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Technical assistance and capacity-building

Report of the independent expert on the situation of human rights in Haiti, Michel Forst*

Summary

In accordance with the mandate established by the Commission on Human Rights in its resolution 1995/70 and with Presidential Statement PRST/9/1, the independent expert on the situation of human rights in Haiti submits the present report to the fourteenth session of the Council.

The independent expert starts by describing the situation of human rights in Haiti before the earthquake of 12 January 2010. He then analyses the earthquake's impact on people's rights. He draws attention in particular to the consequences for internally displaced persons, not only in Port-au-Prince but in other regions of the country as well. He highlights the increased risks and the particularly difficult situation of vulnerable groups, a situation aggravated by the earthquake, especially for women, who often suffer gender-based violence, children separated from their families, orphans, restavek children, persons with pre-existing disabilities, and persons newly disabled by the earthquake. In view of the persisting humanitarian crisis, he stresses the need to suspend all forced returns to Haiti.

The independent expert also examines the earthquake's impact on the public institutions and the cornerstones of the rule of law. He describes in particular the situation of Haiti's National Police, justice system, prisons and Ombudsman's Office following the earthquake. He also notes the importance of incorporating a legal perspective in the country's reconstruction. He points as well to the need to continue the reforms which he evaluated in his report of June 2009 (A/HRC/11/5).

* Document submitted late.

The report concludes with the independent expert's recommendations, which are divided into three sections. The first relates to the threats posed to human rights by the humanitarian crisis and contains recommendations on displaced persons and boosting the measures of protection, reintegration and rehabilitation, on combating violence against women, on the protection of children, on persons with disabilities, on migrants' rights, and on prisons and the justice system. In the second section the independent expert recommends that human rights considerations should be taken into account in the reconstruction of Haiti; and in the third section he addresses the reforms which should be continued with respect to the police, the justice system, the prisons, the Ombudsman's Office, the fight against corruption, the decentralization effort, and the endeavour to accord women a greater role in the governance of Haiti.

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I. Introduction

A. The impact of the earthquake on the mandate

1. The earthquake of 12 January 2010, which destroyed Port-au-Prince, Jacmel and other Haitian towns, will ever remain one of the most appalling humanitarian disasters; its aftermath will affect the whole country for many years to come. On the day after the disaster the independent expert sent a letter of sympathy and condolences to President René Préal and to the Secretary-General of the United Nations, in which he associated himself fully with the pain and suffering of all the families, both Haitian and families of international personnel, which had lost dear ones or friends.

2. The independent expert wishes to express his sincerest condolences, sympathy and gratitude to the Haitians and the United Nations staff members with whom he has worked. He salutes the professionalism, determination and courage which they showed during and after the earthquake.

3. The fact that this powerful earthquake occurred in a still fragile State afflicted by extreme poverty certainly magnified the impact of the disaster. The litany of the dead and missing, the numbers constantly revised upwards, the always difficult estimates of the number of displaced persons, the ever revolving images on television screens throughout the world, the sometimes ill-placed questions about the responsibility of various parties, the aftershocks which continued for several weeks, the rumours which perturbed the capital for several days – all of this demonstrated the magnitude of the country's humanitarian crisis. It is precisely in an unprecedented crisis of this kind that human rights come under threat from the violence engendered and the struggle for survival, in which the weakest are at once the most deprived and the most vulnerable. Much has been written about the situation of extreme destitution experienced by the inhabitants of Haiti for many weeks and about the difficulty of responding to a humanitarian emergency when it is of such a magnitude. This kind of humanitarian crisis and natural disaster demonstrates just how far the question of human rights is involved in the response of the international community in endeavouring to satisfy the people's assistance needs.

4. It is also in this kind of humanitarian crisis which throws into bold relief the interdependence and indivisibility of all human rights, civil and political, economic, social and cultural rights, including the right to development.

5. As already stated at the end of the report which the independent expert submitted in June 2009 (A/HRC/11/5) and in accordance with the Statement of the President of the Human Rights Council of 24 September 2008,¹ the independent expert concentrated during his three visits in 2009 on clarifying the possibility of realizing economic and social rights in Haiti, with a view to stating the conditions for their realization in terms of two examples – the right to education and the right to health. It was the plan for sections to be devoted to other topics, such as the “restavek” question, migration, and the deportee issue.

6. However, in view of the crisis which followed the earthquake and which is certainly going to persist for a long time, the independent expert thought that he had a responsibility to devote part of his technical assistance mandate to more urgent human rights issues in the humanitarian crisis and to the place which ought to be accorded to human rights and governance in the reconstruction of Haiti.

¹ “11. The Council invites the new expert to continue the work undertaken and to carry out his mission by bringing his experience and expertise to bear and contributing to the cause of human rights in Haiti, with a particular emphasis on economic, social and cultural rights.” *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53 (A/63/53/Add.1)*, chap. III, PRST/9/1.

7. The other questions relating to the realization of economic and social rights and the role of local authorities (mayors, municipal district administration councils (CASEC), district administration assemblies (ASEC))² will form the backbone of the next reports. The other matters taken up in the preceding report are still very relevant, especially in the present situation.

B. Discharge of the mandate before 12 January 2010.

8. In accordance with the mandate established by the Commission on Human Rights in its resolution 1995/70 and with Presidential Statement PRST/9/1, in which the Human Rights Council invited the new independent expert to undertake a mission to Haiti and report to it each year, the independent expert submits the present report to the Council at its fourteenth session.

9. The report covers the period from March 2009 to March 2010, during which the independent expert visited Haiti three times;³ he travelled to places away from the capital, including Gonaïves, Jérémie, les Abricots, Ouanaminthe, les Cayes and Cap Haïtien, and wishes to express his gratitude to the many Haitians whom he met during his visits; he also went to Paris, New York, Ottawa, Montreal and Geneva.

10. The independent expert wishes to thank the Haitian authorities, who enabled his mission to be carried out in the best conditions. He is grateful to President René Préval for the friendliness and warmth of his welcome and for his thoughts about the country's future and to Prime Minister Michèle Pierre-Louis and the other members of the Government and Parliament whom he met for the frankness of their observations.

11. The independent expert also met regularly on the spot with the Special Representative of the Secretary-General and Head of the United Nations Stabilization Mission in Haiti (MINUSTAH) and his deputy, and he wishes to thank all the members of their team, who afforded him effective support in terms of logistics, security and public relations. He also spoke regularly by telephone with the Special Representative of the Secretary-General and several members of MINUSTAH between his visits and up to the early part of January 2010 for briefings on political, economic and security developments in Haiti.

