



**Joint Submission for the 26th Session of the Working Group on the UPR  
Human Rights Council  
October 31 – November 11, 2016**

## **Universal Periodic Review Haiti**

# **First-hand Assessment of the Human-rights Situation in Haiti**

- I. Poverty**
- II. Mining**
- III. Violence**
- IV. Prison**
- V. Education**
- VI. Birth registration**

*presented by*

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Port-au-Prince / Montreal / New York / Geneva  
24 March 2016



1. Our coalition of organizations present this joint written submission on the human-rights situation in Haiti for consideration by the UPR Working Group at its 26th session in Geneva from October 31-November 11, 2016. Inquiries concerning this report can be addressed to Franciscans International at [fi-americas@fiop.org](mailto:fi-americas@fiop.org).
2. These observations and analysis have been compiled through collaborative research and primarily the first-hand information and analysis of the members living and working in Haiti, in consultation with the NGO representation at the UN.
3. This submission evaluates the implementation of the recommendations and voluntary commitments assumed in Haiti's previous UPR (December 2011) and seeks to complement the information submitted by the Government in its mid-term report on UPR follow-up presented to the OHCHR in March 2014.
4. It is our hope that the collection and presentation of this information and analysis will contribute to a constructive review of the human-rights situation in Haiti that is informed by and prioritizes the reality of the most marginalized and vulnerable. In particular, the report addresses the human-rights situation as related to:
  - I. rights-based approach to poverty eradication and development;
  - II. the respect and protection of human-rights in the context of mining;
  - III. violence and the rights to life and security;
  - IV. the rights of persons in detention;
  - V. the right to education; and
  - VI. birth registration and the right to a legal identity.

## **I. A Rights-based Approach to Poverty Eradication and Development**

5. Haiti is among the poorest and most unequal countries in the world. Poverty is both a cause and consequence of human rights violations in Haiti. According to UNICEF, 78% of the population lives in poverty and 56% in extreme poverty. Haiti ranked 168th out of 187 in the 2014 report of the Human Development Index.
6. Unemployment is very high. Over two-thirds of the labor force do not have formal jobs. The informal economy is very active but it is very hard for people to make a decent living. There are poor working conditions and below minimum salaries. Too many workers do not make enough to break out of persistent cycles of poverty.
7. Related to poverty, we observe multiple systemic injustices where basic human rights are not guaranteed. Much of the population lacks easy access to potable water. With long periods of drought this situation is worsening. The drought compounded by increasing



inflation has made food more expensive.<sup>1</sup> In 2014, the World Bank reported that 6.3 million out of 10 million Haitians are unable to meet their basic food needs. The public health system is weak and fragmented, often depends on the patient's ability to pay for treatment. Homelessness is a serious problem aggravated intensely by the 2010 earthquake.

8. Haiti has is extremely vulnerable to natural disasters. Haiti has the highest population density in the region (353 people per km<sup>2</sup>). Deforestation has reached almost 98% of the territory and this has resulted in significant soil erosion. The impact of climate change will most affect those living in poverty and especially those in rural areas.
9. Although there have been some improvement in overall rates of poverty, stark inequality persists.<sup>2</sup> The Gini coefficient (the income concentration index) is 0.65, among the highest in the world. Poverty levels are higher in rural areas: Poverty is now at 75, 2% in rural areas versus 40.8% in urban areas.<sup>3</sup> There are also significant disparities between men and women and whether households have a woman or a man as the main breadwinner. The index of gender inequality for Haiti is 0.599, ranking the country ranked 123 out of 146 countries in the index.<sup>4</sup>
10. The fact that inequality has not improved since the last UPR cycle reveals the urgent need for a robust rights-based approach to address the root causes of poverty and marginalization and promote just and sustainable development.
11. In its first cycle Haiti received and accepted two recommendations related to adopting and institutionalizing a human-rights based approach to development.<sup>5</sup> The Government reported on these in its mid-term report under the theme of "public policy." Here, the Government sets out the ambitions and broad coverage of the "Strategic Plan for the Development of Haiti" which will orient the major development lines until 2030.
12. The Strategic Plan for the Development of Haiti was launched in May 2012. It was developed by the Ministry of Planning to streamline assistance to the country. It included the vision, priorities, strategy, and major projects for the recovery and development of Haiti, including: territorial, economic, social, and institutional rebuilding,. This strategy provides a vision for all donors, which has long been lacking in Haiti's relationship with its partners.<sup>6</sup>

<sup>1</sup> <https://www.amnesty.org/en/latest/news/2015/01/ten-facts-about-haiti-s-housing-crisis/>.

