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Police Reform in Haiti

The Challenge of Demilitarizing Public Order and Establishing the Rule of Law

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Article 263 of the Haitian Constitution of 1987 states that the police is a separate entity from the military, and Article 269 places the police under the control of the Ministry of Justice. Like so many other aspects of the Constitution, this vision of a professional and civilian force remained at the level of intent for years after the Constitution was ratified as Haiti struggled to establish democracy. The story of how this vision became a reality, or at least, well on the way to reality, is a testament to the possibilities of international cooperation and to the challenges presented by the effort to consolidate democratic institutions.

What I will try to do here is provide a schematic description of that process, pointing to the tensions created by the distinct pressures on the different actors involved, in particular the U.S. and Haitian governments. I then propose to turn to the situation on the ground today, the problems that have emerged with the *Police Nationale d'Haïti* (PNH) and the main challenges that the professionalization process continues to face.

President Bill Clinton first tasked ICITAP (the U.S. Department of Justice's International Criminal Investigative Training Assistance Program) to develop a police training program for Haiti in January 1993, soon after he came to office. Most of their work remained at the level of the drawing board as the negotiations with the Haitian military ran their tortuous course over the next years, although ICITAP was working closely with Minister of Justice Guy Malary drafting a new police law when he was assassinated two days after the Harlan Country pulled out in October. There were two main elements of the scenario ICITAP was working with: the need to recruit and train a new, civilian and professional force in Haiti, and the need to have some kind of interim security force while that process was underway. A basic recipe emerged which envisioned the screening and retraining of military to conduct interim policing under the watchful eye of international police monitors and a massive recruitment and training effort for the new, civilian *Police Nationale d'Haïti.* The planning underwent various permutations as the scenario changed from a negotiated return to the possibility of "non-permissive intervention" to a "semi-permissive intervention". Rather than detail the arrangements for these parallel processes, I will highlight three dynamics which either have repercussions to this day or are noteworthy for the lessons they represent:

(1) The entire process was and in important ways is still driven by domestic political pressures on the main international actors, the United States in particular. The legacy of Somalia and the new Republican majority in Congress' dislike of interventionism and the United Nations in general, and of Aristide in particular, meant that code words like "mission creep" and "exit strategy" had to be reiterated and abided by. The first meant that U.S. soldiers could not do anything that resembled policing, while the second had less to do with strategy than with setting a date for the departure of U.S. troops. This created the need for a Haitian force ostensibly in charge of policing while a new police force could be created and deployed by the time of the departure of U.S. troops in February 1996 at the end of the first U.N. mandate. The resulting timetable imposed a foreshortened training schedule for the new police recruits among other issues.

(2) While relying on military personnel to conduct interim policing, reform plans always entailed creating a fully civilian force and not simply retraining and "rolling-over" the military into

the police. More than a recognition of the impossibility of reforming the *Forces Armées d'Haïti* (FAd'H), this was a lesson learnt from the problems ICITAP had faced in both Panama and El Salvador where military roll-overs had provided the entire police force in the former case, and 20 percent military, 20 percent FMLN in the latter. There were later proposals to incorporate the members of the interim public security force into the PNH, but these reflected concerns about how to boost the morale and effectiveness of the IPSF. (In fact, some 1,500 members of the IPSF are now being incorporated into the PNH at the decision of the Haitian government.) The military in the IPSF did not continue with their past repressive habits; in fact, they were terrified of the population and typically would not venture out of their police stations without accompaniment by international police monitors. Mostly, they provided a smokescreen for the fact the police monitors and troops did conduct extensive policing activities and constituted a legal loophole for the Haitian government which could not constitutionally hand over internal security to foreign forces.

