
**A CONFLICT BETWEEN THE POLICE AND JUDICIAL INSTITUTIONS :
RNDDH encourages everyone to respect the dignified positions of
law enforcement and justice**

For sometime now, the National Human Rights Defense Network (RNDDH) has observed that those in charge of the police and judicial institutions are meddling in a brooding conflict. They accuse each other of their faults; their behavior clearly demonstrates a lack of ethical professionalism.

Judges are accusing police officers for being arrogant and insubordinate; for being in complicity with kidnappers and drug traffickers, for releasing criminals who bought their freedom to replace justice, for submitting negligent and incompetent case files, for being lethargic within the country's prison system, for the extortion of money from prisoners in police stations, etc.

From the other perspective, police officers consider the justice system corrupt. They accuse the judges for releasing dangerous criminals in exchange for large sums of money, defeating the Haitian National Police's (PNH) efforts to fight insecurity and criminal activity. As well, some judicial actors are being accused of being partly responsible for the assassination of several police officers by former inmates.

The police's criticism of the judicial system reached its peak during the PNH 18th promotion graduation ceremony where the Chief Commander of the PNH, Mr. Mario Andresol, clearly expressed to the young officers the level of the force's frustration towards the juries and judges:

“Despite the Ministry of Justice and its associates’ efforts to fight against corruption within the judiciary system, the results are far from being visible. Our judicial constitution is once again very fragile, a weakness characterized by the absence of maturity and competence, as well as by a culture that has been ingrained with an immeasurable dishonesty and corruption. We say that Justice raises a nation? Today, our judicial system has nothing tangible left except for a few judges and juries who use the media to push their own agenda, while interpreting rights and laws, and inventing judicial-legal devices to release or hold just people in prison who do not have the means to purchase their freedom.

There is no longer a hidden agenda. Release orders have been written even before the arrests have been made. Judges are requesting executory warrants after 6 o’clock in the evening. People are deemed innocent depending on whether one is rich or poor. In the corridors of our judicial buildings; the Justice of the Peace, the Public Prosecuting Offices, and the Investigation Offices; warrants for arrest, release, and imprisonment are sold “IN THE NAME OF THE REPUBLIC”.

This republic, free and independent for 202 years, is now without virtue. It has been sacrificed on the altar of corruption, becoming soiled, degraded and betrayed by its own sons. Today it faces a crises of values, a deficiency of honest, just, qualified, courageous, and above all, moral men and women. Justice has never been so poorly utilized. It has been placed in the hands of those who only think to satisfy their own basic needs and petty self-serving interests. What do these judges and just men of the Law, who continue to maintain a positive presence within the system and who have resisted and are still resisting the corruption, have to say in regards to this situation?

Our long, futile, and expensive procedures must be reassessed in many areas. Strong measures and sanctions need to be taken to put an end to the injustice and the abuse of authority. As well, those who stand up and denounce this corrupted system which generates crimes and impunity should not be condemned without any form of process. The account payments disguised as justice is an appalling stance against society; it is a signal of strength and comfort for hardened criminals, kidnappers, and drug dealers. Hugo once said, “A time will pass again before justice of men will meet at a crossroad with Justice”...”

In reaction to this statement, the Justice of the Peace in the Port-au-Prince jurisdiction, as well as the judges of the Port-au-Prince First Instance Court, began a strike on December 18, 2006.

RNDDH respects the right to freedom of expression as exercised by the General Director of the Haitian National Police, a right consecrated by the *Universal Declaration of Human Rights* and *international conventions* ratified by Haiti. However, RNDDH deems that these remarks were made outside of a proper context and were an uncalled for by a high dignitary of the State.

RNDDH reminds the General Director of the PNH that those in charge of State positions are obligated to show some reserve; and even off duty, must particularly abstain from all acts incompatible to the dignity of Public positions.

Article 19 of the September 19, 1982 Law clearly establishes the general stature of a Public position: ***“The one who fulfills a Public position must abstain from all acts, gestures, speech, or demonstration of any nature that may disturb public order, discredit, or bring doubt upon the national institutions, its services, or its body of membership.”***

All are free to express philosophical, political or religious opinions; however, one must be careful to not publicly dispute constitutional State principles. One can emit his/her opinions apart from his/her service and with the appropriate reserve to the position he/she fulfils.”

RNDDH believes that the General Director of the PNH’s opinions expressed in his declaration are not contestable, yet the manner and the occasion chosen to express these opinions calls for reservations.

On the other hand, RNDDH fully denounces the illegal and unjustifiable strike of the Port-au-Prince magistrates for the following reasons:

1. There cannot be a strike without a clear objective or a precise goal to be achieved by those who are posing the strike. The striking judges said they wrote to the Ministry of Justice requesting the General Director of the PNH to hand over the list of corrupt judges in his possession to the Ministry, thus entitling him to make such remarks. It is an ambiguous and unrealistic demand.

For sometime now, the judges have become accustomed to futile protests, obstructing the already scandalously slow and inefficient judiciary system as is illustrated in the following cases below:

- ▶ December 11, 2005, initiated by the National Association of Haitian Magistrates (ANAMAH), the judges observed an indefinite strike in order

to protest the interim government's decision to retire 5 Supreme Court judges on December 9, 2005. As a result, the criminal trials foreseen for December 12 to 23 2005 were rescheduled sine die.

