slums and rural areas.

The improvised system introduced first with support from the International Legal Assistance Consortium (ILAC) and later from the Union of South American States (Unión de Naciones Suramericanas, UNASUR) was at risk of reduction earlier this year as the latter lacked funding capacity.<sup>163</sup> The MINUSTAH CVR section stepped in to help fund five legal aid offices (Bureaux d'assistance légale, BAL) and other donors provided additional support to keep the remaining 21 across the country functioning. MINUSTAH must continue its efforts in this area and provide the required leadership to ensure that this improvised mechanism evolves into a sustainable public defenders system under the responsibility of the state.

Police reform has made more progress in part due to local support on account of high public demand for security by virtually all sectors of Haitian society.<sup>164</sup> There have been less popular calls for strengthening justice. More civic education is needed to build awareness about the inextricable link between police and judiciary. Following the earthquake, when the destruction revealed the weaknesses in civil registration – births, deaths, land, among others – MINUSTAH advocated for an agreement on a rule of law compact, which could help create the public demand for justice needed to support reforms. Though some civil society groups and members of the private sector showed interest, these attempts made little headway because the preparation and holding of the elections and the appointment of a new government spanned virtually two years.<sup>165</sup>

Agreement on a framework for good governance, reform and development would help avert political discord and provide a mechanism to promote public accountability of the executive and parliament. As the government leads efforts to encourage socio-economic development, the mission could relaunch this initiative, which will also assist in guaranteeing a level of legal security to promote entrepreneurship, investment and job creation.

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<sup>163</sup> Crisis Group interview, senior official, UNASUR, Pétion-Ville, 24 February 2012; and Crisis Group Report, *Keeping Haiti Safe: Justice Reform*, op. cit. One example of the lack of coherence was the virtual revolving door replacement of six chief prosecutors in six months in 2011. Crisis Group email correspondence, senior international official, 31 July 2012.

<sup>164</sup> Crisis Group interviews, senior officials, MINUSTAH; foreign diplomats, Tabarre, 15 and 16 March 2012.

<sup>165</sup> Preparations for the 2010 presidential elections began in May 2010 and a fully functioning government was finally put in place in May 2012. Crisis Group interviews, various senior UN officials, diplomats, and Haitian civil society representatives, Port-au-Prince, January-June 2012.

## 2. More governance, less partisanship

### *Consensus building*

The executive and parliament need to work together to identify areas of common interest in Haiti and build a constructive dialogue around them. SRSG Fernández, since taking office, has defined building political consensus as a prerequisite to consolidate stability. He has pushed for some form of a pact, to which donors showed some early hesitance. Some political organisations, such as the platform Alternative for Progress and Development (Alternative pour le progrès et la démocratie), have reportedly already raised the issue of a governance pact with the new leadership.<sup>166</sup> MINUSTAH should continue to work with the country's political leaders to encourage agreement on a path to improved governance.

There are no official polls but the general perception is that Martelly remains popular among the young population.<sup>167</sup> The poorest sectors still hope that he will deliver on his campaign promises of improved social services. However, multiple showdowns with parliament<sup>168</sup> and other sectors of Haitian society<sup>169</sup> have drawn severe criticisms from civil society and some political leaders and raised concerns about deepening the country's already polarised politics.<sup>170</sup> Fostering political dialogue and national reconciliation should be at the top of the agenda of Martelly's new prime minister, Laurent Lamothe.

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<sup>166</sup> Crisis Group interviews, political party leaders, Pétion-Ville and Delmas, 13 March 2012.

<sup>167</sup> Crisis Group interviews, Haiti analyst, Pétion-Ville, 25 June 2012; senior embassy official, Port-au-Prince, 27 June 2012. See "Haiti marks one year with Michel Martelly, the singer-turned-politician", *The Miami Herald*, 12 May 2012.

<sup>168</sup> The arrest of lawmaker Arnel Bélizaire, with whom Martelly had a heated argument the previous day, angered parliament and left many members wary of actions the president could take against them. Crisis Group interviews, parliamentarians, analysts, diplomats, and senior government official, Port-au-Prince, January-March, 2012.

<sup>169</sup> On 17 February 2012, Martelly supporters forced their entry into the State University School of Ethnology and destroyed university property after students allegedly refused to allow the president to participate in a conference. See "La faculté et le bureau national d'ethnologie vandalisés", *Le Nouvelliste*, 17 February 2012.

<sup>170</sup> In February 2012, thirteen civil society organisations expressed concern about what they called "a challenge to democratic rules". They denounced Martelly's inertia regarding the constitutional amendments voted in May 2010, delays in the organisation of overdue senate, local and municipal elections, confrontation with the media, laxity regarding the occupation of public spaces by ad hoc armed persons and the deterioration of relations with the University, among others. See "Le pouvoir dérive, la société civile sonne l'alarme", *Le Nouvelliste*, 28 February 2012.