(3) U.S. officials, and the Pentagon in particular, had strongly resisted alternative models of interim policing proffered by the Haitian government, which was naturally reluctant to see primary responsibility for daily crime and security in the hands of the institution responsible for the 1991 coup and following repression. However, when the scenario moved to the invasion, the credibility of the interim force became an increasing concern to U.S. officials, and the Pentagon decided that it would be useful to have members of the interim force capable of talking to the general population. This resulted in the recruitment of Haitian refugees at the U.S. base at Guantanamo, Cuba, to serve as "police trainees" in the IPSF. (It was also the United States' refusal to consider alternative models of interim policing that led the Haitian government to propose that Canada to recruit and train Canadian Haitians as police. Ultimately, 100 were selected and trained and are known to this day as "the Regina trainees".) A second important measure taken because of concerns about the credibility of the interim force was a selection process based on vetting the human rights records of the military to serve in the IPSF, something my own and other human rights organizations badgered the U.S. government on for months. The vetting was problematic and we do not feel that it can be relied upon to have removed all human rights violators. It was, however, an important acknowledgment of the problem.

Once ICITAP had put the members of the IPSF through their 6-day "retraining" course, recruitment for the new, civilian PNH became the top priority. Working with a team of Ministry of Justice officials, ICITAP started recruiting. The first class of PNH trainees entered the *Centre de Formation* on February 6, 1995. Recruitment was based on rigorous standards including a high-school level education, and a series of recruitment tests encompassing medical, physical, aptitude and psychological elements. These standards were agreed upon with the Haitian government, but gave rise to some complaints from popular organizations who felt that the academic requirement excluded many of their members from joining the new force. Haitian officials, including then-Minister of Justice Exumé, justified the high standards on the desire to maintain a high level of professionalism in the new force. Ability to work in French is also important for the Haitian police. While the 1987 Constitution calls for all legal codes and proceedings to be accessible in Kreyol as well as French, many Justices of the Peace and judges still do not even have copies of the codes in French -- codes which all require a serious overhaul as well as translation.

There may be other unforseen costs to the recruitment strategy. A Haitian study conducted in late 1995 concluded that a significant percentage of the PNH may not renew their contracts when these expire at the end of three years. While this study was not based on very rigorous methodology or a significant sampling, one of the chronic problems in the force has been absenteeism, in many cases apparently because police agents are continuing with their studies. While it is not clear how likely this eventuality may be, it is worth further examination by Haitian and/or international authorities. Haiti can barely afford the PNH as it stands and could ill-afford to have to re-recruit and train hundreds of new police agents in two years' time. Further draw-backs to the recruitment standards are that qualified candidates largely came from urban areas and are reluctant to police remote rural villages, and, in some cases, are criticized as arrogant by local populations. I do not, however, think that there is an easy solution to these issues. Clearly the desire to create and maintain high standards based on well-qualified candidates is a valid one. It also seems that recruitment efforts that did not disbar some 70 to 80 percent of the population might produce personnel with greater political commitment to the police reform effort. However, there is no guarantee that lower educational standards would in fact produce that result, and, even if it did, the desirability of recruiting individuals with a stronger commitment to a democratic police force would have to be counter-weighed against possible risks of politicization of the PNH.

Successful applicants went through four months training at the *Centre de Formation*. While I have heard few critiques of the training itself, which was fairly straightforward, it was clearly too short. In fact, ICITAP's original proposal had been to conduct six-months training and that is only half the time set by the rule-of-thumb guide that police require a year of training.

Training was divided into two segments, the first taught by Haitian lawyers focused on the Constitution and Haitian law. The other half was taught by foreign instructors, mostly ICITAP and Canadians, and dealt with practical aspects of policing -- patrol and arrest procedures, crime scene preservation, etc. There were also significant segments covering human rights issues and the role of the police in a democracy. About half way through the intensive training program, MICIVIH -- the UN/OAS civilian mission in Haiti observing human rights -- took over teaching human rights elements. At the encouragement of NGOs and others, ICITAP also began Wednesday night forums at which representatives of Haitian NGOs and other civil society sectors were invited to discuss issues with the police cadets. Despite this effort, the main substantive criticism I would make of the training is that it did not adequately prepare the cadets for the reality of the conditions they would face on the ground. Given the brevity of the training and ICITAP's limited experience in Haiti, this is hardly surprising, yet I believe that it has probably contributed to some of the morale problems faced in the force once deployed into tremendously difficult conditions and with little support. In my opinion, a low cost way of addressing this would have been to invite representatives of Haitian human rights organizations and other civil society sectors to make presentations to the cadets about past human rights problems and their legacy in molding popular attitudes. Such interchange would have had the additional benefit of engaging Haiti's politically-key civil society sectors with the police as an institution from its very inception, cultivating greater understanding on both sides, and, hopefully, setting the stage for ongoing police-community dialogue. However, the reality was also that, no matter how much training they received, the PNH was going to be a brand new police force

with no experience at all at any level within the institution.