12. The independent expert also thanks the officials of the main institutions of the United Nations and the Organization of American States whom he met and the members of diplomatic corps present in Port-au-Prince, with whom he exchanged views on a number of occasions concerning the role and action modalities of the international community in Haiti.

13. The members of the MINUSTAH Human Rights Section and Justice Section gave him unfailing support, both in Port-au-Prince and during his travels, and shared with him their assessment of the situation and the progress of the ongoing reforms. The independent expert wishes to state that these two sections are invaluable partners in the discharge of the mission entrusted to him by the Council.

14. The independent expert was also able to travel to New York, where he met representatives of the Group of Friends of Haiti and United Nations officials. He also spoke with Paul Farmer, the Deputy Special Envoy of the Secretary-General, and with members

² The Republic of Haiti is divided into 10 departments, 41 arrondissements, 133 communes and 565 districts.

³ From 27 April to 9 May 2009; from 29 August to 7 September 2009; and from 23 November to 1 December 2009.

of his team to discuss with them the question of economic and social rights in Haiti and the possibility of collaboration under the two mandates.

II. The earthquake and its impact on rights

A. Threats to rights in the humanitarian crisis

15. In Haiti there is a “before” and an “after” 12 January 2010, a circumstance which will also have had a direct impact on the exercise of rights. The earthquake, which completely destroyed Port-au-Prince, Jacmel and other Haitian towns, was felt by and had repercussions for the whole country, as well as for the diaspora and the entire international community, which mobilized itself as never before to help Haiti in the turmoil of the humanitarian aid effort and to participate in the country’s reconstruction.

16. It must be kept in mind that Haiti was making progress and it is important to reaffirm that the upsurge experienced by the country for several months had only been interrupted, not ended. Tangible progress had in fact been made with civil and political rights, even if there was still far to go before Haiti would have a penal system consistent with the requirements of the rule of law. The security situation had improved, the number of kidnappings had declined, and the main gang bosses had been arrested; all of these developments made up a picture in which encouraging signs could be perceived. The appointment of Bill Clinton as Special Envoy of the Secretary-General of the United Nations was a clear symbol of the increase in jobs-creating investment in Haiti. Of course, the situation is now more precarious, especially as the earthquake interrupted this process: at the time of writing this report some of the gang bosses are again at large, the police force has been hit by the disaster, and the justice system in Port-au-Prince now depends partly on the reconstruction of buildings. However, the Government, under the authority of President René Préval, has taken the measure of the problem, and the President is endeavouring, with the support of the international community, to deliver responses to it, asserting among other things that “it’s a long-term undertaking. It would be a mistake to rebuild the country on the same mistakes. Today it is not a question of rebuilding but of refounding the country. We have to rethink Haiti as a different country”.⁴

17. The international community’s response to the humanitarian crisis was immediate and massive, with a clear determination on the part of all countries to do their best to furnish speedy succour to the people. It was only gradually that the magnitude of the disaster and the numbers of direct and indirect victims were realized. Even though the coordination of the international aid has been criticized, it is too often forgotten that the international community was confronted with an unprecedented situation and had to adapt itself gradually to the country’s parameters.

18. Leaving aside the humanitarian issue, experience in other situations has shown that human rights come under immediate threat in crises and emergencies. The MINUSTAH human rights units and Haitian non-governmental organizations (NGOs) concerned with human rights quickly issued warnings about the human rights violations which they had witnessed or which had been reported to them. Much testimony concerning infringements of human rights in the context of the humanitarian operations was addressed to the independent expert. At the time of writing the present report three human rights NGOs⁵ were on mission in Haiti to document the violations of rights and formulate recommendations. Their disquieting findings and evidence were communicated to the independent expert.

⁴ Interview in *Le Point* magazine, 16 February 2010.

⁵ Amnesty International, Human Rights Watch and International Federation for Human Rights.

B. Internally displaced persons

19. The earthquake and the subsequent humanitarian crisis had a powerful impact not only on the towns directly affected but also on the entire country, for in the hours and days following the event hundreds of thousands of Haitians left the ruins of their homes to go to stay with parents or other family members or with friends in other towns, which thus experienced a massive influx of displaced persons.

20. Several hundred thousand displaced persons are currently living in precarious conditions, and, at the time of writing, the security of the camps and other installations are exposed to threats, especially because of the arrival of the rains and the menace of the cyclones which strike Haiti at that time of year. In order to make these facilities secure or as a safety precaution tens of thousands of persons were to be evacuated, and the Representative of the Secretary-General on the human rights of internally displaced persons⁶ was requested to offer his expertise and advice to MINUSTAH. His recommendations ought also to constitute a valuable tool for the armed forces conducting this evacuation exercise.

21. What matters is not the physical distance but the fact that the persons concerned have absolutely no resources and are rendered even more vulnerable by a parlous economic situation and the destruction of their family and community social relationships, circumstances which place their rights under even greater threat. The persons and families who moved from Pétionville to makeshift shelters at Champs de Mars or Carrefour Feuilles are displaced persons indeed.

22. The Guiding Principles on Internal Displacement (“the Guiding Principles”) adopted in 1998 (E/CN.4/1998/53/Add.2) constitute a unique international regulatory framework establishing the right to be protected against arbitrary displacement and an institutional framework for dealing with displaced persons and reinforcing the measures for their protection, reintegration and rehabilitation. The problem of internal displacement calls for a global, systematic and effective response based on an approach which gives priority to the effective exercise of their fundamental rights by the displaced persons themselves.

23. The Guiding Principles should be widely publicized and discussed, for the benefit of military personnel in particular, and they should be applied both by the Haitian authorities and by the international organizations, with special care being taken to ensuring that the eventual relocation of displaced persons living in temporary camps should be effected on a voluntary basis, except in cases of evacuation for security or personal safety reasons. Similarly, the relocation of persons with disabilities or persons who lost limbs during the earthquake must be effected in compliance with the health requirements dictated by their physical or mental condition.

24. Solving the problem of internal displacement will take time and will mean, in particular in the discussions on reconstruction, that the treatment of beneficiaries must be based on a determination of their needs, particularly in the case of those who wish to return to their places of habitual residence.⁷

⁶ Among other things, on 8 March 2010 Walter Kälin organized on the fringes of the Human Rights Council an informal meeting with the independent expert to draw the international community’s attention to the risks to which people displaced in Haiti during this period were exposed.

