

National Network for the Defense of Human Rights (RNDDH)



Advocacy for the creation of a Police Union in compliance with the Law

February 13, 2020

Summary

Pages

I. Introduction

II. Methodology

III. Creation of police unions

IV. Goals of police unions

- a) The right to strike of police officers

V. Problems with the functioning of the PNH

- a) Summary presentation of the PNH
- b) Working conditions of members of the criminal chain
 - Review of working conditions data for members of the criminal justice system
 - Review of social protection data for members of the criminal justice system

VI. Working conditions of PNH staff

VII. Legal provisions on freedom of association in Haiti

¹

- a) Provisions in favor of the creation of a union within the PNH
- b) Provisions against the creation of a union within the PNH

VIII. Position of the Inter-American Commission on Human Rights on freedom of association in the region's police forces

IX. Events recorded at the General Inspection of the PNH on February 7, 2020

X. Comments and Recommendations

- a) On the creation of a police union within the PNH
- b) On the legal provisions relating to the associative right of police officers
- c) On the behavior of police officers who fight for the SPNH

¹ Lexique des termes juridiques, 14^{ème} édition, Dalloz, 2003

I. INTRODUCTION

1. On October 27 and November 17, 2019, two (2) peaceful marches were organized in the streets of the capital by agents of the National Police of Haiti (PNH) to denounce their difficult working conditions. On November 17, 2019, they announced the creation of a police union to better protect their rights and interests.
2. This declaration has created panic within Haitian society and several people have stepped up to the plate to condemn this unacceptable approach. Their greatest reluctance concerns the right of PNH officers to strike, which, if recognized, could cause serious disturbances in society. Since then, every effort has been made to prevent this union from developing.
3. On February 7, 2020, one of the figures of this movement is summoned to the General Inspection of the PNH to explain itself around the creation of the police union. This resulted in a tension situation in which shots were heard in the vicinity of the premises of the General Inspection of the PNH.
4. The National Network for the Defense of Human Rights (RNDDH), concerned at the progress of this case, decided to position itself around the creation of a union within the Haitian police institution and to share the information collected on the recent events occurred at the General Inspection of the PNH.

II. METHODOLOGY

5. For the preparation of this document, RNDDH carried out research on the development of numerous police unions in other countries. He then analyzed the Haitian Constitution, various regional and international conventions establishing freedom of association, the Law establishing, organizing and operating the Haitian National Police (PNH) as well as the various documents establishing discipline, the rights and duties of police officers.

6. In addition, the RNDDH met with:

- The PNH General Inspection
- Some members of the committee of the Syndicate of the National Police of Haiti (SPNH)²
- Justice of the Peace Jean Flaury RAYMOND

III. CREATION OF POLICE TRADE UNIONS

² 1943 - Deuxième tentative de syndicalisation, https://www.fppm.qc.ca/tranches_vie-2

7. The trade union is defined, according to the lexicon of legal terms, as a group of persons engaged in the same or related or similar occupation, for the study and defense of the rights and material and moral interests, both collective and individual, of persons covered by the Statutes.

8. By analogy, a police union is a group of persons who ensure the safety of lives and property and maintain public order in accordance with the law. These persons are designated in Haiti, according to section 58 of the Act establishing, organizing and operating the HNP, as senior managers and officers of the HNP.

9. The police trade union movement began around the world in the 1900s.

- In Montreal, as early as 1918, a police union called the “Union ouvrière fédérale des policiers, n° 62” was created. Born in turmoil and social uncertainty as a result of questions about the rights of police officers to participate in protest movements either by encumbering or by organizing street demonstrations, this union died in 1940 because of a lack of membership. However, in 1943, an Arbitration Board established by the Montreal authorities recognized the right of Montreal police officers, like other municipal employees, to unionize.
- In July 1925, in France, the police union appeared under the name of «Syndicat des Commissaires Municipaux, Spéciaux et Mobiles de la Sûreté Générale». However, it was not until 1945 that the right to unionize was officially recognized to the police officers of the French National Police. And, despite this recognition, the reluctance of the state authorities vis-à-vis trade unions within the police force is such that on 2 October 2014, France was condemned by the European Court of Human Rights in the Matelly case against France. The Court also recognized the right of the constables to unionize.
- In Switzerland, the freedom of association of police officers was debated as early as 1907. The discussions were interrupted with the world wars, but the gains were claimed each time. Today, like the United States of America, Switzerland has several unions within its police force.