<sup>2</sup>

[http://www.worldbank.org/content/dam/Worldbank/document/Poverty%20documents/Haiti\\_PA\\_overview\\_web\\_EN.pdf](http://www.worldbank.org/content/dam/Worldbank/document/Poverty%20documents/Haiti_PA_overview_web_EN.pdf).

<sup>3</sup> MDG report 2013, [http://www.unicef.org/haiti/french/overview\\_16366.htm](http://www.unicef.org/haiti/french/overview_16366.htm).

<sup>44</sup> The Gender Inequality Index is a composite measure reflecting inequality in achievements between women and men in three dimensions: reproductive health, empowerment and labor market. It ranges from 0 (when women and men are equal) and 1 (when men or women are treated worse compared to other group).

<sup>5</sup> 88.32 & 88.33.

<sup>6</sup> This plan proposes: "A long-term roadmap and short-term priority projects, our triggers for our rebuilding. It describes the approaches, the choices and the major projects that we, all together, in collaboration with our

13. It is worth noting that a new position was created for “Minister responsible for Human Rights and the fight Against Extreme Poverty.” We regret, however, that in the ministerial cabinet created in January 2015 under Prime Minister Evans, several important ministerial posts disappeared, including the Minister responsible for Human Rights and the Fight Against Extreme Poverty.<sup>7</sup>

### *Recommendations*

14. We recommend the Government of Haiti to:

- a) **Commit to and implement a human-rights based approach to poverty eradication and development;**
- b) **Incorporate the UN Guiding Principles on Human Rights and Extreme Poverty into public policy;**
- c) **Reconsider the importance of having a Ministry responsible for Human Rights and the fight Against Extreme Poverty, especially in the context of achieving the Sustainable Development Goals;**
- d) **Increase investment in sustainable agricultural both for food security and just, rural development;**
- e) **Monitor and reduce levels of inequality, with a special emphasis on education.**

## **II. Respect and Protection of Human Rights and the Environment in the Context of Mining**

15. The “Strategic Plan for the Development of Haiti” which will orient the major development lines until 2030 includes as a priority “the establishment and implementation of a strategy for the exploitation of natural resources (mining, quarrying, oil, etc.) with the participation of private capital.”<sup>8</sup> Unfortunately, there are no sufficient safeguards in the plan or elsewhere that would guarantee the respect, protection, and promotion of Haitian peoples’ rights in this context.<sup>9</sup>

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development partners, must implement for rapid and sustainable economic growth. The goal is creating jobs, reducing poverty in all its forms, the creation of a broad and solid middle class, a distribution of the fruits of growth throughout the whole territory and the establishment of a rule of law to ensure justice and security for all. It is the guide that will allow our country to become part of in the circuit of international trade and its role in the Caribbean.”

<sup>7</sup> <http://www.haitilibre.com/article-12975-haiti-flash-composition-du-nouveau-cabinet-ministeriel-maj-17-53.html>

<sup>8</sup> Section 2.7 of the Strategic Plan for the Development of Haiti program is devoted to this question.

[http://www.ht.undp.org/content/dam/haiti/docs/Gouvernance%20d%C3%A9mocratique%20et%20etat%20de%20droit/UNDP\\_HT\\_PLAN%20STRAT%C3%89GIQUE%20de%20developpement%20Haiti\\_tome1.pdf](http://www.ht.undp.org/content/dam/haiti/docs/Gouvernance%20d%C3%A9mocratique%20et%20etat%20de%20droit/UNDP_HT_PLAN%20STRAT%C3%89GIQUE%20de%20developpement%20Haiti_tome1.pdf) , P. 110

<sup>9</sup> See Concertation pour Haïti (CPH), L’industrie minière en Haïti: Enjeux et réalités (2016)

<http://www.ledevoir.com/international/actualites-internationales/459645/aide-internationale-ottawa-interpelle-pour-son-role-dans-l-exploitation-miniere-en-haiti>; Byen Konte, Mal Kalkile? Human Rights and Environmental Risks of Gold Mining in Haiti, December 2015, Global Justice Clinic & Haiti Justice Initiative.