His goal of promoting economic growth based on the private sector depends on political stability.<sup>171</sup> As foreign minister, Lamothe attempted to promote an attractive image of the country to boost economic development through investments. The Haiti “open for business” economic revival push, with hoped-for new jobs, will take time and requires a broad political consensus with civil society monitoring. Prime Minister Lamothe’s confirmation by parliament has reassured some partners.<sup>172</sup> He must now support Martelly in leading a national dialogue to negotiate and reach consensus on key social and political priorities, which should be outlined in a pact and signed.<sup>173</sup> Similar national agreements in other Latin American countries have included budget and political reform priorities.<sup>174</sup>

A more harmonious relationship between the executive and the legislature is an essential condition to stabilise governance and politics. However, the political landscape is as divided as it was a decade ago, with no single official opposition.<sup>175</sup> Political parties – small, disjointed and focused on individuals rather than coherent programs – are ill-equipped to mitigate the instability that follows Haiti’s frequent and contested elections.<sup>176</sup> A law on the organisation and financing of political parties, first submitted in

May 2009 and voted by the Senate in March 2012, aims at improving party functioning and state regulation and oversight. It must now be reviewed and voted by the Chamber of Deputies in time for the upcoming senate, municipal and local elections.<sup>177</sup> MINUSTAH has brought together a number of organisations that support parliament under a single working group.<sup>178</sup> Providing assistance to parliament, the electoral council and other institutions to ensure the state has the capacity to fully apply the law should be a follow-up task. Empowering political parties would strengthen parliament and, ideally, promote a culture of negotiation and compromise.<sup>179</sup>

### *Constitutional amendments and elections*

Haiti’s political process faces three challenges: government inefficiency, the burdening costs of frequent polls<sup>180</sup> and the absence of stronger political parties. The constitution determines the institutional framework and the existing mechanism for constitutional reform can take as many as five years, since the amendments must be introduced by the president and take effect under his/her successor.<sup>181</sup> Some governance gaps can be addressed in the short term through President Martelly’s action on overdue senate, local and municipal elections and the constitutional amend-

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<sup>171</sup> Crisis Group interview, senior official, multilateral organisation, Pétion-Ville, 15 March 2012. The country’s exports, for instance, produce only \$400 million from textiles and \$100 million from agriculture; yet there are 23 chambers and associations of commerce.

<sup>172</sup> See “The embassy of the United States of America welcomes the ratification of Laurent Lamothe as prime minister”, press release, U.S. embassy in Haiti, 4 May 2012; and “Communiqué de presse: ratification du Premier ministre Laurent Lamothe par le Parlement”, MINUSTAH’s public information office, 4 May 2012.

<sup>173</sup> Crisis Group interview, senior official, multilateral organisation, Pétion-Ville, 15 March 2012.

<sup>174</sup> In Peru, the 2001 “Acuerdo Nacional” defined 31 specific policies with benchmarks which would be monitored by civil society. All the political parties, business associations, trade unions, churches and key civil society organisations signed it. See “Acuerdo Nacional para Trabajar de Acuerdo”, [www.acuerdonacional.pe/publicaciones/politicaseestado/E\\_3.pdf](http://www.acuerdonacional.pe/publicaciones/politicaseestado/E_3.pdf).

<sup>175</sup> The 49th legislature, when sworn in May 2011, included sixteen political parties and organisations and one independent politician in the Chamber of Deputies and seven in the senate. For information on parliament composition, see [www.parlementhaitien.ht](http://www.parlementhaitien.ht).

<sup>176</sup> Crisis Group interviews, Haitian political party trainer, Pétion-Ville, 10 September 2010; and Haitian political science professor, Delmas, 17 June 2010. Close to 100 parties are registered with the justice and public security ministry; 66 of which are registered to participate in elections. For discussion, see Daniel P. Erikson, “Countries at the Crossroads 2010: Haiti”, Freedom House, 7 April 2010; Jean-Claude Bajoux, “Démocratie interne des partis politiques et institutionnalisation de la démocratie en Haïti”, Forum Libre 31, Friedrich Ebert Stiftung and Centre Pétion-Bolivar, Port-au-Prince, 2005.

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<sup>177</sup> It should aim to regulate state support for party functions; set rules and limits on private funding and the accounts given to the electoral management council; and give that body the mandate, resources and capacity to enforce regulations and ensure party and candidate accountability. See “Lamothe lentement vers la Primature, les passeports remis au président Martelly”, *Le Nouvelliste*, 13 March 2012.