⁷ At the time of drafting this report comments were made and addressed to the independent expert concerning the failure to consult the displaced persons; this is particularly true in the case of persons suffering disabilities or paraplegic or hemiplegic paralysis or who lost limbs as a result of the earthquake. The independent expert would like to verify these allegations during his next visit.

C. Vulnerable groups

25. Owing to their vulnerability certain population groups come under particular threat during humanitarian crises or major upheavals and therefore require even greater attention to be paid to their protection needs. The persons concerned are mostly women, children, the elderly, persons with disabilities, and persons who have suffered trauma or serious injury or have lost a limb.

1. Women and gender-based violence

26. There is a considerable volume of credible evidence of the plight of women, in particular pregnant women and women with very young babies. Owing to their delicate condition they do not have access to food distribution points or to food coupons: some of them are obliged to walk for several hours and are not strong enough to carry bags of rice, or even if they are, they may have their bags of food stolen on route. There is some evidence of a very large increase in forced prostitution, especially in exchange for food or food coupons. There is considerable evidence of violence against women and girls, in particular in the camps but also in the various quarters of Port-au-Prince and other disaster-stricken towns in which makeshift shelters have been set up.

27. There are allegations of a 150 per cent increase in incidents of violence reported to the Haitian National Police, which means that the estimates must be far lower than the true figures, for many women and girls were reluctant in the past and are still reluctant to make complaints. The lack of security in the camps, the poor lighting at night, the dearth of proper sanitation facilities and the shortage of shelters or tents which compels people to cohabit with strangers are the commonest reported causes of gender-based violence.

28. An increasing number of these acts of violence are committed by gangs of men, who are able to proceed with absolute impunity even though their names are known. This situation is further aggravated by the fact that the principal hospitals which used to examine sexually assaulted women in order to certify their condition have been destroyed and the civil society organizations which used to work on these cases have been disbanded or have ceased to operate. Nevertheless, from the third week after the earthquake a number of organizations (such as Kay Fanm, Solidarité Fanm Ayisyen (SOFA) and Fanm Décidé) began to care for women victims of violence. The National Police does not seem particularly anxious to receive and process complaints; clear instructions ought to be given by the National Police authorities concerning procedures for dealing with this type of violence, in particular with respect to the receipt of complaints and increased patrols inside and in the vicinity of the camps. What is more, the General Hospital in Port-au-Prince has ceased to issue certificates to women victims of violence on the pretext that this not an “essential service”.

29. The issue of violence against women must be treated as a high priority and steps must be taken to combat the existing fatalism and impunity, so that women who suffer or are threatened with violence are given clear and sufficient information. Protected washing and toilet facilities must be installed in order to keep women safe from men’s eyes, and patrols including female members (of the National Police and the United Nations Police (UNPOL)) should maintain surveillance, particularly in high-risk zones.

30. Lastly, the *Guidelines for Gender-Based Violence Interventions in Humanitarian Settings*⁸ of the Inter-Agency Standing Committee should be widely publicized and issued to the personnel of the National Police, MINUSTAH and other bodies. They contain numerous specific recommendations applicable to the situation in Haiti.

⁸ http://www.womenwarpeace.org/docs/GBV_Guidelines_pdf.

2. Children

31. Children are particularly vulnerable in crises and humanitarian disasters, and their vulnerability is intensified by their separation from their families or habitual environment, the lack of restrictions on their behaviour, and the ambient violence of the streets and camps. These circumstances expose them to networks of traffickers, who did of course exist before the earthquake but who are now taking advantage of a situation which facilitates their criminal activities. The United Nations Children's Fund (UNICEF) and other specialized agencies have done excellent work in terms of documentation, identification, family reunification, and provision of shelter, care and protection. However, owing to the large numbers of children isolated or even orphaned as a result of the mass displacement of people to other towns, the risks of kidnapping, illegal adoption and sexual violence against children persist. There remains a large number of unaccompanied children and children taken in by other families under circumstances which encourage resort to the *restavek* system,⁹ which existed before the humanitarian crisis. The independent expert is particularly worried about the allegations of a certain volume of trafficking in children across the border with the Dominican Republic. He recommends that the work of UNICEF and other specialized agencies should receive broad support and that, in the context of the efforts to combat the *restavek* phenomenon, use should be made of the recommendations contained in the report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, concerning her mission to Haiti (A/HRC/12/21/Add.1) and in his own previous report (A/HRC/11/5).

32. Foreign families which have prepared adoption papers want the adoption to be completed quickly, sometimes at risk of circumventing the legal procedures put in place by the Haitian authorities. Even before the disaster, attempts to kidnap children or to circumvent adoption procedures had been documented. Other allegations refer to adoption or attempted adoption by families wishing to help children in distress. According to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, international adoption should be envisaged only as a last resort, when all internal alternatives have been exhausted and only after the competent authorities have verified the lack of a relative or guardian to take care of the child. It is thus a matter for the Haitian authorities, with the support of MINUSTAH, to ensure that appropriate arrangements and safeguards are introduced to prevent children from being removed from their country without undergoing a complete legal procedure of international adoption.

33. Owing to the unsafe condition of buildings and the mass displacement of population, a very large number of children have been compelled to interrupt their schooling indefinitely, a circumstance which further aggravates a difficult situation in Haiti where the right to education is concerned.

3. Persons with disabilities

34. Before the earthquake Haiti already had 800,000 persons with disabilities, i.e. a tenth of the country's population; today, the proportion of persons who have lost a limb or have become paraplegic or tetraplegic will have exploded as a result of the earthquake and its aftershocks. According to Michel Péan, Secretary of State for the Integration of Persons with Disabilities, more than 5,000 persons have acquired disabilities as a result of injuries caused by the earthquake. The Committee on the Rights of Persons with Disabilities has pointed out that, under the Convention on the Rights of Persons with Disabilities, States

⁹ The *restavek* (from "*reste avec*" (stay with)) are children, often from large rural families, who are sent to live with other rural or urban families, where they are supposed to receive education in exchange for domestic work. They are forced to work and often suffer exploitation, including sexual exploitation, and do not necessarily obtain the promised education.

should take all necessary measures to ensure the safety and protection of persons with disabilities in situations of risk and disasters such as earthquakes.¹⁰ Local NGOs working in this field have repeatedly pointed to the difficulties resulting from the scant attention paid to disability, as is unfortunately the case in many countries, as well as to extreme poverty, which is even more widespread among persons who find it difficult to work. The international community is now confronted with a sharp increase in the number of persons with disabilities as a result of the injuries and loss of limbs caused by the earthquake. At the beginning of February, Handicap International estimated that a minimum of 1,000 prosthetic lower limbs would have to be produced for the many persons who suffered amputation following the earthquake in early January. Haiti's main source of prosthetic devices before the disaster (Healing Hands for Haiti) was largely destroyed, rendering international assistance with the provision of prosthetic and orthotic devices all the more necessary.