16. Questions related to preventing human rights abuses, guaranteeing environmental protection, and measures for access to information are not taken into account. The Strategic Plan itself admits to lacking resources for adequate supervision of mining activities: “The Bureau of Mines and Energy (BME) has granted numerous exploration licenses in two mining companies, but also exploration permits within the two mining agreements already published in the official journal *Le Moniteur*. However, budgetary resources necessary for the supervision of these activities lack crucially.” The Strategic Plan also emphasizes the non-compliance of contracts and safety conditions for workers and communities, non-compliance with the conditions established for the environmental protection, and the lack of tax laws.
17. The mining law dates back to the time of the dictatorship of Jean-Claude Duvalier. More recently the government has sought out bilateral agreements and international cooperation related to mining and has also sought to adopt the reforms with the assistance of the World Bank.
18. In December 2012 the Government announced that it had awarded new licenses to Canadian and American mining companies for gold and copper extraction. However, this was swiftly denounced by policy experts because of the absolute lack of consultation with potentially affected communities and no baseline assessments of ecological resources in this fragile land.
19. In response, Haitian senators called for a moratorium on all activity related to those permits. The resolution referenced “the genocide that accompanied the pillage of our mineral resources in the 15th century”, “the waste of resources... since the January 12, 2010 earthquake”, the “trauma” caused from foreign mining experiences of the 20th century, and “the incapacity of our country to calmly undertake negotiations related to its mineral resources in a context of political disequilibrium.”
20. Although it does not have the force of law, a moratorium on mining was approved by 15 of the 16 senators present. They called for a commission to be established to review all mining contracts and also for a national debate on the country’s mining resources. However, a simple decree could reopen this possibility and the mining would begin rapidly.
21. The mining projects are concentrated in the north of the country in very poor places and they threaten fresh water sources that are already very fragile. There is a lack of transparency with the public and there are virtually no effective measures to protect the environment or guarantee reparation of any damage caused. They intend to issue permits to companies to mine without considering the environmental, social, political and consequences for people living in the affected areas and even for the country overall.

### ***Recommendations***





**22. We recommend the Government of Haiti to:**

- a) **Formally pass into a law a moratorium on all metal mining activity and prohibit the issuance of new mining permits until comprehensive human rights, environmental, and financial safeguards are in place.**
- b) **Apply the best standards for guaranteeing the rights of potentially affected communities, including the rights to access information and to participate, in public policy debates and decisions**
- c) **Do not approve any project without the free, prior, and informed consent of each of the communities directly affected by the proposed mining activities.<sup>10</sup>**
- d) **Guarantee meaningful participation for communities at every stage of every project through a process that is inclusive, free of manipulation, and based on full disclosure of all relevant information.**

### **III. Violence: Right to Life and Security**

23. Many of the recommendations addressing violence in the first cycle UPR of Haiti focused, importantly, on gender-based violence. In addition to this critical manifestation of violence and discrimination, the general state of insecurity and the violence inflicted against the population at large must be address in the second cycle of the UPR. Again, the poorest segments of society suffer disproportionately the burden of insecurity and impunity. This was a consistent concern and priority raised in our consultations for this submission.
24. There were two recommendations in the first UPR cycle that addressed points relevant to guaranteeing the safety of the population.<sup>11</sup> There is a positive obligation on governments to take effective legislative, administrative, and judicial measures to protect the civilian population against criminal acts.
25. There are approximately 10,000 staff of the national police and they cover only 25% of the national territory. One authority, Mario Andrésol of the Haitian National Police (HNP), affirmed that between 18,000 to 20,000 additional staff members would be required. Even with 15,000 personnel planned for 2016, the country would be far below the ratio recommended by the United Nations, which is 300 police officers per 100,000 citizens. This authority also noted the need to strengthen the specialized forces and community police, and to apply a zero tolerance of police violence.<sup>12</sup>
26. “Violence continues to be concentrated in major urban centres. The metropolitan area of Port-au-Prince and the surrounding densely populated communes remain the zones most highly affected by criminal activity. In those areas, armed gangs remain the main source

<sup>10</sup> Byen Konte, Mal Kalkile? Human Rights and Environmental Risks of Gold Mining in Haiti, December 2015, Global Justice Clinic & Haiti Justice Initiative, p. 244