<sup>178</sup> The group is coordinated by MINUSTAH’s Political Affairs section and includes the participation of the International Institute for Democracy and Electoral Assistance (International IDEA), Rights and Democracy, the National Democratic Institute (NDI), and Development Alternatives, Inc (DAI), among others. IDEA began working in Haiti in 2011 with plans to support the electoral council, political parties and parliament and to promote the participation of women in politics. Rights and Democracy, a Canadian organisation, closed down its operations this year. Crisis Group interviews, various group members, Port-au-Prince, April, May, June 2012.

<sup>179</sup> Crisis Group interviews, political leaders and analysts, Port-au-Prince, 17 June 2010 and 10 September 2010.

<sup>180</sup> Crisis Group interview, senior MINUSTAH official, Pétion-Ville, 9 June 2009. See Elisabeth Bryan, “Governance and Security in Haiti: Can the International Community Make a Difference?”, Woodrow Wilson International Centre for Scholars, August 2007.

<sup>181</sup> Two different legislatures must also vote on the amendments: one to declare the need for the amendment and its successor to vote the actual articles. For background, see Crisis Group report, *Haiti: The Stakes of the Post-Quake Elections*, pp. 18-19.

ments voted by parliament in 2011<sup>182</sup> and promulgated by Martelly in June 2012.<sup>183</sup>

Some are hoping that the senate elections will result in a better balance of forces in the upper house, where Martelly encountered significant opposition from the Lavalas-oriented parties during his first year. That opposition slowed government progress in several areas, including reconstruction. Local and municipal elections are also necessary to establish legitimate local governance to support reconstruction and decentralisation of public administration. Local institutions also play an important role in disaster response as the mayor heads the municipal level of civil protection.

MINUSTAH has provided large-scale support in security and logistics for past electoral processes and is expected to do the same for the polls anticipated for the end the year. However, previous elections have been organised with resources, particularly in terms of logistics and security, that the Haitian state simply does not have.<sup>184</sup> Current estimates are that the combined Senate, municipal and local elections will cost some \$33 million and Haiti, which originally budgeted under \$3 million for the purpose, is expected to cover half the costs, with donors footing the rest of the bill.<sup>185</sup> No official date has yet been set and a roadmap identified by experts indicates that a five-month lead-time is needed to actually hold elections by year end – and that

requires having an electoral council in place and functioning within a few weeks.<sup>186</sup>

The publication of the constitutional amendments in June 2012 provides for the formation of a Permanent Electoral Council (CEP). This should end the 25-year-old practice of makeshift provisional electoral councils, based on loose agreements between the executive and political leaders, running the elections. That provisional arrangement has generated distrust and created additional tension in an already polarised political environment, not to mention seriously flawed elections.<sup>187</sup> The newly amended law determines a formula for the rapid creation of the permanent body, which requires each branch of government to name three members of the nine-member council. This will constitute an opportunity to build much-needed state capacity. The CSPJ, which represents the judicial branch, has been formally appointed and should now independently play its role in this political process. However, the senate is now missing a third of its 30 members, whose terms ended in May 2012. Uncertainty persists as to how parliament can name three CEP members since a two-third vote of both chambers is required.<sup>188</sup>

Forming the CEP is only one step in the right direction. MINUSTAH must continue to promote the importance of free and fair elections for stability and to focus on the government's development strategy. As a longer-term goal, the mission must ensure that technical electoral assistance be provided to the CEP to begin the gradual transfer of this responsibility, which the mission has assumed under its mandate since 2006. The resources on which MINUSTAH has relied to accomplish the tasks of elections security and logistics for the past six years will not be available to the Haitian authorities in the future. For the upcoming elections, it should therefore continue its security support

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<sup>182</sup> Constitutional amendments were voted in May 2010 but were recalled due to discrepancies between the version voted and the one published. Some civil society groups provided support to parliament to review the videos of the voting sessions and reconcile the versions to produce a document that reflected the vote. Martelly's advisers, constitutional experts and some political party leaders have advised him against publishing the document, citing irregularities in the procedures for amending the constitution. The amendments must be published under one president and take effect under his successor. Crisis Group interviews, head, presidential commission on constitutional amendments, Port-au-Prince, 25 January 2012; civil society groups, Port-au-Prince, February and March 2012; foreign diplomats, Port-au-Prince, January-April 2012. See Geffrard, "Le pouvoir dérive", op. cit.; and "Grave consequences await constitution publication", defend.ht, 29 May 2012, <http://defend.ht/news/articles/political/3059-grave-consequences-await-constitution-publication-says-georges-michel>.

<sup>183</sup> See "Constitutional amendments finally take effect", *Chicago Tribune*, 19 June 2012. The amendments streamlined changes for the formation of a CEP. The Haitian diaspora can also now own property, vote and run for local office.