Since the 1900s, European countries and of America have recognized the freedom of association to them police-eras.

10. This comparative approach proves that for several decades now, many countries have allowed all their civil servants, including police officers, to meet in association to defend their rights and interests.

11. It also shows that all these countries have gone through moments of crisis and uncertainty fueled by the fear of a worsening security situation, if law enforcement had to interrupt their activities, in protest. In this sense, the closest example that can actually be raised is that of Brazil where two (2) police strikes recorded in 2014 and 2017 resulted in an increase in delinquency

cases. Thirty-nine (39) and one-hundred (101) people were killed, respectively, for strikes lasting two (2) and six (6) days.

12. Finally, this comparative approach revealed to the RNDDH that in some of these countries, police officers have created unions by police force or police groups of the same rank and rank. In these cases, it is trade unionism that prevails, that is, the meeting of all police unions to defend the interests common to all police forces.

IV. GOALS OF POLICE UNIONS

13. A police union is established first to defend the rights and interests of the officers in general and of the police officers who have adhered to it, in particular. It shall claim, on behalf of its members, all other rights which, if recognized, may enable the advancement of the police institution and promote social justice and equitable treatment.

14. In addition, a police union enables police officers to participate actively in major debates on police reform, the development of public safety and security policies by anticipating the various problems they are called upon to solve every day and by proposing the implementation of relevant reforms, capable of preventing crime, juvenile delinquency, etc.

15. For the countries where they are influential, the trade unions co-manage the police institution concerned with the authorities and this harmonization often makes it possible for everyone to be satisfied in the sense that:

A police union is set up to defend the rights and interests of the officers in general and of the police officers who have adhered to it, in particular

Police officers who are victims of sexual harassment in the workplace, abuse of authority, abuse of power, etc. have the ability to go to a higher level through an organization;

³

- Police officers who are victims of wrongful dismissal can organize their recourse through their union;
- Police officers brought before the judicial authorities for their involvement in the commission of criminal acts may have access to legal assistance established by the union;
- The development of the careers of police officers without interference, without the right to cooking and above all apart from any act of nepotism, can be better insured by the union.

³ Les policiers ne peuvent pas exiger le droit de grève, <https://www.ouest-france.fr/monde/les-policiers-ne-peuventpas-exiger-le-droit-de-greve-3348780>

16. Thus, it is clear that a police union goes far beyond strikes and demonstrations because it can help improve the general working conditions of police officers. For example, the Syndicat des Polices Municipales Genevoises, in Switzerland, states that it was set up “with the aim of improving working conditions and the common good of employees, maintaining social peace and developing partnership with politics”.

a) The right to strike of police officers

17. Some countries have restricted the enjoyment of liberty in concert with the police unions. This is the case in the United States of America where there are several police unions and where some states do not recognize the right to strike for police officers.

18. Other examples restricting the freedom of association of police officers can also be raised: April 21, 2015, the European Court of Human Rights (ECHR) 3 delivered a judgment in the ERNE Syndicate case against Spain. The Union had seized the Court because it considered that the strike ban imposed on Spanish police were discriminatory and violated their freedom of expression and association.

19. After analyzing the case, the European Court of Human Rights (ECHR) considered that security and the need for uninterrupted service from police officers justified restrictions on their freedom of association. For the Court, police officers are distinguished from other civil servants and consequently, their freedom of association can be limited. According to the ECHR, it is the duty of the State to preserve its general interests and guarantee security, public safety and the defense of order.

20. Similarly, in the case of Matelly v France, the European Court of Human Rights (ECHR) condemned France and enshrined the principle of legitimate restrictions on the freedom of association of military soldiers. However, it recognized that this principle cannot prevent them from forming or joining a union.

21. Restricting union freedom therefore amounts to reducing and limiting the rights directly related to it. And, for the sole restriction on the right to strike, a country cannot prevent a whole group of citizens from enjoying the right of association.