<sup>11</sup> 88.47 & 88.108

<sup>12</sup> [https://www.fidh.org/IMG/pdf/haiti\\_fr.pdf](https://www.fidh.org/IMG/pdf/haiti_fr.pdf) (page 29)



of insecurity, committing murders, kidnappings and robberies. Gangs are also involved in narcotics and small arms-trafficking, racketeering and the fight for territorial influence.”<sup>13</sup> A major factor is the lack of gun control. According to figures given by the Director General of the National Police of Haiti, there are between 250,000 and 260,000 arms circulating illegally in Haiti. In 2006, Amnesty International, International Action Network on Small Arms, Oxfam International said "Haiti's ill-equipped and understaffed police and coastguard are unable to control its porous borders and long coastline."<sup>14</sup> "The Episcopal Commission for Justice and Peace has recommended which recommends 'clear and proper legal framework' mandated by Parliament to find a solution to this problem." Haiti has signed but not ratified the Arms Trade Treaty.

27. The types of crimes that emerged in our consultations included: violent deaths;<sup>15</sup> kidnapping;<sup>16</sup> targeted burglary of religious congregations;<sup>17</sup> and dangers at banking and commercial institutions.<sup>18</sup> The added insecurity due to elections violence was also a concern.<sup>19</sup>
28. The generalized situation of violence contributes to impunity for extra-judicial killings related to the rights to freedom of expression and the defense of human rights. Although in January 2014 9 people were charged in the assassination of journalist Jean Dominique in 2000, the chance that Jean Léopold Dominique and Jean Claude Louissaint find justice is increasingly difficult. The investigations are stalled and a key witness in this case, Oriel Jean was assassinated in 2015.
29. The slow pace of judicial proceedings and the inability to prosecute are obstacles in the fight against impunity and the absence of a system of protection of victims and witnesses of crimes, including killings, remain a major concern. "The extreme slowness of the

<sup>13</sup> UN Secretary General S/2012/678

<sup>14</sup> Control Arms Campaign, Amnesty International, the International Action Network on Small Arms, and Oxfam International, "The call for tough arms controls: Voices from Haiti", [https://www.oxfam.org.nz/sites/default/files/reports/ca\\_haiti.pdf](https://www.oxfam.org.nz/sites/default/files/reports/ca_haiti.pdf); <http://www.gsdrc.org/document-library/the-call-for-tough-arms-controls-voices-from-haiti/>

<sup>15</sup> During the first six months of 2015: 507 violent deaths. In its report on the first half of 2015, the Episcopal Justice and Peace Commission of the Archdiocese of Port-au-Prince, JILAP, has reported 980 cases of violent deaths, 837 by bullets. <http://www.referencehaiti.com/jilap-sinquiete-de-la-resurgence-du-grand-banditisme-plus-de-500-deces-violents-recenses-pendant-les-six-derniers-mois/>

<sup>16</sup> We received information about a family's case in which the 8 year old son and the 11 year old daughter of were kidnapped for a ransom of 10,000 Haitian dollars. The whole neighborhood chipped in so that the mother could pay this sum, but at the time of the writing – 3 days later – the children had yet to be returned.

<sup>17</sup> From November 2014 to March 2015, more than 30 religious congregations were burglarized, some repeatedly. <http://www.haitilibre.com/en/news-13331-haiti-security-25-sisters-residences-attacked-by-gunmen.html>; <http://www.haitilibre.com/en/news-13455-haiti-security-a-situation-of-terror-reigns-within-religious-communities.html>

<sup>18</sup> Several of our members noted the prevalence of crime at banks. The Plateforme des Organisations Haïtiennes des Droits Humains (POHDH) also is concerned about different cases of crimes reported across the country, including the robbery and murder of people exiting the banks, to which the general population is quite helpless and horrified. [http://www.pohdh.org/article.php?id\\_article=394&var\\_recherche=secteur+bancaire](http://www.pohdh.org/article.php?id_article=394&var_recherche=secteur+bancaire)

<sup>19</sup> Twelve (12) people were killed, wounded and material damage recorded in several parts of the country such as Marigot in the Southeast, to Savannette in the Central Plateau



judicial proceedings in this case and in other cases from the past, such as the case involving the murder of journalist Jean Léopold Dominique, highlights the inability or unwillingness of the Public Minister to conduct these proceedings and is an obstacle in the fight against impunity.”