35. The independent expert recommends broader distribution and improved use of the General Guidelines for the protection and inclusion of injured persons and people with disabilities, published by Handicap International,¹¹ in particular with regard to evacuation operations.

36. He also recommends that the services of the Office of the Ombudsman¹² should be commissioned to investigate possible infringements of the rights of persons with disabilities and to ensure that their rights are respected.

4. Forced return

37. Cases of the forced return of Haitians have been repeatedly documented by international organizations and the press. Several cases have been reported of interception on the high seas of migrants who were trying to flee the country but were forcibly returned to Haiti. Many countries have announced that they are suspending forced-return programmes, but others have stuck by the decisions taken before the natural disaster, thus piling victims on top of victims. The independent expert is extremely concerned about these decisions and he points out that the Office of the High Commissioner for Human Rights and the Office of the High Commissioner for Refugees have issued a joint emergency appeal to countries to suspend all forced returns to Haiti because of the persisting humanitarian crisis.

38. At least for the stabilization period and until these persons can return safely and permanently the independent expert recommends that all countries should refrain from expelling Haitians and continue to provide decent temporary arrangements for their protection on humanitarian grounds.

D. The destroyed cornerstones of the rule of law

1. Haiti's National Police

39. On 12 January 2010 and over the next few days the National Police suffered very heavy losses of life and equipment: the figures show 75 police officers killed, some 70 disappeared, and 253 injured. The National Police Headquarters building and about 40 police stations, sub-stations and administrative offices were affected by the earthquake.

¹⁰ "Haïti: Les handicapés risquent d'être les oubliés de la reconstruction du pays" (Haiti: Persons with disabilities risk becoming the forgotten ones of the country's reconstruction), press release of 9 February 2010 (<http://www.un.org/apps/newsFr/storyF.asp?NewsID=21178&Cr=Ha%Efti&Cr1=>)

¹¹ www.handicap-international.de/fileadmin/newsFr/storyFrench.asp?NewsID=21178&Cr=Ha%Efti&Cr1=.

¹² Article 207 of the 1987 Constitution created the Office of the Ombudsman in order to protect citizens against all forms of abuse by the public administration.

Over the following days police officers were ordered to organize security patrols to prevent looting and lynching by the people.

40. Several hundred police officers and blue helmets were involved in protecting humanitarian convoys and were gradually made available for security work with the arrival of contingents of police officers and military personnel assigned to MINUSTAH. Joint patrols were organized with UNPOL, not without difficulty, to secure the boundaries of the camps and the high-risk zones and arrest convicts who had escaped from the national prison, but the independent expert fears that no-go areas which the police are reluctant to enter are being re-established.

41. Allegations of the extrajudicial execution of looters by members of the National Police have circulated; some of them have been documented and complaints have been lodged about them. However, the independent expert welcomes the fact that clear instructions were given by the Secretary of State to the services of law and order and the Director General of the National Police concerning the procedures to be followed in emergencies. But by the time of drafting the present report the independent expert had received several credible pieces of evidence and case files showing that this problem is far from under control.

2. The justice system

42. At least 10 members of the Judiciary, including the most senior judge and two other judges of the court of first instance in Port-au-Prince, the Government Commissioner in the court of first instance in Hinche, and a Deputy Government Commissioner to the court of first instance in Port-au-Prince, four ushers and a clerk of the court of first instance in Port-au-Prince, lost their lives in the earthquake.

43. The Palace of Justice, the Ministry of Justice, the Ministry of Public Order and the Palace of the Legislature were destroyed. The Court of Cassation finally found a home in the Judiciary Training College, and, having authorized the court of first instance to sit in the premises of the prosecution service, the Minister of Justice is trying to find a new building to house the Court of Appeal, thus demonstrating his determination to get the country's judicial institutions back to work. Notwithstanding the damage suffered by the judicial institutions, it is important to send out some prompt and powerful signals to show that the justice system is continuing to operate, albeit in difficult conditions.

44. In fact, apart from the Port-au-Prince jurisdiction, the departmental courts can and must continue to sit, even though nobody underestimates the impact of the crisis on the courts in other departments resulting from the difficulty of communication between the capital and the other jurisdictions and the massive influx of displaced persons in other towns.

3. The situation in the prisons

45. In his previous reports the independent expert drew attention to the difficult situation of Haiti's prisons, characterized principally by overcrowding and excessively long periods of pretrial detention,¹³ these two factors being closely interrelated. During his visits to other departments he was able to establish that this situation was not limited to Port-au-Prince but was to be found, with rare exceptions, not only in the prisons but also in some National Police stations.

46. The situation has undergone a complete reversal since the earthquake. Several prisons were damaged and, according to the Haitian authorities, some 5,000 inmates took

¹³ In his latest report the expert indicated that the proportion of prison inmates being held in pretrial detention was close to 80 per cent and that the floor space allocated to each detainee in the civilian prison in Port-au-Prince was less than half a square metre (A/HRC/11/5, para. 59).

advantage of the earthquake to escape from the national prison in Port-au-Prince and other prisons. In some establishments the prisoners fomented violent mutinies and took the opportunity to escape. Several dozen of the escapees were recaptured by the National Police and UNPOL, but most of them are still at large. Some of them are said to have found refuge in the Cité Soleil quarter, which they used to control, and to have stolen firearms from their warders in the course of their escape.

47. Many of the 3,000 prisoners who escaped from the national prison alone were members of drugs- and arms-trafficking gangs from Cité Soleil, and many judicial documents seem to have been destroyed in the post-earthquake chaos. Little is left of the files of the national prison, where traces of fire were found in a cell; this circumstance increases the risk of unfair treatment of detainees by the justice system

48. The Palace of Justice in Port-au-Prince, which collapsed on the day of the earthquake, was burned a few days later, with the loss of several hundred current case files. In addition, the files office of the Palace of Justice and the Court of Appeal were looted, as was the office of the clerk of the court of first instance in Port-au-Prince, rendering more than random the processing of the files which had been deposited there. Investigations are proceeding concerning certain members of the prison administration and their possible role in facilitating a number of escapes.