V. PROBLEMS WITH THE OPERATION OF THE PNH

22. The problems related to the operation of the police institution are real.

a) Summary presentation of the PNH

23. The National Police of Haiti (PNH) counts in total, on the national territory, three hundred and twenty-five (325) Police-Spaces, divided into administrative offices, police stations, sub-police stations, police antennas and prisons.

24. Sixteen (16) specialized units have been created. They are under the Central Directorate of the Administrative Police (DCPA). These are:

- Brigade d'Opération et d'Intervention Départementales (BOID)
- Brigade d'Intervention contre l'Insécurité Foncière (BRICIF)
- Cat-Team
- Corps de Brigade d'Intervention Motorisée (CBIM)
- Corps d'Intervention pour le Maintien de l'Ordre (CIMO)
- Direction Centrale de la Police Routière (DCPR)
- Direction de l'Administration Pénitentiaire (DAP)
- Edupol
- Gardes-côtes haïtiennes
- Polifront
- Politour
- Sapeurs-Pompier
- Swat-Team
- Unité Départementale pour le Maintien de l'Ordre (UDMO)
- Unité de Sécurité du Président (USP)
- National Palace General Security Unit (USGPN)

25. A National Police Academy (ANP), a National Police School (ENP), a Center for Intelligence and Operations (CRO) and a Central Directorate of the Judicial Police (DCPJ) complete the structure. The latter has several specialized units working on drug trafficking, kidnapping of persons, intelligence, criminal matters, theft of vehicles, financial and economic affairs, etc.

26. The staff of the PNH shall be fifteen thousand three hundred and twenty-five (15,325) police officers.

b) Working conditions of members of the criminal justice system

27. On March 21, 2019, the RNDDH published the results of a study⁴ it carried out on the functioning of the Haitian criminal chain, composed of police, judicial and penitentiary entities.

28. In this context, two hundred (200) persons were interviewed. 28.5% of them work within the police institution either in a police station, a sub-commission, or in the general directorate of the PNH, in the general inspection of the PNH, or in one of the prisons of the country.

29. Most of them are fathers and mothers because the study found that:

- 56% of respondents said they were fathers and mothers with 1 to 3 children.
- 21.5% have 4 to 6 children.
- % are fathers and mothers with more than 6 children.

- 17% either have no children or have no children
- **Review of data collected on working conditions of members of the criminal justice system**

30. The data collected on working conditions are as follows:

- 86% of respondents said that the salary they received did not meet their needs and 19% said they did not receive their salary on time.
- 88.5% of respondents said they were in favor of a wage increase, arguing for the most part that an increase could improve their efficiency at work.
- 78.5% provide an average of eight (8) hours of time per day versus 11% who work on a rotating schedule. The latter are for the most part agents of the Directorate of the Prison Administration (DAP) and administrative police, forced to work up to twelve (12) hours per tour.
- 71% of respondents have no other gainful occupation, so they must be able to rely only on their salary.
- 88% of respondents felt that the materials available were neither sufficient nor adequate, compared with 5% who said otherwise. Those who found them inadequate and inadequate listed five (5) categories of equipment essential to improving their effectiveness. These are the following:

a) Police intervention equipment

- Tear gas
- Sticks
- Shields
- Body armor
- Cartridges
- Uniforms
- Boots
- Firearms

b) Means of travel

- Motorcycles
- Vehicles

c) Cleaning equipment

- Mop and Buckets
- Cleaning and deodorizing products
- Muffler
- Gloves
- Protective glasses

d) Office equipment

- Chairs

- Typing machines
- Binders
- Air conditioners
- Computers
- Printers
- Feathers
- Notebooks
- Photocopiers

e) Energy source

- Electric current modulator

- Solar panels
- Generator⁴
- Batterie

⁴ Etude sur les conditions générales de travail des composantes de la chaîne pénale haïtienne, RNDDH, RNDDH-Rapport/A2019/No 2, 21 mars 2019, 52 pages.