30. We welcome the new law on the fight against human trafficking promulgated on June 2, 2014. Prior to the passage of this law, there were no provisions in the Haitian legal framework that criminalized trafficking in persons.<sup>20</sup> The new legislation includes the establishment of a National Committee for the fight against trafficking. Members of the National Committee for the fight against Trafficking were appointed on December 1, 2015. The Role of the Committee to “coordinate the fight against trafficking activities, prevent, combat trafficking in all its forms and to guarantee the protection of victims.” The main areas of intervention are awareness and prevention, protection and assistance, the prosecution of offenders. We welcome that children who are forced to beg and those in domestic service, Restaveks, are recognized by the National Committee against human trafficking as victims of human trafficking.

### *Recommendations*

**31. We recommend the Government of Haiti to:**

- a) **Train police and other professionals to implement the law against human trafficking with a view to protect and provide services to victims, especially children**
- b) **Increase the number of officers, adopt a specific security plan for the capital districts, and invest in and reduce barriers genuine territorial decentralization of the police force beyond the capitals;**
- c) **Strengthen the participation of women in community safety;**
- d) **Invest much more in the institutionalization of community policing;**
- e) **Strengthen the investigatory capacity of authorities taking into account gender dimension and geographical diversity;**
- f) **Increase capacity of the National Disarmament, Demobilization and Reintegration Commission (CNDDR) to reduce the gangs;**
- g) **Adopt and implement a policy for control of illegal firearms regulation of state and non-state arms supplies;**
- h) **Ratify the Arms Trade Treaty.**

## **IV. Rights of Persons in Detention**

32. In the first cycle, Haiti received and accepted 11 recommendations that spoke to persistent human-rights violations of persons in detention. In accepting the recommendations and citing efforts already being implemented, the Government emphasized primarily the solution of building additional detention centers instead of

<sup>20</sup> <http://www.healthpolicyproject.com/index.cfm?ID=publications&get=pubID&pubID=740>





prioritizing policy initiatives that address deeper root causes of the crises. Namely, the responses ignore the lack of food, water, hygiene, sanitation, and health services and the role of the practice of holding people “preventatively” without trial in the severe overcrowding.

33. For example, the Government asserted that “With the aim of improving detention conditions, the Government has already begun the construction of new prisons.” And “The Government is fully aware of the problem posed by the pretrial detention of minors. However, lack of funding means that it has not yet managed to build enough juvenile rehabilitation centres.” On the point of separating youth from adults, the Government asserted that “limited resources mean that the State is not able to effect such separation, which would involve building new modern detention centres.”
34. Unsurprisingly, new construction proved insufficient for addressing the problems. For example, the government cites that “A rehabilitation center for minors in conflict with the law was built and opened in May 2011 at Delmas 33 (West Department). The center provides psychosocial support and academic training to these minors. Nevertheless its capacity remains insufficient compared to the number of children involved. The infrastructure and staff of a similar center, CHARMICAL, are in place at Cabaret (West Department). However, the financial resources are lacking for its operationalization.”
35. The recommendations in the second-cycle UPR should look beyond increased prison complexes and should emphasis the urgent need for more lasting and transformative measures to decrease the prison population and improve conditions for those rightfully detained.
36. Beyond the infrastructure proposals and improvements, the government referenced that it has set up supervisory committees aimed at monitoring and reducing cases of prolonged detention and overcrowding. However, the role, composition and impact of oversight committees are difficult to document. They should deal with cases expeditiously but unfortunately they meet little and, when they meet, deal too few cases to make up the number of people admitted to custody. They should deal with cases expeditiously but unfortunately they meet little and, when they do, they taken on too few cases to even match the number of people being detained.
37. In sum, the situation of prisoners in the country remains very grim. By all accounts, more than 70% of the all the people being held in detention in Haiti are being deprived of their liberty without ever having appeared before a judge.<sup>21</sup> Of those held in pre-trial detention, a reported 72% are minors and 81% are female.<sup>22</sup> In the civilian prison in Port-au-Prince, more than 90% of all people being held have not yet had a trial and some have already

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<sup>21</sup> The UN Independent Expert on the human-rights situation in Haiti reported that Chief Commissioner of the Prisons Administration revealed to him that this figure can reach or even exceed 80 per cent. See also <http://www.hpnhaiti.com/site/index.php/nouvelles/38-justice-a-securite/17599-haiti-justice-en-haiti-plus-de-70-des-detenus-sont-en-attente-de-jugement-la-jilap-sinquiete>

<sup>22</sup> The UN Independent Expert on the human-rights situation in Haiti, citing the MINUSTAH correctional unit.

served more time than the maximum sentence they would receive if they were convicted of the crime charged.