More problematic were the leadership and logistical issues that immediately arose and continue to present huge problems. Partly because they were so overwhelmed, partly because of the accelerated pace of police reform, and partly for more complex and sometimes obscure political reasons, the Aristide government was extremely slow to appoint police commanders at all levels, Departmental Directors, Commissaires and Inspecteurs. In January, the force was operating with only 26 of 185 mid-to-senior PNH field commanders in place. While the situation has somewhat improved, recruiting and deploying police commanders remains one of the most pressing issues for the PNH. The extent of the ongoing leadership vacuum in the field is indicated by the fact that 43 *Commissaires* have been recruited and trained but not yet deployed, and efforts are currently underway to train a further 53 Commissaires and recruit and train 170 *Inspecteurs de police.* The delay in deploying the Commissaires reflects both the difficulty of finding enough qualified candidates and an ongoing and highly sensitive debate about the role of former military personnel in the PNH. It has had a tremendously damaging effect on morale and discipline in the new force, as well as complicating institutional issues such as basic problem resolution and internal communication. A further side effect of the weakness of PNH leadership was the emergence of multiple, autonomously operating units within the police, many of whom are accused of committing serious human rights violations.

Other huge problems arose immediately due to the lack of infrastructure and logistical support for the new force. In the rush to deploy personnel into the field, police were sent to police stations that typically lacked any sort of functioning communication, either telephone or radio, and often lacked lock-up facilities, office equipment, furniture, even windows, doors and sometimes the roof. CivPol actually withdrew PNH agents from two locations that I know of because facilities were so bad they feared the rookie cops would simply abandon their posts and return to Port-au-Prince. While a significant number of vehicles were donated to the PNH, as well as radio communications equipment, there were no logistical controls or maintenance facilities. Many radios were lost or stolen, and, in station after station, I saw broken-down vehicles that the police had neither the budget nor expertise to fix. Indeed, another common complaint was that they had no local operating budgets with which to purchase gas. In addition to lowering morale and handicapping the police's ability to do their job effectively, these logistical issues appear to have contributed to police abuse by the new force in some cases where cops out on the beat, unable to call for back-up, to confirm the true nature of a situation, or get to or from crisis situations rapidly, have panicked and opened fire or otherwise behaved illegally. These are technical problems that are being confronted. Port-au-Prince now has 80 police cars, at least 50 of them radio equipped, and control and maintenance systems are being put in place. It is worth mentioning that PNH logistics should also be examined from the perspective of appropriate technology and donations of four-wheel drives should be complemented in rural areas by motorcycles and horses or mules to traverse terrain impassable by a jeep or bike.

Finally, the PNH and the Haitian population have to develop a new relationship for which there is no historical precedent. This involves overcoming a history of well-founded mistrust of