<sup>184</sup> An official budget has not yet been released but the elections could cost over \$30 million. More than 4,000 posts are to be filled and the process would require the printing of over 1,400 different ballots. Crisis Group interviews, senior UN officials and diplomats, Port-au-Prince, June and July 2012.

<sup>185</sup> Crisis Group interviews, Port-au-Prince, international officials, June 2012.

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<sup>186</sup> "Haiti government believes elections possible in 2012", defend.ht, 10 July 2012, <http://defend.ht/politics/articles/executive/3199-haiti-govt-believes-elections-possible-in-2012>.

"Lamothe announces the election for November 2012", Haitibo, 24 May 2012, <http://haitibo.com/lamothe-announces-election-november-2012/>. Crisis Group interviews, senior government official, senior officials, foreign embassies and multilateral organisations, Port-au-Prince, 25-28 June 2012.

<sup>187</sup> There is currently no CEP in place; the body was dissolved by President Martelly in December 2011 and some members are under investigation for criminal charges. "Martelly invite les membres du CEP à remettre tous les biens en leur possession", Haiti Press Network, 30 December 2011. "Interdiction de départ contre Gaillot Dorsainvil", *Le Matin*, 30 December 2011.

<sup>188</sup> Crisis Group interview, international official, 26 June 2012. "Haïti/CEP-Formation: Les avis sont partagés quant à la désignation des 3 représentants du Parlement", Radio Vision 2000, 18 July 2012. There are some who argue that the requirement can be satisfied by two thirds of those present and voting. Crisis Group interviews, Port-au-Prince, Washington DC, June 2012.

while boosting HNP leadership in elections security within Haitian means. Strengthening state capacity to organise elections must form an integral part of technical assistance strategy for the next polls. A proposal by UNDP and MINUSTAH to run a pilot project in four departments where Haitian authorities (CEP and HNP) would assume full responsibility for security and logistics is being considered for the anticipated elections.<sup>189</sup>

Also in the medium term, efforts must be oriented toward reducing the frequency with which Haitians are asked to vote. The constitution requires elections to be held every other year;<sup>190</sup> any change will require further constitutional reforms. In that regard, it will be important to rapidly appoint the members to the Constitutional Council to guide the preparation of further amendments. Weak institutional and physical infrastructure, a fragmented party system, and a crippled opposition incapable of developing substantive platforms complicate the electoral process. Since MINUSTAH was deployed in 2004, elections held for parliament, municipalities and the presidency have cost well over \$100 million.<sup>191</sup> Just the current partial Senate, municipal and local elections are roughly estimated to cost over \$30 million.<sup>192</sup>

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<sup>189</sup> Crisis Group interviews, senior UN officers, Port-au-Prince, 18 July 2012. The departments being considered are those where there is no MINUSTAH military presence: Grand Anse, Nippes, North West, South.

<sup>190</sup> The constitution provides for the renewal of a third of the 30-member Senate every other year. 99 lower house deputies, 420 mayoral council members, as well as some 9,000 rural communal section council and assembly members and town delegates are elected every four years; the presidential term is five years. This poses two main problems: financial constraints and political and technical shortfalls to guarantee free, fair and credible elections within constitutional deadlines. Crisis Group Latin America/Caribbean Briefing N°8, *Can Haiti Hold Elections in 2005?*, 3 August 2005. It took the Boniface/Latortue interim administration two years to organise the 2006 presidential and legislative elections. In 2010, in addition to presidential elections and delayed legislative polls, municipal and local elections were due but were not held. They are now being considered for the end of 2012 along with delayed elections to renew a third of the senate. Elections will again be required in 2013 to renew another third of the senate. In fact, Haiti's electoral calendar between 2011 and 2015 requires elections every year. Crisis Group interviews, senior Haitian constitutional expert, Pétion-Ville, 11 May 2010; Haitian political analyst, Pétion-Ville, June 2012; senior UN officers, 18 July 2012.

<sup>191</sup> The 2009 elections to renew one third of the Senate (ten new senators and two replacement senators) cost some \$16 million. Elections between 2007 and 2011 cost an estimated \$105 million.

<sup>192</sup> Crisis Group interview, senior UN officials and diplomats, Port-au-Prince, June and July 2012.

International financing of more than half of the costs of elections, continuing technical assistance to the CEP and MINUSTAH's logistics involvement made it easy for some Haitians, particularly those unhappy about Lavalas' absence from several elections, to criticise MINUSTAH and the international community for interference in the country's politics.<sup>193</sup> Finally, decentralisation must be pursued, together with a national consensus on changes to rationalise the local governance system and make it financially autonomous. Beyond the proposal to extend the terms of local and municipal elected officials from four to five years, which failed to pass, the recent constitutional amendments did not mention the intricate local government structure. The Martelly presidency has expressed interest in constitutional amendments that can more effectively support development and may propose further reforms to local governance structures.<sup>194</sup>

### 3. Socio-economic improvement

The chronic failure to tackle poverty, inequalities and exclusion, which endanger most of the population and undergird violence, as well as the inability of Haitian political leaders to reach consensus on crucial issues of national interest threaten to undermine MINUSTAH's contribution to an improved security climate.<sup>195</sup> Social and economic revival, job creation and social services are among Haiti's most pressing challenges as frustration and disillusion leave thousands of young Haitians available to join armed criminal groups.