49. Detainees are currently crammed into cells in various prisons and police stations in difficult conditions. Open-air camps have also been set up, in Port-au-Prince in particular, close to Logbase; the inmates of these camps are exposed to public view to the detriment of their dignity. The independent expert recommends that at least canvas sheets should be raised to protect inmates from this exposure. He salutes the work done by the International Committee of the Red Cross (ICRC) to bring places of detention, in particular the civilian prison in Port-au-Prince, up to international standards.

50. Questions have been raised about the judicial processing of the prisoners recaptured after escaping and about the processing of their cases. Where persons already convicted are concerned, there ought to be other documents available giving the date of conviction, the sentence handed down by the court, and the time left to serve. In the case of prisoners who were already held in pretrial detention or who will be recaptured after escaping, the independent expert recommends that simplified measures should be taken with regard to their offences, thus freeing the judicial system to deal with the cases deemed most serious under Haiti's Criminal Code.

4. The Office of the Ombudsman

51. The independent expert welcomes the decision taken by President Préval, in agreement with the President of the Senate and the President of the Chamber of Deputies, to appoint Florence Elie to the post of Ombudsman. She had hardly been appointed when she produced an ambitious action plan, but it could not be set in motion owing to the earthquake. Her offices have been affected, and the cracked walls make it dangerous to use the premises or the equipment. With ICRC help she has erected three tents in her garden to continue her work of documenting and processing complaints. Her possibilities for action are limited, at a time when, pursuant to her mandate, she should be conducting investigations and taking part in the discussions in the various "clusters", especially of the protection issues.

5. The place of human rights in the reconstruction

52. President Préval has repeatedly asserted that the future is not about reconstructing Haiti but about constructing a modern State. This vision was outlined in speech delivered by

Prime Minister Jean-Max Bellerive at the opening seminar of the joint post-disaster needs assessment (PDNA) on 18 February 2010: “We share a dream: the dream of seeing Haiti as an emerging country by 2030, a society of simplicity, fairness, justice and solidarity living in harmony with its environment and its culture, enjoying a controlled modernity in which the rule of law, the freedoms of association and expression, and the country’s development are firmly in place, within a modern, strong, dynamic, competitive and open economy embracing the whole of the territory, one in which all of the people’s basic needs are satisfied and managed by a strong unitary State, the guardian of the general interest, a State which has undergone extensive devolution and decentralization.”

53. A few days after the earthquake the Human Rights Council, alerted to the infringements of rights and the threats hanging over the most vulnerable members of the population, was moved to hold a special session, in the belief that, apart from the immediate urgent need for humanitarian assistance, it was important to secure a prominent place for the question of human rights in the reconstruction of Haiti. In its decision S-13/1, adopted at its thirteenth special session held on 27 and 28 January 2010 and entitled “The support of the Human Rights Council to the recovery process in Haiti after the earthquake of 12 January 2010: a human rights approach”, the Council calls upon the international community to “continue to ensure adequate and coordinated support to the Government and the people of Haiti in their efforts to overcome the challenges arising from the earthquake, keeping in mind the importance of integrating a human-rights approach”.

54. The Council expresses its concern about the present human-rights situation in Haiti, in particular the vulnerable situation of children, women, internally displaced persons, the elderly, persons with disabilities, and the injured. It goes on to underline the need to address the additional obstacles arising from the devastation in such areas as food, adequate housing, health care, water and sanitation, education, work and the civil registry. The Council emphasizes in this context the importance of reconstructing national institutions and of providing cooperation, capacity-building and technical assistance to the Government and the people of Haiti, in accordance with the needs and the requests made by the country itself.

55. By adopting this text the Council firmly indicated its wish to ensure that human rights occupy a prominent place on the reconstruction agenda and to deliver a strong and clear message in support of a rights-based approach, especially at the International Donors’ Conference on 31 March in New York.

56. The independent expert wishes to stress in this connection the importance of safeguarding this vision of a rights-based approach from the very outset of the reconstruction process and to put forward some recommendations, in particular concerning the need to keep in mind the objectives of the realization of human rights in the reconstruction programmes. Neither the urgency of the reconstruction nor the pragmatism of the planning should divert the decision-makers from this approach, for it will enable the country to acquire a different self-image for the future.

57. The loss of hundreds of thousands of lives can in no way be attributed solely to fate or the natural elements, for that would mean ignoring the fact that Haiti had been living for too long in a state of extreme poverty which without doubt did much to magnify the consequences of the disaster. That is why those responsible for the reconstruction must make sure not to recreate the very same factors likely to perpetuate the inequalities and the poverty and thus cause violations of human rights.

58. The reconstruction work should be conducted by the Haitians themselves with the assistance of the international community, but it should give priority to the needs and aspirations of the people without trying to impose an organizational model from the outside.

A systematic effort should be made to involve civil society organizations, women's organizations, development organizations, and peasants' organizations.

59. The principles of the reconstruction should be based on a long-term vision of the rule of law, a concept understood to cover all rights, not just the civil and political ones. The issue of the rule of law cannot be resolved simply by reforming the judicial institutions and the procedures of criminal law, the police and the prison system or by combating corruption. It must always be kept in mind that establishing the rule of law also means ensuring the proper functioning of the institutions and public services which, in addition to guaranteeing the security of persons and property, must also guarantee the exercise by all citizens of all the human rights proclaimed in the International Covenant on Economic, Social and Cultural Rights. And that is an enormous commitment for the international community, for it will have to incorporate in its reconstruction plans that constantly reiterated interdependence of civil and political rights and economic, social and cultural rights.

60. The reconstruction plans should envisage the restoration of a sustainable environment as part of a more decentralized and fairer development designed to protect the people against natural hazards.

61. The reconstruction should be equitable and seek to reinforce rights and not to give priority to the richest and most prosperous areas, but rather to adopt an equitable approach to the regions and zones to be reconstructed inspired by a vision of a fairer society.

62. The reconstruction should aim at strengthening the system for protecting rights and freedoms (justice, administrative justice, police, Ombudsman's Office).

63. The reconstruction should give increased attention to the needs of internally displaced persons and base itself on the general framework of the Guiding Principles and the recommendations contained in the report of the Representative of the Secretary-General on the human rights of internally displaced persons, entitled "Protection of internally displaced persons in situations of natural disasters" (A/HRC/10/13/Add.1) and give particular attention to the most vulnerable population groups – women, children and persons with disabilities.