Review of data collected on social protection granted to members of the criminal chain

31. Data collected on social protections granted to members of the criminal justice system are the following:

- 45% of respondents claimed to be entitled to parental or maternity leave compared with 16% who feel otherwise. 29% did not answer the question or said they did not know.
- 67% of respondents said they are entitled to sick leave compared to 9% who do not be entitled. 24% did not answer the question or said they did not know.
- 58.5% of respondents said they were entitled to injury-on-duty leave compared to 8% who believe otherwise. 33.5% either chose not to answer the question or said they did not know.
- Only 13% of respondents said they were entitled to leave without pay, compared to 31% who do not qualify. 60% chose not to answer the question or said they did not know.
- 45.5% of respondents said they were covered by disability insurance, compared with 13% who say they are not covered. 41.5% did not answer the question or said they did not know.
- 50.5% of respondents said they were covered by drug coverage compared to 30.5% who feel they are not covered. 46.5% did not answer the question or said they did not know.
- 58% of respondents feel they are covered by life insurance, compared with 27% who believe no. 15% did not answer the question or said they did not know.
- 31% of respondents have a pension plan compared to 10% who are not entitled to retirement. 60% did not answer the question or said they did not know.

VI. WORKING CONDITIONS OF OFFICIALS OF THE PNH

32. In the various meetings held with the heads of police stations and sub-police stations, it appears, in addition to the data here transcribed from the above-mentioned study, that the PNH officers work for the vast majority in inadequate buildings that put their life threatening. They have no means of transportation. They are insufficient and submissive, such as already mentioned above, on a demanding work schedule.

33. PNH officers are also at great risk of being murdered. RNDDH wants to evidence that in the last five (5) years, at least one hundred and nineteen (119) officers of the PNH were shot dead:

- o 2015: 25
- o 2016: 17 years old
- o 2017: 15 years ago,
- o 2018: 17 years ago,
- o 2019: 45 percent

In 5 years, at least 119 PNH agents were murdered in the country.

34. The PNH agents actually receive a salary that cannot allow them to support themselves to their needs. For example:

- o An agent I has for net salary, nineteen thousand eight hundred thirty-two gourdes and 4 cents (19,832.04);
- o An agent II receives a net salary of twenty-one thousand three hundred and twelve gourdes and 4 cents (21,312.04);
- o Agent III receives twenty-two thousand seven hundred and ninety-two gourdes and four cents (22,792.04);
- o A principal inspector receives a net salary of thirty-one thousand five hundred (31,500) gourdes.

35. The responses provided on the social coverage of members of the criminal chain revealed a lack of circulation and information sharing. Moreover, working within the PNH does not protect those who join the institution, especially when they are at the bottom of the scale.

36. In addition, because of the ineffectiveness of their health insurance coverage, police officers to the General Directorate of the PNH, regardless of their place of assignment, for the purpose of claim a letter of insurance that will authorize them to go to hospital. It's the same process if their spouse or offspring gets sick too.

37. No protection is effective for minors whose parents are police officers die in the performance of their duties. And, according to information collected by the RNDDH, widows often are sexually harassed by high-ranking officials who haggle over a generally granted aid in opacity or in utter indignity.

VII. LEGAL PROVISIONS ON FREEDOM OF ASSOCIATION IN HAITI

a) Provisions in favor of the creation of a union within the PNH

38. Haiti recognizes freedom of association. Indeed, Article 35.3 of the current Constitution provides that Freedom of association is guaranteed. Any private and public sector worker can join the union of his or her professional activities for the exclusive defense of his or her work

interests.” However, it states in section 35-5 that “The right to strike is recognized within the limits set out in the Act.”

39. According to the International Labor Organization (ILO), freedom of association is an inescapable principle, enshrined in the organization’s charter since 1919. For the ILO, the creation of workers' organizations for the defense of workers' rights is a fundamental right and a prerequisite for an effective dialogue between employers and workers with a view to advancing social justice and promoting decent work.

Trade union freedom is guaranteed by the Constitution, the Haitian Declaration universal rights of man, the Convention American rights of man and at least 2 ILO, Conventions, ratified by Haiti.

40. Proclaimed by the Universal Declaration of Human Rights adopted on 10 December 1948 by the United Nations (UN), freedom of association is also guaranteed by two (2) ILO conventions ratified by Haiti.