security forces. Alarmingly, this new rookie force, has already committed serious human rights violations. Between their initial deployment in July 1995 and May 1996, the PNH were responsible for killing 26 civilians and wounding at least 50 more. These violations do not appear to be systematically ordered from above by either police or governmental authorities, but follow different patterns over time. They reflect an alarming tendency to adopt the repressive practices of Haiti's past security forces, as well as the weaknesses in the institutional development process, that I have been detailing here. Initial problems with excessive or inappropriate use of force, particularly in crowd control situations, characterized the first phase of abuses, as well as accidental shootings and shootings by off-duty cops. A second dynamic emerged characterized by deteriorating police-community relations in Port-au-Prince slums. This culminated in the single most serious incident that has occurred to date: the March 6, 1996, mayhem in Cité Soleil, when at least eight people were killed by police. Also in March 1996, a PNH policewoman, Marie Christine Jeune was killed, the first of eight police agents killed over the next five months. Police abuse also took a new turn with a wave of mistreatment and killings of detainees totaling 86 cases during the first five months of 1996. MICIVIH analysis of these incidents note that there were typically three victim profiles: persons accused of killing police, persons accused of membership in armed gangs and accused armed robbers or *zenglandos*. More recently, several of the police killings I am aware of are tragically banal -- one appears to be a fight between two policewomen agent over a boyfriend in which one shot and killed the other. The other, a police shooting in a bus in Cap Haitien over an argument about whether to open the window. More alarming is a November 4, 1996, shoot-out between police and men in a truck which proved to be full of weapons. The ratio of dead and wounded suspects versus police -- five suspects shot dead and two wounded, and no police injuries or deaths -- and initial reports I have heard that some of those killed died of close-range shots to the head, raise serious suspicions that police may have carried out further extrajudicial executions in this case.

These statistics are profoundly alarming. Yet, probably for the first time in Haitian history, the police are being held accountable for their acts. The internal disciplinary mechanisms of the PNH, notably the office of the Inspector General, is investigating and taking action in these cases, including suspensions, firing police and sending cases before legal authorities for further proceedings. While there are still weak areas that need to be corrected, particularly in the timely provision of detailed information, improving mechanisms for making complaints, and criminal prosecution of police accused of human rights violations, this is nothing short of revolutionary in Haiti where the security forces have long enjoyed impunity.

I hope that, from these remarks, you will share my conclusion that, while still facing formidable hurdles in their institutional development, they are hurdles that, with the ongoing support of the international community, the PNH can overcome. This viewpoint is reinforced by the political will demonstrated by current Haitian political and police leadership to confront these problems investigating and punishing abuses, working closely with international donors, and engaging in a major effort to recruit and train qualified leadership. Gradually, the force is acquiring experience; with suitable donations, resource issues will also be gradually overcome; internal regulations and disciplinary procedures are being distributed and enforced, and will be more systematically enforced once police leadership is fully deployed; and U.N. and bilateral programs are supporting the creation

of needed specialized units such as the judicial police, a SWAT team, anti-narcotics and coast-guard capabilities. This is not to say that the process will be easy, particularly with the severe resource shortages faced in all areas in Haiti, and the lack of a national experience of professional law enforcement. However, my optimism will decline rapidly if the United Nations' mandate is not extended for at least another six months following the current November 30th deadline.

What does remain a serious issue is the low police-population ratio in Haiti. Haiti now has roughly 6,500 police to a population of about 6.8 million, although over 1,000 are serving in special units, mostly based in the Port-au-Prince area. Most rural areas in Haiti remain without any policing except occasional patrols, and those are often limited by the lack of transportation at the disposal of the PNH.

The primary factors that dampen my hopes for police reform in Haiti are external to the PNH. Many reflect systemic problems that pose major challenges to the larger effort to institutionalize and consolidate democracy in Haiti and will take considerable time and resources to remedy.

(1) Dysfunctional judicial system. The police's ability to fight crime is ultimately only as good as the performance of the judicial system in prosecuting and sanctioning proven criminals. Unfortunately, this is an area where progress lags far behind the police reform program. There are a variety of dangers of continued judicial weakness. Obviously it will take a toll on the credibility of the police if criminals are seen to be released by an ineffectual judiciary. This has already led to people taking the law into their own hands and may encourage further incidents of "vigilante justice." It has also led to the police taking the law into their own hands, both in terms of abuse of detainees (police justify such abuse saying that if the justice system cannot be relied upon to punish criminals, then the police must do so themselves) and in at least one case of conducting a "trial" themselves. Finally, ongoing judicial corruption will increase the likelihood of increasing police corruption.

