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U.N. Concern Runs High on Haiti's Urgent Need to Establish Rule of Law and Hold Much-Delayed Senate Election

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Michel Forst, until last month—and for the previous five years—the UN-appointed independent expert on Haiti’s human rights situation, and Nigel Fisher, as of February the head of the UN Stabilization Mission in Haiti (MINUSTAH), coincide on their concerns regarding the situation in this poverty-stricken, French-speaking Caribbean island nation. They share a very pessimistic view of Haiti as a country not ready to face its many and sizable challenges.

Forst, a French diplomat and expert in human rights, focuses mainly on the need to establish the rule of law in this country ravaged by an earthquake in January 2010 (NotiCen, Jan. 21, 2010) and later hit by other natural events such as hurricanes and by a cholera epidemic (NotiCen, Nov. 18, 2010) and whose population, according to different estimates, ranks as the poorest in the hemisphere.

Fisher, a Canadian diplomat, centers attention on the pending election of one-third of the country’s senators, a 16-month delay he sees as a potential risk to international support for the slowly ongoing recovery process since the earthquake.

On Feb. 7, Forst submitted his final, six-chapter, 21-page report, emphasizing the critical importance of establishing the rule of law in Haiti. The second chapter is devoted to the issue, and Forst says that "respect for the rule of law is a key factor in human security, but human security is not confined to the restoration of the rule of law."

"The establishment of the rule of law is posited, first and foremost, on the establishment of a state in which laws are proposed by the government, voted on by parliament, and implemented by the executive under parliamentary scrutiny," Forst says. But it "cannot be reduced to reforming judicial institutions, the criminal justice system, and the police or prison service so as to pave the way for the enjoyment and exercise of civil and political rights."

Establishing the rule of law "also means ensuring the proper functioning of public services and of the institutions that are required not only to safeguard persons and property but also to enable all citizens to exercise all the rights set forth in the International Covenant on Economic, Social and Cultural Rights, which the Haitian Parliament has ratified," said the expert. By ratifying it, "the government of [Haitian President] Michel Martelly has sent a strong signal of the determination and commitment of the government and the parliament to improving socioeconomic conditions in the country."

However, in the first of more than a dozen recommendations closing the report, under the subtitle "Rule of law," Forst states the need to "make specific reference to the rule of law in the government’s program documents." Also, to "appoint an interministerial delegate for the rule of law or a deputy prime minister who, under the direct supervision of the prime minister, would
have sole responsibility for promoting and coordinating the activities undertaken by ministries to establish the rule of law."

In the report, among other recommendations, Forst addresses the need to improve, through reform, the country’s justice system as well as its prison system. He also points out the need to implement a police vetting process, exhaustively examining the security force to effectively tackle problems such as human rights violations in police units.

**Recommendations look at earthquake-survivor tent camps**

Regarding earthquake survivors, Forst recommends combating gender-based violence and sexual exploitation in camps for displaced persons and punishing those responsible, granting access to vital services—such as drinking water, health, housing—and conducting an analysis of the situation of those who have left the camps.

On Jan. 10, the third anniversary of the earthquake that killed 230,000 to 300,000 people and left 1.5 million homeless in Haiti, approximately 300,000 people were still lodged in tent camps. This, despite the international aid sent to this country of some 9.1 million people, where income for 78% is less than two dollars a day *(NotiCen, May 31, 2012)*.

Reconstruction efforts, including massive housing, face obstacles because of the government’s lack of transparency and efficiency, as well as the absence of coordination among nongovernmental organizations (NGOs), according to sources involved in aid.

During a press conference held before he left Haiti early last month, Forst stressed that "it is necessary to strengthen the institutions of the republic in order to improve the process of policy making and the relationship between the state and citizens."

Specifically on the rule of law, Forst pointed out his proposal, included in his last report, of having an interministerial delegate in this field. "It would have the objective to promote and coordinate the activities of the different ministers in this area and to ensure that the different pieces of the puzzle fit together in order to ultimately ensure the sustainability of the rule of law in Haiti," he said.

**Senate elections long overdue**

The much-delayed Senate election is another cause of concern for Forst, as he points out in his report’s recommendations. He refers to the need to "adopt a solution which reflects as closely as possible the requirements of the Constitution and which will rapidly lead to the holding of transparent elections, under the supervision of the international community, in order to fill vacant seats…thus ensuring a return to constitutional order."

The country’s legislative branch consists of a 30-member Senate and a 99-seat Chamber of Deputies, elected for six-year and four-year terms, respectively. One-third of the Senate is elected every two years, and the vote for this was to be held in 2011.

On this topic, an editorial early last month in The Miami Herald titled "Gridlock in Haiti" wrote, "Sixteen months after Haiti was supposed to hold a critical round of elections, the voting procedure remains on hold. The country’s warring political factions can’t agree on a date or the membership of the panel that would supervise the process. Even the UN Security Council is reaching the end of its tether with Haiti’s political leaders."

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The editorial added that "the political rivalries dividing President Michel Martelly and his Haitian adversaries threaten to paralyze the recovery. This affects every aspect of the post-earthquake process, from housing to job creation to crime control. The longer it endures, the more that those who want to help Haiti become frustrated."

"The political impasse is the principal reason that progress in Haiti has been much slower to develop than the international community expected," said the editorial, mentioning Fisher, the head of MINUSTAH.

In his first press conference after replacing Chile’s Mariano Fernández, the new chief of the UN’s peacekeeping mission in Haiti called on the country’s authorities to step up the election. "According to the Constitution of Haiti, elections for senators elected in 2006 would have taken place by the end of their term in January 2012," Fisher said. But "here we are today, more than 13 months later, and Haiti and the political elite are still in the process of trying to find a compromise that seems unattainable to form the basis of an agreement to move toward elections."

"Progress towards elections this year, or lack of progress, has become the symbol of progress, or lack of progress, in Haiti today," said Fisher. "This is why MINUSTAH urges Haitian authorities to take all necessary steps to hold inclusive and credible elections by the end of 2013."

"I did not say that there has been no progress," Fisher said. "Progress is much slower than expected. On all sides, MINUSTAH and the UN, we always try to do our best. So here we are in partnership in supporting Haiti. A year ago, we celebrated the successes, such as the creation of the Supreme Council of the Judiciary, the publication of constitutional amendments and improved security, particularly in terms of violence, homicide and kidnapping cases. Of course there has been progress, but it was much, much slower than we expected at the beginning of 2012."

-- End --