41. The first, called Convention Number 98 of the International Labor Organization (ILO) on the right to organize and to bargain collectively, was adopted by the ILO on 1 July 1949 and ratified by Haiti on April 12, 1957. Article 1 of the Convention states in its first paragraph that “Workers must be afforded adequate protection against all acts of discrimination which undermine freedom of association in matters of employment.”

42. The second convention called Convention Number 87 of the International Labor Organization (ILO) on freedom of association and the protection of trade union rights was adopted on July 9, 1948 and ratified by Haiti on June 5, 1979. Article 3, paragraph 1, states that: 'right to draw up their statutes and by-laws, to elect their representatives freely, to organize their management and formulate their program of action.’ In paragraph 2, the Convention states that “The public shall refrain from any interference that would limit or impede the lawful exercise of that right.” Article 9 The extent to which the guarantees provided for in this Convention will apply to the armed forces and to the police shall be determined by national law. » In Article 11, Convention 87 also affirms that “Every Member of the International Labor Organization for which this Convention is The Court of First Instance union.”

43. For its part, the Inter-American Convention on Human Rights (IACHR) recognizes freedom for all of association for ideological, professional, social purposes, etc. In the second paragraph of Article 16, it affirms "The exercise of this right may be subject only to such restrictions as are required by law." in a democratic society whose interest in national security, public safety, public order, or to protect the public health or morality, or the rights or freedoms of others”

44. Article 8 of the International Covenant on Economic, Social and Cultural Rights states that: «The States Parties to the present Covenant undertake to ensure: a) The right of every person to form, together with others, trade unions and to join the trade union of their choice, subject only to the rules laid down by the organization concerned, with a view to promote and protect its economic and social interests. The exercise of this right can be subject only to restrictions

that are necessary measures in a democratic society in the interest of national security or to protect the rights and freedoms of others.”

45. In its second paragraph of Article 8, the Covenant also states that: This Article does not prevent legal restrictions on the exercise of these rights by members of the armed forces, police or public service.

b) Provisions against the creation of a union within the PNH

46. In the document of Regulations of General Discipline, adopted on February 2, 1996 by the Minister of Justice and Public Safety, is inscribed provisions prohibiting agents-PNH to form associations or to join political associations and to strike. Article 10 of the Rules of Procedure provides that: the police officer shall enjoy the rights and freedoms accorded to every citizen by the Constitution. It respects the General Staff Regulations of Officials and the Institution and the special obligations it imposes. These obligations or restrictions are recalled below:

- Restriction of the right of expression;
- Prohibition of the introduction of publications harmful to morale or discipline in the buildings or enclosures of the National Police;
- Prohibition of membership in political groups or associations;
- Prohibition of the right to strike.

The decree of 20 August 2013 on the Special Status of members of the staff of the PNH categorically prohibited the creation of a union of police.

47. In addition, the Order of August 20, 2013 on the Special Status of National Police Personnel Haiti provides, in its article 11 that «Officials of the National Police of all ranks are subject to the the following conditions:

1. They are electors like any other citizen and are not eligible for political office;
2. They do not enjoy the right to strike or the right to organize, and they are prohibited from engaging in political activities;
3. The freedom to come and go, to meet and to associate any official of the National Police is limited by the safety and service requirements.”

VIII. Position of the Inter-American Commission on Human Rights on Freedom of the local police forces

48. On December 31, 2009, the Inter-American Commission on Human Rights (IACHR) rendered public a report on citizen security and human rights in the region. She commented on the In addition, the Commission has police in most countries of the American region.

49. In this regard, she stated that she had discovered that the physical working conditions of police officers the region did not meet basic safety standards and the salary received was low.

50. In addition, on the basis of the principles of equality before the law, equal protection before the law, and non-discrimination in the work of police officers, the IACHR stated that it had acknowledged to the police officers:

- The right to an equitable salary, in order to allow a decent standard of living for the police officer and her family. This salary must also consider the dangers, responsibilities and the pressure to which the police officer, the police officer, is subjected every day, in his work and the technical capacity required by his profession;
- The right to security conditions;
- The right to health at work;
- Free time for rest, proportional holidays.

51. The Commission also stated that the police officer has duties, including the duty to obey the orders of his superiors when they comply with the Act. Otherwise, it has the duty to protest any order received, without being subsequently sanctioned for refusing to obey an illegal and arbitrary order.