64. Where financing operations are concerned, donors should avoid giving with one hand and taking away with the other; the contractual debts of the Haitian State should be cancelled, and the aid granted should be in form of gifts rather than loans.

III. Reforms to be continued

65. A large part of the report submitted to the Human Rights Council in June 2009 was devoted to issues connected with the reform of the justice system, the vetting of the National Police,¹⁴ and the prison system. The independent expert indicated that matters were improving but that a number of vital issues remained pending. Although the earthquake struck Port-au-Prince and the neighbouring towns, its impact went far beyond the mere destruction of buildings, and the three institutions (justice, police and prisons) were seriously affected throughout the country. That is why, leaving aside the short- and

¹⁴ The vetting (or certification) of police officers is one of the aspects of the support furnished by MINUSTAH in the effort to upgrade the professionalism of the National Police. This process is designed to verify the suitability of candidate police officers to join the force. Serving officers are also subject to vetting. Inquiries are made with families and other close relatives and court or criminal records are looked into in order to ensure that the officer or candidate is morally and legally qualified to join the force.

medium-term handling of this matter, the independent expert wishes to restate a number of principles and formulate some recommendations which remain relevant in the context of providing technical assistance to the Haitian authorities.

A. Consolidation of the rule of law

1. The police

66. Ever since he took up his duties the independent expert has been following closely the introduction and implementation of the national plan for reform of the police, noting *inter alia* in his preceding report that the security situation has improved and that the police reforms were visible, even if there might be legitimate doubts about the procedure for removing undesirable police officers from the force.

67. The reform of the National Police and the vetting procedure introduced with MINUSTAH support had been one of the main features of the re-establishment of what is a cornerstone of the rule of law. The vetting of the records of all police officers had made considerable progress, several hundred files had been referred to the Supreme Council of the National Police, which was to take the decision to retain the officer in question in the ranks or to dismiss him if he did not satisfy the requirements of a democratic police force.

68. This process was interrupted by the earthquake and the records which were to be used to certify Haiti's police officers or remove undesirable elements were unfortunately lost when the buildings occupied by MINUSTAH and the General Directorate of the National Police collapsed. The independent expert is not sure what has happened to the back-ups of computerized documents which should have been made regularly during the vetting process.

69. The time has not yet come to resume the process, but when it does come these back-ups ought to make it possible to resume and complete the process, in accordance to the mandate given to MINUSTAH by the Security Council.

2. The justice system

70. The humanitarian emergency aside, the independent expert points out that the three 2007 acts on reform of the justice system should form the cornerstone of the reform of Haiti's Judiciary. He had stated that the reforms were stagnating owing to the failure to take a decision on the appointment of the President of the Court of Cassation and had suggested the interim appointment of the current Vice-President of the Court (see A/HRC/11/5, paras. 17 to 21 and 88). This matter was taken up several times with President Préval and with Paul Denis, the new Minister of Justice, quite openly and frankly, and the reasons cited for deferring the decision seemed legitimate. However, the independent expert considers that the conditions are now satisfied and he again expresses the wish to see this appointment made promptly. In fact, as a result of the humanitarian crisis the country's judicial institutions are in greater need than ever to be able to count on President Préval's determination to separate the executive and judicial branches of State power in order to send out a clear signal on the direction of the reform to be undertaken.

71. Apart from his own *ex officio* powers, the President of the Court of Cassation is the keystone of the reform of the justice system. He is the one who presides over the Supreme Council of the Judiciary and who can therefore launch the programme on the certification and recruitment of judges; he also presides over the Governing Board of the Judicial Training College and would thus be able to establish the programme on the initial training of judges which the country so badly needs.

72. At the end of 2009 the Supreme Council of the Judiciary was not always meeting regularly, for want of a presiding officer and pending the issuance of the report on certification which the certification committee was to submit to the Minister of Justice, and the Council was thus blocking the judicial reforms. In 2009 a number of dishonest judges had nevertheless been dismissed, while others perished in the rubble of the Palace of Justice; there is therefore an urgent need to proceed with the appointment of new judges, not only in Port-au-Prince but also in the other jurisdictions, and it would be desirable for these new appointments to be made in compliance with the spirit of the 2007 reform. The independent expert recommends that the Supreme Council of the Judiciary should be established and that, with regard in particular to the financing of the reconstruction work, it should be furnished with the trained human resources and the funding to enable it to operate with absolute independence and proceed to recruit judges without further delay.

73. The Judicial Training College has been inaugurated but since the earthquake it has been used mainly as a refuge for the Parliament, whose buildings were destroyed. While understanding the difficulty of the situation the independent expert urges that the question of the initial training of judges should not be relegated to the bottom of the list of priorities in the reconstruction of Haiti. The country needs to recruit a number of judges and to look to the future by training women and men to take up new posts or take over from outgoing judges.

3. The prison system

74. During his meetings with President Préval and the Minister of Justice the independent expert recommended the separation of convicts from untried detainees in order to show the way in which the prisons issue was being addressed in Haiti. At the time when the construction of the new prison in Croix des Bouquets had just begun, he suggested that, in the light of the number of places eventually to be available in the new establishment, it should be used exclusively to house convicts with sentences to serve.

75. In the context of the rebuilding of Haiti's prisons the independent expert recommends that that policy should be continued and that holding centres should be built for untried detainees and prisons for convicts, in order to prevent the mingling of these two populations from fostering criminality and renewal of the violence.

4. The Office of the Ombudsman

76. The independent expert welcomes the support provided by OHCHR in the drafting of the bill on reorganizing the Office of the Ombudsman to bring it into conformity with the Paris Principles. He recommends that greater attention should be given to the development of the Office's work and that it should be allocated the budget and human resources to set up regional branches. It is essential for this institution to move closer to its clients and thus be enabled to perform the dual function of promotion and protection, supervising and coordinating the field investigations and providing human rights training, in collaboration in particular with the University and civil society organizations.

77. In this period of crisis and endangerment of human rights it is especially important for the national human rights institution to be supported in its role as oversight mechanism, a role perceived by the people as a remedy against any abuses which they may suffer.

B. Combating corruption

78. During his various visits in 2008 and 2009 the independent expert gathered a considerable amount of evidence that corruption, one of the scourges of Haitian society, continued unabated at all levels, even though the fight against corruption figured in the

action plans of the Ministry of Justice and of the forces of law and order. The succession of speeches delivered by President Préval since 2007 seemed to have given a clear and reaffirmed signal of the political will to make the fight against corruption a strategic aim (albeit one whose attainment seemed to be taking a long time).