The widespread destruction caused by the earthquake and the subsequent humanitarian crisis continue to influence international inclinations toward more urgent, short-term humanitarian action. This is in part due to the existence of just under 400,000 persons who, after two and a half years,

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<sup>193</sup> Fanmi Lavalas has not officially participated in elections since 2002. It was banned from doing so by the CEP in 2009 for technical reasons (a decision that was questioned by some observers and analysts) and did not file to participate in the 2010 presidential and legislative elections. For background see Crisis Group, *Haiti: The Stakes of the Post-Quake Elections*, N°35, 27 October 2010.

<sup>194</sup> Crisis Group interview, senior government officials, Port-au-Prince, May 2011.

<sup>195</sup> President Martelly benefited from a fully functioning government for only four months during his first year. This was largely due to a discord between the executive and the parliament, which must confirm the appointed prime minister and approve the government's social and economic program. The absence of a government has delayed the approval of the police development plan for 2012-2016. Crisis Group interviews, senior government official, senior foreign diplomats, and senior UN officials, Port-au-Prince, January-March 2012.

still face dire living conditions in the camps.<sup>196</sup> The other reason is the absence of a comprehensive policy to resettle displaced people, regardless of the reasons for their displacement.<sup>197</sup> The short-term response has seen a focus on temporary infrastructure like latrines and tents with no long-term answers to the lack of adequate water and sanitation; has diverted scant resources from developing the slums into more habitable communities; and placed higher demands on limited state resources, such as the police needed to secure the camps.<sup>198</sup>

This is not cost-efficient and cannot be sustainable. Delays in camp closures and community rebuilding will necessarily impact MINUSTAH's tasks. The SRSG must work with the donors to urge the UNSC to include a call for a national housing policy in the next discussion on Haiti planned for August 2012. Greater responsibility must be placed on the government to expand the "sixteen neighbourhoods-six camps" (16-6) project and produce a global resettlement strategy that sets a timeline for camp closure and reorients attention to rebuilding neighbourhoods destroyed in the 2010 earthquake through improved infrastructure and enhanced services.<sup>199</sup> This policy should also include a phase-out plan for those camps and "temporary" communities where transitional shelters were built, and which risk becoming new permanent slums.<sup>200</sup>

The overall legacy of the earthquake is a worsened situation of economic, social and cultural rights (ESCR). Without improvements in this area, Haiti's stability will remain at risk. This has led some analysts to suggest that the protection of ESCR be placed at the core of reconstruction to drive the process. The ratification of the International Covenant on Economic Social and Cultural Rights (ICESR) by the Haitian parliament in January 2012 and the crea-

tion of a ministry focused on poverty reduction and human rights have produced welcome momentum.<sup>201</sup>

MINUSTAH's support has led to a reduction in violence in many urban slums, which, however, remain far below minimum living standards. As part of its human rights mandate, the mission must work with the government, donors and other actors to ensure that a rights-based reconstruction process exists in these communities. This approach should address the most vulnerable sectors of the population, particularly women, children and the disabled. It must also be inclusive, involving Haitian civil society and community-based groups to ensure their needs and aspirations are taken into account and create a balance between reconstruction efforts in the wealthiest and the poorest areas.<sup>202</sup>

While MINUSTAH's mandate does not include development as its priority, its success in sustaining security gains in some measure depends on it. The mission's leadership can use its political power to encourage more direct involvement by Haiti's private sector in promoting job creation in poor communities. It also can help coordinate the UNCT and the core group of donors, including Brazil, the U.S., Canada, France, Spain, and the EU and the international financial institutions, to provide guidance to government investment policies favourable to ESCR. This could include guaranteeing that a minimum of profits are reinvested in Haiti, minimum wages are paid and in some instances investments are linked to rent-controlled housing.<sup>203</sup>

Haiti needs a realistic and sustainable plan to progressively increase access to employment and housing for the poor in preparation for MINUSTAH's departure. Such a plan must be implemented in parallel with efforts to support rural development to stem further rural-to-urban migration.<sup>204</sup> The government has created a housing agency and has also been actively promoting foreign investments, but a strategy for the urban poor, including displaced persons in camps and post-earthquake informal communities, is

<sup>196</sup> "IOM: Haiti camp population has fallen by 75% in the last two years", Emerging Frontiers Blog (online), 27 June 2012.