52. In addition to these rights, the IACHR also recognized in its report the freedom of trade union police officers of the region, as being indispensable. In this sense, it invited the member states to guarantee to the officers of the police forces of the region, the enjoyment of their right of association so that they may defend their rights and interests, in line with the provisions of international human rights law.

53. However, considering the character of the function of police officers, the IACHR has admitted that the union activities of police officers must be subject to certain restrictions.

IX. Events registered at the General Inspection of the PNH on February 7, 2020

54. Agent II Yanick JOSEPH from the 21st class, a figure in the struggle for the creation of a Union within the PNH, was convened by the General Inspection of the PNH.

55. According to the IGPNH, the date for the convocation of agent Yanick JOSEPH was February 4, 2020. This without having informed the IGPNH of its inability to meet the agreed date, was content to present on February 7, 2020, at approximately eleven (11) hours, to be auditioned. She was accompanied by several persons including uniformed PNH officers, other plainclothes and numerous individuals not identified as part of the police institution.

56. Agent II Yanick JOSEPH entered the IGPNH for her hearing and those who accompanied her remained at the entrance and on the courtyard of the building, causing a huge commotion, and disturbing the work of the various offices of the General Inspectorate. Hostile comments to the police institution were shouted by the accompanists of the Agent II Yanick JOSEPH and several registrations in favor of the creation of the Union of the National Police of Haiti (SPNH) were written on the walls of space as well as on vehicles found on the court of the institution.

57. The noise and disturbances were such that the General Inspection of the PNH decided to defer the hearing of the agent concerned and to adopt precautionary measures against her. In this sense, the card, the service weapon of Yanick JOSEPH were seized. She also had to report every day to the Inspection General, for a specified period.

58. In the process, gunshots were heard in the courtyard and around the IGPNH which moreover had to call on the Intervention and Research Brigade (BRI) to reinforce its workforce in case the situation was to escalate.

59. Several of the people accompanying Agent Yanick JOSEPH went up to the offices of the Chief Inspector General, Hervé JULIEN where they broke glass windows on the 2nd level of the building as well as a work table, also made of glass. In addition, at the Secretariat of the Chief Inspector General, two (2) computers and one (1) fan were damaged.

60. The troublemakers then went down with Yanick JOSEPH who gave a press briefing in the building of the IGPNH, after having forcibly recovered her service firearm and her badge.

61. Two (2) individuals were shot and injured during the above events. Agent II Monbrun GEDEON, who, having fired toward the tires of a vehicle, was struck at the shoulder of a ricocheting ball. An unidentified individual who was near Monbrun GEDEON and who was also hit by the ricochet of the same bullet. Public transit vehicles that typically use the street in front of the Inspection General were forced to turn back. And the subsequent tension of these panic movements led other individuals to use their firearms.

62. The RNDDH, for its part, was able to verify that according to the date and time of receipt entered on the letter summons of Agent Yanick JOSEPH, she arrived at the Diplomatic Security Unit (USD) on February 4, 2020, at 5:00 p.m.

63. Due to late receipt of the convening letter, the Officer's immediate supervisor Yanick JOSEPH advised him to go to the IGPNH as soon as possible. And, as of February 5, 2020, a letter authorizing him to travel for his hearing at the IGPNH was issued to him by the Commissioner Divisional Joseph E. Vladimir CHAMPAGNE, head of the USD.

64. On February 7, 2020, officer Yanick JOSEPH presented herself at the IGPNH. At some point, those who accompanied her believed that it was decided to keep her in solitary confinement, and that was what caused the slippages. The brothers in arms of Yanick JOSEPH

considered such an unfair decision, since it is not the alone to fight for recognition of the union within the police institution.

65. In addition, in the minutes of February 7, 2020, issued by Justice of the Peace Jean Flaury RAYMOND, the magistrate found vehicles of the PNH with inscriptions pleading for the creation of the Union of the PNH, sections of wall adjoining the offices of the Chief Inspector General, soiled with slogans against the current Inspector General in Chief, Hervé JULIEN. In addition, the magistrate registered having found that the front door of the secretariat of the Chief Inspector General was damaged and graffiti. A fan at the secretariat of the Chief Inspector General was also damaged and two (2) windows were broken.