The president of ANAMAH who announced the strike, Mr. Jean Pérez Paul, used this opportunity to release the presumed kidnapper, Stanley Handal, a rich business man in the Capital, along with three of his accomplices:

- ◆ Wilfrid FRANÇOIS, level 1 police officer;
- ◆ Sony LAMBERT, level 3 police officer;
- ◆ Rénaud CINÉUS, level 4 police officer;

The public is still poorly informed on this incident, as the strike did not establish any concrete results.

► November 13, 2006, a strike of three days was announced and observed in the Port-au-Prince jurisdiction, demanding:

- The arrest of the security officers of Public Prosecutor Claudy Gassant, who were guilty of beating up Mr. Michel Casseus, the Justice of the Peace for the Northern section of Port-au-Prince, in the Port-au-Prince Public Prosecuting Office;
- A public apology from the Public Prosecutor, Claudy Gassant, for the attack on the judge;

No further follow-up was taken.

2. The current strike of the magistrates is arbitrary for the following reasons:

- The judges assigned for urgent cases did not hold a hearing
- The Justice of the Peace purely and simply closed the doors of the Court. It has been nearly impossible to find a Judge for a legal observation, even for the removal of bodies in murder cases.
- The holding cells of the police stations are full, and in a number of cases, are holding extremely dangerous criminals. Yet, the Port-au-Prince Public Prosecuting Office is still not functioning. During visits carried out in six police stations throughout the metropolitan area, RNDDH has noticed that the strike has had a considerable impact on those held as their cases could not be presented before the court and instead were sent back to the police

stations by the Public Prosecuting Office or to the Justice of the Peace. The table below illustrates this situation:

THE POLICE STATIONS VISITED	NUMBRE OF PEOPLE IN THE HOLDING CELLS	MEN	WOMEN	DATE
<i>Croix-des-Bouquets</i>	52	46	6	December 27, 2006
<i>Delmas 33</i>	33	30	3	December 27, 2006
<i>Port-au-Prince</i>	45	42	3	December 28, 2006
<i>Pétion-Ville</i>	44	43	1	December 29, 2006
<i>DCPJ</i>	86	74	12	January 4, 2007
<i>Carrefour</i>	40	36	4	January 4, 2007
TOTAL	300	271	29	

Article 35.5 of the Constitution states: *“The right to a strike is permissible in the limits determined by Law.”*

Today, the Law which regulates the right to strike is written in the decree of May 27, 1986 where its first article stipulates: *“The strike is a suspension of work concerted and carried out in the heart of an establishment by a group of workers with the objection to satisfactorily obtain the demands presented to their employers, to which the terms of resumption of work are defined.”*

Article 209 of the Work Code states: *« A strike is not authorized in the service of public utility as stipulated in the following paragraph;... Public utility services, as defined by indispensable (essential) workers, cannot suspend their activities without causing serious and immediate damages to the health of individuals and public security”.*

Under these circumstances, RNDDH demands to know what the legal basis of the magistrates’ strike is. Could the magistrates apply the law instead of deviating it to resolve the problems they are confronted with? These magistrates should revise their strategy of this unjustified strike, as they could achieve their demands through other methods.

3. The vice president of ANAMAH, Judge Jocelyn Rosenberg, while deeming the strike as well founded, made a declaration through a broadcast of *Radio Vision 2000* and *Métropole* which shocked the nation. Journalists questioned the judge on the fact that during the previous criminal trials,

some judges gave out complaisant sentences to kidnappers, including: ***Edmer Cimé, Sanon Dieubande, Mackenzy Charles, Rose Andrée Séide, Jean Bernard Chérisco, Jacques Pierre*** who were guilty for kidnapping and illegal detention. The president of the Criminal Court, Judge Fritzner Fils-Aime, sentenced those listed above to six years in prison with the benefit of the *Loi Lespinasse*, which is inconsistent with article 292 of the Penal Code which stipulates: ***“if the arrested individual had held captive and threatened the hostage’s life, those guilty will be punished with forced labor for life”***.

In response to justify the actions made by his colleagues, Judge Jocelyn Rosenberg declared: *“even if the law forecasts a punishment, the judge has the power to sentence a softer punishment according to his inner conscious... due to a weak accusation in a case, a judge is sometimes not fully convinced the accused is guilty, yet at the same time, does not want to release a criminal. In this situation, and according to his inner conscious, the judge may give a ***lighter sentence***”!!!*

RNDDH considers these remarks declared by the vice-president of the national association of magistrates extremely serious and destructive for the Haitian judicial system.

The declaration of Judge Rosenberg confirms that the corrective courts often act:

- In violation of the law and the fundamental principles governing criminal rights in Haiti. This includes:
 - ☑ Benefit of the doubt;
 - ☑ Presumed innocence

RNDDH adamantly condemns the attitude of ANAMAH and several judges within the Port-au-Prince jurisdiction. By means of authoritative measures, they continue to stifle the debate that questions our magistrates’ respect of the rules in Haiti; the rules which are supposed to guarantee an impartial and fair penal and judicial system, and the protection of the citizens against crime.

RNDDH invites ANAMAH to stop this ineffective strike which only serves to further penalize Haitians citizens.

Port-au-Prince, January 4, 2007