79. With the massive influx of humanitarian aid and reconstruction funds it is important to show that the aim of combating corruption remains a central focus of the Government.

C. Devolution/ decentralization: a factor in the exercise of rights

80. During his past three visits the independent expert devoted considerable time to the question of devolution and decentralization in order to verify the theory that the realization of rights, especially economic and social rights, would be more successful if powers were transferred to the local authorities or if the links between the central Government and its departmental offices were more effective. He also met with a number of mayors and CASECs to question them about their prerogatives, budgets and achievements; he realized that several elected officials had succeeded perfectly well, after consulting the local people, civil society and peasants' organizations, in establishing programmes and projects in various fields for the benefit of the local people and in involving these people both in decision-making and in implementation. He then met with civil society, peasants' and religious organizations in the various departments visited in order to discuss with their members their success in bringing decision-making circles and local stakeholders closer together. All of them advocated a first stage of devolution of power to facilitate access to administrative procedures and speed up decision-making.

81. Experiments were carried out in some departments, with assistance from the United Nations Development Programme (UNDP) and other bodies; the beneficiaries of the projects were provided with access to basic services, which they had long been denied, such as drinking water, health care (thanks to the construction of dispensaries) and an improved flow of local foodstuffs (as a result of the rebuilding of access roads in remote areas). One of the lessons drawn by the partners in these experiments is that the more the local people are involved from the outset in the process of participatory and strategic planning, the more likely they are to take it over and develop their independence. The successful involvement of local people in the determining the community's priorities by consensus and in implementing the development activities is a clear indication of their capacity to take responsibility for themselves when given sufficient institutional support with the provision of additional technical and material resources.

82. President Préval himself and the Minister of the Interior, Local Communities and National Security spent a long time presenting the project to invest communities with a clear status and powers. This was the project, provided for in the 1987 Constitution, which President Préval had planned to initiate after the Senate elections. The decentralization proposals, constituting a genuine transfer of authority from the State to local communities, required the redefinition and clarification of the powers of mayors and CASECs, which had never before been actually spelled out.

83. Devolution, which is the redeployment of power from the central Government to the representatives of the State in the departments (departmental authorities), has not really worked, and the heads of departments interviewed during the various visits all argued that their managerial role, without human resources and with no capacity for budgetary action, was in practice an empty shell entirely dependent on the ministry to which they were attached. The appearance of power is there, but the actual power is concentrated in Port-au-Prince. They all maintained that in some matters, solidarity, health and education in particular, devolution would make it easier for people to exercise their rights.

84. The paralysis which followed the earthquake demonstrated clearly that, as long as the fundamental power to take decisions and almost total control of the budget are concentrated in Port-au-Prince, “it takes only a 35-second tremor to lose 30 to 40 per cent of national GDP, because everything is concentrated in the 30 or 40 kilometres of the metropolitan area”.¹⁵ In fact, the earthquake also disrupted institutions, depriving the population of access to a number of services and offices essential to the exercise of civil and political rights (registration of civil acts, registration of births, registration for elections, marriages, etc.) and indeed to the exercise of economic and social rights (health, education, etc.).

85. It is certainly not for the independent expert to comment on the administrative organization of the State, but he recommends that the question of access to rights should be given a prominent place in the agenda for reconstructing Haiti and in particular in the debate to be conducted on the reform of the State, in order to ensure that the administration of the State and local authorities facilitates equal access to rights for the citizens of Haiti. In this connection the clear demarcation of local communities and the establishment of responsible management and administration of local communities by mayors, ASECs and CASECs will play a key role in restoring the trust of Haiti’s inhabitants and send out a clear signal of the founding of an inclusive and participatory society.

D. Women’s place in governance

86. Haitian women make up half the active population and dominate in some sectors. In peasant farming, women account for 48 per cent of all workers and are in charge of the marketing of products. In the industrial sector, there are many more women than men in some branches and they constitute the larger part (70 per cent) in assembly work, the volume of which has increased considerably over the past 10 years. Women make up the legions of piece-workers and domestic workers.

87. Haiti’s internal commerce is conducted mainly by women. There are nine times more women than men in this category; they travel the country to sell farm products and restock the rural markets and many of the urban markets as well. Among the groups of persons employed on an individual basis, women account for most of the domestic workers, from a very young age and in conditions often close to slavery.

88. In the services sector, however, there are fewer women than men. They are usually found in jobs and occupations traditionally regarded as women’s: secretaries, nurses, teachers. Women are found in the liberal professions but always in smaller numbers than men. A few women are also employed in large-scale commerce, tourism and industry.

89. Women play a fundamental social role in all social classes, and in particular in the lower and middle classes. It often falls to them to bring up the children and provide for their maintenance and education. And they often live alone with these children. Being the family’s sole breadwinner, they have to cope unaided with the life of insecurity and poverty which is the lot of most Haitian families.

90. Women are little involved in the governance of Haiti, but it is important to remember their vital role in helping communities to re-establish themselves in times of crisis. Women’s resilience, stamina and skills constitute at this time a contribution which can be relied on, but they must be given more power, their needs must be satisfied and their rights and security respected; it is essential for women to be fully involved in any restoration and reconstruction process in Haiti.

¹⁵ Press conference give by the Prime Minister on 3 February 2010.

IV. Recommendations

A. Threats to rights in the humanitarian crisis

91. With regard to displaced persons and the strengthening of the measures for their protection, relocation and rehabilitation the independent expert recommends that:

(a) A global, systematic and effective response should be found for the problem of internally displaced persons, based on an approach giving priority to the effective exercise of their fundamental rights by displaced persons;

(b) The Guiding Principles on Internal Displacement should be widely publicized, especially among members of the armed forces, and action should be taken to ensure that they are applied both by the Haitian authorities and by the international organizations;

(c) Special care should be taken to ensure that the relocation of displaced persons from temporary camps proceeds on a voluntary basis, except in cases of evacuation for reasons of security or personal safety;

(d) Particular attention should be given to the relocation of persons with disabilities and persons who lost limbs during the earthquake, especially with regard to the health requirements occasioned by their physical or mental condition;

(e) The beneficiaries themselves should be involved in the handling of the question of internal displacement, especially those who wish to return to their places of habitual residence.