38. Importantly, we can see that in reporting to international human-rights mechanisms, including the UPR, the government incorrectly refers to “preventative detention” as opposed to “pre-trial” detention – indicative that at a fundamental level there is a sense of justifying the grave situation and no recognition of the presumption of innocence or the right to habeas corpus and due process.
39. The situation regarding pre-trial detention is directly and causally related to the overcrowding problem, which the UN Human Rights Committee in 2014 declared had “reached such a critical point that it amounts to inhuman and degrading treatment.”<sup>23</sup> In the National Penitentiary, the largest prison center of the country with 4,500 people, each prisoner has no more than half a meter space.<sup>24</sup> According to figures, overcrowding is greater than 400% according to the standards established by the Red Cross.<sup>25</sup> When the UN Independent Expert visited two prisons he observed cells with more than 40 people in approximately 15 square meters, or less than 40 square cm per person.<sup>26</sup>
40. Aggravating this state of affairs, the government does not provide or arrange for effective legal assistance as mandated by law. There are also not enough judges to conduct investigations because the CSPJ and the Ministry of Justice do not timely renew their mandates.<sup>27</sup>
41. The abhorrent conditions inside Haitian detention centers have been widely documented. Hygiene and sanitation services are grossly inadequate, there is insufficient access to water and food, health care services are lacking, and there are many shortcomings in terms of restorative programs related to education and work opportunities.
42. The situation is especially grave for minors.<sup>28</sup> Children are placed in the same locations as adults, and we see this is especially true for minor girls. Of the minors in detention, 85% are being detained “preventatively” and have never had a trial or been seen by a judge. In six prisons visited by the National Network for the Defense of Human Rights,

<sup>23</sup> HRCCommittee report, para. 15.

<sup>24</sup> <http://www.hpnhaiti.com/site/index.php/nouvelles/38-justice-a-securite/17599-haiti-justice-en-haiti-plus-de-70-des-detenus-sont-en-attente-de-jugement-la-jilap-sinquiete>

<sup>25</sup> *Fédération internationale des ligues des droits de l'homme (FIDH)*, [http://www.lapresse.ca/actualites/justice-et-affaires-criminelles/201211/16/01-4594479-francine-desormeaux-le-role-de-dejan-victor.php?utm\\_categorieinterne=traficdrivers&utm\\_contenuinterne=cyberpresse\\_vous\\_suggere\\_4770462\\_article\\_POS3](http://www.lapresse.ca/actualites/justice-et-affaires-criminelles/201211/16/01-4594479-francine-desormeaux-le-role-de-dejan-victor.php?utm_categorieinterne=traficdrivers&utm_contenuinterne=cyberpresse_vous_suggere_4770462_article_POS3)

<sup>26</sup> Report of the Independent Expert (2014), para. 32.

<sup>27</sup> <http://www.hpnhaiti.com/site/index.php/nouvelles/38-justice-a-securite/17599-haiti-justice-en-haiti-plus-de-70-des-detenus-sont-en-attente-de-jugement-la-jilap-sinquiete> Also confirmed by the Independent Expert, para. 34.

<sup>28</sup> <http://www.hpnhaiti.com/site/index.php/nouvelles/38-justice-a-securite/17599-haiti-justice-en-haiti-plus-de-70-des-detenus-sont-en-attente-de-jugement-la-jilap-sinquiete>

only one had a literacy program for children.<sup>29</sup> In December 2013, the Episcopal Commission for Justice and Peace “expressed concern over the very young age group in the prison population and urged the authorities to take steps to improve the fate of detainees and the socio-economic conditions of the population.”<sup>30</sup>

43. The Independent Expert has correctly and convincingly summarized the state of affairs:

the situation of persons deprived of liberty is very serious and needs to be resolved through urgent measures aimed at improving health services, ensuring access to food and health care, creating conditions allowing prisoners to work or study and adding a more humane dimension to living quarters and recreational areas. Above all, it is crucial that inmates in prolonged pretrial detention are released and that this practice ... is brought to an end.<sup>31</sup>