<sup>197</sup> Some Haitian and international actors believe that some people are in camps because food, water and sanitation are more readily available to them and that they seize the opportunity to escape unaffordable rent and dire poverty in their pre-earthquake communities. Crisis Group interviews and email correspondence, UN senior officials, Port-au-Prince, 2010-2012. Surveys show that 94 per cent of persons in camps would leave if they had alternative accommodation. See "A search for sanctuary", *The Guardian*, 21 November 2011.

<sup>198</sup> Crisis Group exchange, senior international human rights officer, April 2012.

<sup>199</sup> The government-led and UN-supported project aims to return persons from six camps to sixteen rebuilt communities as a pilot resettlement plan. See Crisis Group Briefing, *Haiti: Security Depends on Resettlement and Development*, op. cit.

<sup>200</sup> "Haiti: The slow road to reconstruction two years after the earthquake", Oxfam, 10 January 2012, p. 7 (online).

<sup>201</sup> Rose Ann Auguste, a former Haitian representative for NGOs on the Interim Haiti Reconstruction Commission, was named minister for human rights and the fight against extreme poverty. Her ministry will be under the direct supervision of the prime minister's office.

<sup>202</sup> "Report of the Independent Expert on the situation of human rights in Haiti, Michel Forst", A/HRC/20/35, 23 April 2012.

<sup>203</sup> Crisis Group exchange, senior international human rights officer, April 2012.

<sup>204</sup> An estimated 75,000 move to Port-au-Prince each year. Crisis Group interview, senior official, international organisation, Port-au-Prince, February and May 2012. A substantial number of the displaced who fled the city after the earthquake also already have returned since rural job opportunities and agriculture development investments in the rural departments lack. See Crisis Group Briefing, *Post-quake Haiti: Security Depends on Resettlement and Development*, p. 6

still missing.<sup>205</sup> The Martelly-Lamothe administration, which has identified education, job creation and the environment as part of its general policy, is well placed to lead efforts to promote this approach.

#### 4. State accountability: A necessary ingredient

The UN, donors and other international actors generally focus on building state capacity, which remains important, but the failure by the state to meet its responsibilities and be held accountable has been the single most consistent factor in Haiti's lack of progress over the past 25 years. The international community has always been reluctant to be critical of the successive weak and precariously balanced presidencies and governments. Without giving firmer and more explicit voice to the issue of accountability, its own efforts risk failure. The reports of the Secretary-General to the Security Council, for instance, are a channel to call on the state to meet its responsibilities but instead are focused almost exclusively on an account of MINUSTAH's activities to strengthen state capacity.<sup>206</sup> Additionally, the mission, which has a civil affairs presence in each department, can assist in building citizen monitoring capacity from the bottom up.

This failure is partly due to Haitian institutional weaknesses and deficient regulation mechanisms to hold state actors accountable. Greater oversight for law enforcement is needed; and the declaration of assets by senior state officials and the end of term discharge papers that the constitution requires be provided only to senior government officials who satisfactorily managed public funds, remain unfulfilled requirements.<sup>207</sup> The Public Administration Audit Court (Cour supérieure des comptes et des contentieux administratifs, CSCCA), the Financial Intelligence Unit (Unité centrale de renseignements financiers, UCREF), the Anti-Corruption Unit (Unité de lutte contre la corruption, ULCC) have all been put in place but the number of cases they have successfully brought to trial are few and far apart.<sup>208</sup> To ensure that the ULCC is fully functional, material and human resources must be provided now that

Martelly has appointed its new director general.<sup>209</sup> Discussion of a draft anti-corruption law with parliament began in early March 2012.

Efforts by some law enforcement and judicial actors to meet their responsibilities fall far short. For instance, judicial investigations were conducted into the killing of detainees during the Les Cayes prison uprising on 19 January 2010 and led two years later to convictions of six police officers. Nonetheless, there were irregularities at every stage of the criminal justice response. Subsequent cases of alleged killings by police show a pattern of state failure to effectively investigate, prosecute and punish perpetrators. Similarly, there have been repeated concerns that judges in high-profile cases are subjected to pressure and threats that limit their independence.<sup>210</sup>

MINUSTAH should pursue with the Haitian government the establishment of a special task force, composed of police and judges, dedicated exclusively to the judicial investigation and prosecution of state officials accused of serious human rights violations and corruption, as well as to cases of violence or coercion against state officials. This task force would, hopefully, deal swiftly with alleged crimes and serve as a visible deterrent. It should be a small outfit that can be financed and started with relative ease. MINUSTAH can provide direct technical assistance for its establishment and initial oversight. It could eventually have a general positive impact on the overall justice system where reform efforts have stalled for so long.