92. With regard to reducing violence against women, the independent expert recommends that:

(a) The question of violence against women should be treated as a priority both by the Haitian authorities and by the international organizations present in the field;

(b) The Guidelines for Gender-Based Violence Interventions in Humanitarian Settings of the Inter-Agency Standing Committee should be widely publicized and explained among the personnel of the Haitian National Police, MINUSTAH and other organizations;

(c) Vigorous steps should be taken to combat impunity and provide women with clear information about the legal remedies available to them;

(d) Protected washing and toilet facilities should be installed for women living in temporary accommodation in order to protect them from men's eyes;

(e) Police patrols including female officers (from the National Police and UNPOL) should be introduced, with special attention given to surveillance of high-risk zones.

93. For the protection of children the independent expert recommends that:

(a) Measures should be introduced to reduce the risk of kidnapping, violence and sexual violence and to counter recourse to the *restavek* system;

(b) Appropriate arrangements and safeguards should be put in place to combat illegal international adoption;

(c) Use should be made of the recommendations contained in the report on the mission to Haiti of the United Nations Special Rapporteur on contemporary forms of slavery (A/HRC/12/21/Add.1) and in the independent expert's June 2009 report (A/HRC/11/5);

(d) The work of UNICEF and other specialized agencies should be given broad support.

94. With respect to persons with disabilities the independent expert recommends that:

(a) The General Guidelines for the protection and inclusion of injured persons and people with disabilities issued by Handicap International should be publicized widely and used to better effect;

(b) Particular attention should be given to the protection and security of persons with disabilities;

(c) The local branches of the Office of the Ombudsman should be commissioned to investigate possible infringements of the rights of persons with disabilities.

95. Where migrants' rights are concerned, the independent expert recommends that interception on the high seas followed by refoulement should be ended, that Haitians should not be expelled during the stabilization period, and that decent arrangements should be made for their interim protection on humanitarian grounds.

96. In the case of prisons the independent expert recommends that:

(a) Simplified procedures should be introduced to deal with the offences of persons who are being held in pretrial detention or will be recaptured after escape, in order to keep the judicial system free to handle the most serious cases;

(b) Persons held in open-air detention camps while awaiting trial should be protected from public view by permanent installations which ensure that their privacy and dignity are respected.

97. Where the justice system is concerned, the independent expert recommends that some strong signals should be sent out to show that the system is still functioning, despite the difficult conditions.

B. Reconstruction

98. The independent expert stresses the importance to be accorded to human rights in the context of the reconstruction effort and recommends that:

(a) Action should be taken to prevent the re-emergence of factors likely to perpetuate the inequalities and the poverty, and thus to reduce violations of human rights in the future;

(b) The question of access to rights should occupy a prominent place in the agenda for Haiti's reconstruction, in particular in the debate to be held on the reform

of the State, in order to ensure that the administration of the State and the local authorities facilitates equal access to rights for the citizens of Haiti;

(c) The Haitians themselves should have a leading role in the reconstruction process; if the assistance of the international community is necessary, the needs and aspirations of the Haitian people should be the first consideration;

(d) An effort should be made to establish the rule of law to safeguard both civil and political and economic and social rights;

(e) The reconstruction should facilitate the restoration of a sustainable environment within the framework of more decentralized development to protect the people against natural hazards;

(f) The reconstruction must be equitable, establishing in particular equality between the richest and the less prosperous regions, with the aim of creating a fairer society;

(g) The system for the protection of rights and freedoms (justice, administrative justice, police, Ombudsman's Office) should be reinforced;

(h) Increased attention should be given to the needs of internally displaced persons on the basis of the general framework of the Guiding Principles on Internal Displacement and the recommendations contained in the report of the Representative of the Secretary-General on the rights of internally displaced persons entitled "Protection of internally displaced persons in situations of natural disasters" (A/HRC/10/13/Add.1);

(i) Particular attention should be given to the most vulnerable groups: women, children, persons with disabilities;

(j) Civil society organizations, in particular those representing women, peasants and vulnerable groups, should be involved systematically in the reconstruction effort;

(k) Steps should be taken to facilitate the full participation of women, in particularly representatives of Haiti's women's organizations, in all phases of the reconstruction work;

(l) The reconstruction plans and budgets should include gender-specific analyses of and concrete gender-equality targets;

(m) Efforts should be made to ensure that the reconstruction does not reinforce arrangements perpetuating the inequality between men and women;

(n) Labour-intensive reconstruction programmes should not be based solely in the economic sectors traditionally occupied by men.

C. Reforms to be carried out

99. With regard to the police the independent expert recommends that:

(a) The number of police officers should be increased, with the inclusion of female personnel;

(b) The reform of the National Police should be continued in order to improve its work and combat the internal slippage of standards;

(c) The vetting of police officers should be resumed following the recovery of the back-ups of computerized data;

(d) The joint operations with UNPOL should be continued in order to secure the boundaries of the camps and the high-risk zones and thus prevent the re-emergence of no-go areas which the police are reluctant to enter.

100. In the case of the justice system the independent expert recommends that:

(a) The President of the Court of Cassation should be appointed forthwith or the current Vice-President should be appointed to the post ad interim;

(b) The Supreme Council of the Judiciary should be established and furnished with the trained human resources and the funding to operate entirely independently and proceed to recruit judges without further delay;

(c) A start should be made on the programme for the initial training of judges.

101. Where the prisons are concerned, the independent expert recommends a continued effort, in the context of the prison rebuilding programme, to achieve the separation of convicted prisoners from untried detainees by building holding centres for untried detainees and prisons for convicts.

102. The independent expert recommends that close attention should be given to the development of the activities of the Office of the Ombudsman, in particular that:

(a) The Office should be allocated a budget and human resources to set up regional branches;

(b) The Office's role as a human rights oversight mechanism should be strengthened in order to encourage people to view it as a means of recourse against any legal abuses which they feel they have suffered.

103. When it comes to combating corruption, the independent expert recommends that:

(a) Measures should be introduced for waging an effective campaign against corruption and thus demonstrating that combating corruption is becoming a major focus of the Government;

(b) Particular attention should be paid in the fight against corruption to the management of humanitarian aid funds.

104. With regard to devolution/decentralization the independent expert recommends that:

(a) Efforts should be made to provide equal access to rights for all Haitians;

(b) The planned decentralization arrangements should be put in place, followed by measures of devolution and budget oversight.

105. Where women are concerned, the independent expert recommends that:

- (a) Women should be accorded a bigger role in governance;
 - (b) Women should be fully involved in the whole restoration and reconstruction process in Haiti;
 - (c) Everything possible should be done to ensure respect for women's rights and safety.
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