(2) Police-Community Relations. The PNH must also overcome a legacy of attitudes created by decades of abuse. A human rights activist in Gonaives analyzed the development of local police-community relations as a four-phased process in which the police were first welcomed warmly by the population. However, the people then questioned the new force which they saw as "too nice" and started to throw stones at them and challenge them. In response, the police beat up detainees and committed other abuses leading to a final phase of greater popular respect for the PNH. In my own research, I have found attitudes to vary widely and reflect local conditions, with the worst police-community relations existing in Port-au-Prince. In Grande Rivière du Nord, I interviewed four victims of police shootings who clearly distinguished between the two PNH agents responsible for the abuses and the rest of the force which they felt was doing a good job, conducting school visits and reaching out to the community. Indeed, their main request (apart from demanding justice and compensation for the shootings) was to have more police deployed into the surrounding villages. This is encouraging and demonstrates the importance of making a strong break with the past and developing community-oriented models of policing. International and Haitian analysts and observers as well as the PNH themselves unanimously agree that a massive civic education effort

is needed to improve understanding of the role of the police in a democracy. Such a campaign should have a strong focus on how to make complaints of police abuse as well as emphasizing the rights and responsibilities of the people in their relations with the police.

(3) Security challenges. It is difficult to extrapolate from current conditions to a post-UNSMIH/ MANUH era. As long as the international forces are on the ground, it is impossible to know for certain how much their presence contributes to the security environment which has been fairly good overall. However, recent upheavals give rise to new concerns about the potential challenges the PNH may have to face in the absence of U.N. forces. The U.N. Secretary General notes in his October 1, 1996 report to the Security Council -- which calls for extension of the mandate -- that "UNSMIH's military element, which is still the largest and best equipped security force in Haiti, is a key factor in the ability of the Haitian authorities to contain the danger of destabilization by forces threatening democracy." The fear is that, once the United Nations departs, anti-democratic forces will feel significantly emboldened, and will try to challenge the government with further plots and attacks like the August attempts on the parliament and National Palace. The Secretary General's report concludes that "it is likely that the recent spate of violence is intended to test the resolve of the PNH, the Government and the international community." This, and the repeated pattern of "boundary testing" by anti-democratic forces in Haiti lead me to believe that it would be foolish not to prepare for such an eventuality. The verdict is unanimous that the PNH is not yet in an adequate position to confront such attacks should they continue. While in the absence of the military providing institutional backing, Haitian anti-democrats are probably not in a position to carry out a full-fledged coup, they are clearly capable of destabilizing the situation in a manner that would deter economic investment and profoundly damage institutional reform.

(4) The economy. If the economic situation fails to improve, crime and instability are likely to rise, jeopardizing police reform and the broader effort to consolidate democracy and spur development. As noted in the World Bank's Country Assistance Strategy: "Immediate progress in addressing poverty and unemployment is essential for maintaining social stability, without which all other development efforts will be futile." So far, post-intervention life in Haiti has been characterized above all by *la vie chère*, although protests have been notably peaceable to date.

Haiti has a very small and inexperienced police force. But Haiti also has a government and senior police leadership beholden to the people, who genuinely wish to respond to their needs. If the economic and security situation deteriorate, the government and police will face the difficult task of maintaining order in the face of rising demands and violence, increasing the likelihood that they themselves will resort to violence and become yet another force primarily engaged in the repression of the economic and social demands of a desperate people. This is not a happy picture to end with, but it represents a scenario that cannot be ignored. Even in a more felicitous scenario, with slow but discernible economic improvement and only limited destabilization attempts by anti-democrats, the PNH face the more mundane but tremendously difficult task proving themselves to be effective in fighting crime and maintaining public order on a daily basis. It is ultimately not enough for the new police to be civilian and humane; unless they are effective, they will lose credibility and public support, as will the broader effort to consolidate the rule of law. Ultimately, this could feed into a

resurgence of anti-democratic destabilization and "popular justice." The weight of responsibility for making sure this does not come to pass lies with the Haitian government and police authorities who appear to be making every effort to improve the situation. They deserve the ongoing support of the international community in their effort to turn Haiti around and achieve Aristide's sadly telling articulation of the goal of Haitian democrats as moving Haiti from "misery to poverty with dignity."