Parliament recently passed a law that would transform the Ombudsman's office (Office de la protection du citoyen et de la citoyenne, OPC) into an independent national human rights institution in line with the Paris Principles.<sup>211</sup> In 2011, the OPC made significant strides in improving the organisation of its headquarters and deploying staff to the other nine departments. The institution offers a degree of domestic oversight of the state's respect and protection of human rights. It remains fragile, however, and would benefit from continued support, projected over a longer timeframe of several years. MINUSTAH's Corrections Unit has begun co-locating with the OPC in the framework of a program to reduce prolonged preventive detention in pris-

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<sup>205</sup> Cnaan and Jerusalem, for example, are two post-earthquake informal communities. See Crisis Group Briefing, *Post-quake Haiti: Security Depends on Resettlement and Development*, op. cit.

<sup>206</sup> Crisis Group interview, senior official, international organisation, Port-au-Prince, February and May 2012.

<sup>207</sup> Crisis Group interview, director, Haitian civil society group, January 2012.

<sup>208</sup> Ibid. Investigations conducted by the ULCC led to the arrest of three employees of the departmental office of the education ministry and the National Bank of Credit (BNC) in Port-de-Paix, North West, early June 2012, for alleged misappropriation of some \$92,500. "3.7 million Gourdes détournés à Port-de-Paix", *Le Matin*, 11 June 2012.

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<sup>209</sup> Antoine Atouriste, a former colonel, was appointed director general and installed end April 2012.

<sup>210</sup> Crisis Group email correspondence, international human rights expert, March 2012.

<sup>211</sup> The UN Human Rights Commission adopted the Paris Principles in Resolution 1992/54 of 1992 and at the UN General Assembly in Resolution 48/134 of 1993. The principles focus on the status and functioning of national institutions for the protection and promotion of human rights. They were first set out in October 1991 at the International Workshop on National Institutions for the Promotion and Protection of Human Rights.

ons. Some 490 persons in prolonged preventive detention were released in 2011.

It will be important for other sections of MINUSTAH, such as that focusing on human rights, to engage similarly to accelerate the capacity building of the OPC as part of the transition. In the same vein, it is essential that MINUSTAH's Justice and Civil Affairs Sections work together with other UN offices, such as UNDP, to develop a program to help launch emerging governance oversight institutions, such as the CSPJ and the Constitutional Council, as well as strengthen existing ones like the ULCC, UCREF and the public administration audit court.

## B. IMPLICATIONS FOR MINUSTAH

In order to successfully forge a consensus exit strategy over the next five years, it is important to adjust the mandate and composition of the mission. Peacekeeping missions can evolve from a short-term security focus with some attention to institutional reform to a predominantly institution-building role. For example, the UN Observer Mission in El Salvador (ONUSAL), created to ensure a truce and peace between warring factions, was closed in April 1995 and replaced by the UN Mission in El Salvador (MINUSAL). The latter represented a much-reduced UN military and police presence but confirmed support for the peacebuilding process. It focused on the transformation of the police into a civilian corps and the creation of a credible judicial system.<sup>212</sup> It was paralleled by UN agencies actively engaged in the former combat zones and participating in priority reconstruction efforts. Although Haiti is not El Salvador, where a twelve-year old civil war (1980-1992) left more than 200,000 dead and disappeared, a lesson for the UN is that the mission's achievements took place under an international and national partnership based on a clear agenda for short and long-term phases that linked peace and stability to political democratisation.<sup>213</sup>

For the next several years, it is essential to maintain the mission with scaled down but sufficiently robust military and FPU components. The bulk of the military could be comprised of engineering units but with adequate rapid response mobility. A core specialised UNPOL team for mentoring and training, and sustained civilian capacities in CVR, elections, human rights, justice and governance,

to which can be aggregated other UN and international programs. These adjustments would pave the way to more integrated peacebuilding, with the mission heavily focused on rule of law, governance and political stability. There must be agreement on a clear timeline to achieve results, particularly in police and justice reform. Cost-savings on military also should free up funds for enhanced and expanded CVR to more effectively support security and rule of law objectives. Progress on this new approach for MINUSTAH will only be attained with the government's agreement and donors and the UNSC united behind the mission's objectives.

In Haiti, politics and security are deeply intertwined, which calls for a continued and even increased political role for the mission led by the SRS. The special representative, as shown during the past year, can be an honest broker laying out the options for addressing political challenges before they produce further polarisation and spark violence. Political instability has resulted in recurrent crises and favoured a system in which players resist attempts at compromise. The large majority of actors opt for "solutions that involve eliminating, avoiding, preventing, blocking and destroying all forces that are perceived to be adversarial".<sup>214</sup> This zero-sum game perspective has led to a somewhat "gangsterised political life", compounded by dire poverty,<sup>215</sup> in which key political players use all means to advance their interests and preserve their power, including militia- and gang-led violence. This winner-take-all practice has undermined institutional governance and seriously slowed progress on justice and police reform.