X. Comments and Recommendations

a) On the creation of a police union within the PNH

66. A trade union is the best way for a public servant, an employee, to defend his interests and the interests of those who practice the same profession as him. It is by supporting their creation that a State can provide indisputable proof that it wants to establish a social justice in his country.

67. A police union, subject to operational rules and guidelines based on the exemplary behavior of police officers and respect for the values of honor, dignity, loyalty, impartiality, respectability, probity, integrity and effectiveness, can only be beneficial to the Haitian police institution because, the results obtained in terms of rights and treatment for individual cases will reflect on the entire institution and benefit all.

68. The operational problems within the HNP are very real. Since its creation, the working difficulties of its members have always been the object of concerns for the RNDDH: poor organization of services, poor distribution of the goods of the PNH, concentrated for the most part in Port au Prince, unavailability of operating and travel equipment for staff, premises for dirty, repulsive, inappropriate and dangerous police stations and substations, antennas installed in unacceptable working conditions, insufficient salary, exorbitant privileges for certain high-ranking officers and poor salaries for agents, ineffectiveness of health coverage, etc.

69. There is no doubt that PNH agents cannot continue under these conditions, which are just as worrying as the blatant lack of willingness of the state authorities to improve them.

70. The RNDDH believes in this sense that no one can, better than the oppressed, express the conditions of his oppression and make recommendations for the improvement of his situation, hence the importance of a police union within the PNH.

b) On the legal provisions relating to the associative law of police officers

71. The Haitian Constitution currently in force recognizes the freedom of association to all workers in the private and public sectors. It states, however, that restrictions on the enjoyment of

the right to strike may be imposed by the Act.

72. Similarly, Haiti has ratified regional and international instruments that enshrine trade union freedom while subjecting it to restrictions for police officers and military personnel.

73. Only one order of August 20, 2013 formally prohibits the creation of a union within the PNH. In this sense, it should be recalled that the order in question, faced with the Haitian Constitution, falls considering the hierarchy of norms. In addition, legal and regulatory provisions will evolve, considering the demands of different social groups and the advancement of human rights. Today, police officers demand their right to freedom of association.

74. Categorically reject any action to establish a union within the PNH, under the pretext that the Act does not allow it, is not an option. Similarly, cracking down on police officers who are now demanding the enjoyment of their freedom of association means delaying a problem that must be managed differently.

75. Finally, the RNDDH believes that issues relating to the strike rights of police officers must be raised seriously with those who are determined to create the union because as already stated, the only restriction on the right to strike cannot be the basis of the categorical refusal to prohibit the enjoyment of an associative right to a whole group of individuals.

c) On the behavior of police officers fighting for the police union

76. For the sake of such an important cause, leaders must be able to present the image of police officers who respect police ethics, the hierarchy established within the force to which they belong and who bow before the Act to claim their rights.

77. In this sense, the RNDDH condemns the events which occurred on February 7, 2020 to the General Inspection of the PNH and considers that they cannot be beneficial to the cause defended by the police officers, who are required to respect the buildings and all other property of the institution.

78. Moreover, the RNDDH believes that to behave in disrespect of the Law and the hierarchy established within the PNH, the police officers, who demand the creation of a union within the PNH, risk to strengthen their critics in their ideas that, a police union will allow its members to wreak havoc within the police institution.

79. The image of a police force engaging in vandalism is unacceptable. And those who have been guilty of the events recorded at the premises of the General Inspectorate must be held accountable for their actions, in accordance with the internal regulations of the PNH.

80. However, the RNDDH warns the police institution against any actions of persecution against the police officers involved in the claim of their union right and reminds its attention that the latter, automatically benefit, because of their commitment to advancing this cause, the protection

afforded to all human rights defenders.

81. With all of the above in mind, the RNDDH recommends that state authorities:

- Create a channel for discussions with PNH officers to recognize as soon as possible the right of police officers to unionize;
- Pass instructions to register the Haitian National Police Union (SPNH).

82. The RNDDH also recommends that police officers:

- Respect the rules of police ethics and the hierarchy established within the PNH;
- Do not engage in any acts of vandalism during their struggle for recognition of the NHPS.