Agreement by Haiti and the UN on a five-year transitional agenda for security and stability with broadly consulted goals and timeline for achievement could encourage opposing political actors to accept a common stability consolidation strategy. By focusing on police, justice and violence reduction, a restructured MINUSTAH can help Haiti show clear progress toward stability and security. The mission also can help coordinate UNCT's actions toward democratic stability that supports the government's underlying development goals of private sector led growth and poverty reduction. MINUSTAH should urge the creation of a high-level government-led monitoring team with UNCT, donor and civil society participation to jointly track implementation of that agenda, with Haitians in the lead to assure an advisory and oversight role. This approach would reduce the spotlight on the mission as the objectives and strategy will be shared.

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<sup>212</sup> See "The situation in Central America: Procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom, democracy and development, Report of the Secretary-General", A/50/517, 6 October 1995.

<sup>213</sup> Carlos Santiso, "Promoting Democratic Governance and Preventing the Recurrence of Conflict: The Role of the United Nations Development Programme in Post Conflict Peace-building", *Journal of Latin American Studies* (Cambridge University Press, 2 October 2002).

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<sup>214</sup> Ricardo Seitenfus, "The Nature of Haitian Politics and International Challenges", *Journal of Peacebuilding and Development*, vol. 6, no. 3 (2011), p. 85.

<sup>215</sup> See Fatton, "Post-MINUSTAH Haiti", op. cit., p. 5.

## V. CONCLUSION

A gradual drawdown and eventual withdrawal of MINUSTAH will and should take place, but it must not be immediate. The UN will need to remain in Haiti for a long time but that presence needs to transform fundamentally. The next phase is reconfiguration of MINUSTAH, with reduction of troops and targeted reprioritisation, which will morph into a political mission as the Martelly administration hands over power to his successor at the end of his five-year term. Haiti should remain on the Security Council's agenda at least during the next five years.

Decisions on the timing and pace of MINUSTAH restructuring should not be rushed and should not be based only on donor demands, but grounded in a sound plan with clear targets and articulated in a joint strategy encompassing police strengthening, justice capacity and political stability. However, as Haitian governance and security capabilities are still weak, a strong international presence is needed, albeit very different from what it is now. The political role of the mission will be even more essential to help rally all actors around common goals and promote dialogue and consensus.

A transition to a reduced military, more specialised UN police, more FPU and fewer rank-and-file civilian police officers, and a more robust political mandate is required. The transformed mission can rekindle the confidence of Haitians by promoting greater state accountability through stronger justice sector institutions and by assuring more effective internal accountability within MINUSTAH. However, in spite of relative progress, some in Haiti, affected by what an international observer called "the instability syndrome", believe that progress is short-lived and political crisis ready to unfold. MINUSTAH and the Martelly administration need to work together to prove those doom-sayers wrong.

If MINUSTAH is to be the last peacekeeping mission deployed to Haiti, national authorities must also increasingly take responsibility for stability. This means a greater countrywide state presence, as well as better public services, including housing and protection to those still displaced by the earthquake. It also means establishing a credible Permanent Electoral Council and reducing the dependence of Haiti on international support for the holding of free and fair elections. The government, MINUSTAH and other electoral stakeholders should agree on the role of the international community in supporting elections in the coming years and identify benchmarks for Haiti to become self-sufficient in electoral matters. Preparations for the upcoming partial legislative, municipal and local elections should proceed without delay.

A clearly shared Haiti-UN vision on how to achieve and sustain peace and stability is paramount. Optimal use of the international presence over the next five years is essential for Haiti and for the UN. MINUSTAH must resolve the dilemma about how best to engage with Haiti at this critical moment through a common understanding with the Martelly administration. Rebuilding its public image to increase its legitimacy and crafting a working partnership with the authorities, private sector and civil society are equally essential. Without that partnership, the mission risks sliding into a state of inertia until finally the donors pull the plug. That would be a tragedy for the UN and for Haiti.

**Port-au-Prince/Bogotá/Brussels, 2 August 2012**







## APPENDIX C

### ABOUT THE INTERNATIONAL CRISIS GROUP

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**August 2012**

## APPENDIX D

### CRISIS GROUP REPORTS AND BRIEFINGS ON LATIN AMERICA AND THE CARIBBEAN SINCE 2009

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- Haiti 2009: Stability at Risk*, Latin America/Caribbean Briefing N°19, 3 March 2009.
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- Dangerous Uncertainty ahead of Venezuela's Elections*, Latin America Report N°42, 26 June 2012.
- Policy Reform in Guatemala: Obstacles and Opportunities*, Latin America Report N°43, 20 July 2012.

## APPENDIX E

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