### *Recommendations*

44. We recommend the Government of Haiti:

- a) **Prioritize urgently guaranteeing that all persons detained enjoy the right to habeas corpus and promote alternatives to detention to uphold individuals’ human rights and to sustainably reduce overcrowding.**
- b) **Make legal assistance available to all detainees;**
- c) **Ensure the distribution of drinking water and food, as well as basic hygiene products, in sufficient quantity and quality;**
- d) **Provide appropriate treatment to sick prisoners and ensure their access to health care;**
- e) **Give urgent priority to cases of minors in detention and guarantee separation from adults;**
- f) **Provide literacy and education for minors in detention, based on best practices**

## **V. The Right to Education**

45. Guaranteeing the right for all to access quality education with no exceptions is necessary to address one of the gravest human rights violations related to systemic poverty. The right to education is instrumental for breaking vicious cycles of exclusion and marginalization. Approximately 44% of the population (4.211 million) are children under 18 and 13% (1,250,000) are children under 5.<sup>32</sup>

<sup>29</sup> <http://www.hpnhaiti.com/site/index.php/nouvelles/38-justice-a-securite/17599-haiti-justice-en-haiti-plus-de-70-des-detenus-sont-en-attente-de-jugement-la-jilap-sinquiete>

<sup>30</sup> <http://www.hpnhaiti.com/site/index.php/politique/11374-haiti-jilap-la-jilap-denonce-les-mauvaises-conditions-dans-les-prisons>

<sup>31</sup> Report of the Independent Expert, para. 40.

<sup>32</sup> [http://www.unicef.org/haiti/french/overview\\_16366.htm](http://www.unicef.org/haiti/french/overview_16366.htm)

46. In its first cycle UPR, Haiti received six recommendations directly related to its obligation to guarantee access to education for all. The Government of Haiti ultimately accepted these recommendations and asserted that they were already implemented. It should be noted that the right to education was also a central concern in the January 2016 review of Haiti by the UN Committee on the Rights of the Child<sup>33</sup> as well as the most recent reports of the Independent expert.<sup>34</sup>
47. In its mid-term report (March 2014), the Government reiterated that education is one of the top five priorities for governmental action. As an example of its efforts it cites the Universal Free and Compulsory Schooling Program (PSUGO) launched in 2011, referring to the strengthening of the school food program to encourage attendance and retention, as well as a new free school transport system.<sup>35</sup>
48. Nonetheless, a significant number of children still do not have access to education and vulnerable populations have the most difficulty accessing this right.<sup>36</sup> Few families can afford to send their children to school and when they can, often it is one or two children out of six that can go to school. The high drop-out rate of students from school is related to economic difficulties.<sup>37</sup> Among the many obstacles related to poverty, there are additional burdens on young girls.<sup>38</sup>
49. In our consultations, numerous shortcomings were cited – problems with teachers’ payments being delayed; strikes and low morale among teachers; examples of funds being diverted;<sup>39</sup> corruption in the administration of food in the schools; and a failure to evaluate the quality of the education provided. Especially in the regions that are more isolated from the centralized government in the capital, in the Northwest for example, there is little supervision of education and these problems are aggravated. The UN Committee on the Rights of the Child recently confirmed this assessment: “Educational infrastructure is poor, schools are poorly equipped, particularly in rural and remote areas, few teachers are adequately qualified, and salaries are not regularly paid, leading to frequent cancellation of classes.”<sup>40</sup> In all of these deficiencies, children living in poverty suffer the most.

<sup>33</sup> Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Haiti, UN Doc. CRC/C/HTI/CO/2-3 (29 Jan. 2016).

<sup>34</sup> See e.g, Report of the Independent Expert on the situation of human rights in Haiti, Gustavo Gallón, UN Doc. A/HRC/28/82 (Feb 2015).

<sup>35</sup> Mid-term report, para. 77.

<sup>36</sup> Confirmed recently by the UN Committee on the Rights of the Child, in its review of Haiti, para. 58. According to UNICEF, the primary enrollment rate was 57% for preschool, 76% for primary education. Approximately 380,000 children aged 6-11 do not attend school. [http://www.unicef.org/haiti/french/overview\\_16366.htm](http://www.unicef.org/haiti/french/overview_16366.htm).

<sup>37</sup> [http://www.unicef.org/haiti/french/children\\_8839.htm](http://www.unicef.org/haiti/french/children_8839.htm).

<sup>38</sup> "Girls are often forced to drop out, due to premature pregnancy. And most often, the culprit is a close relative on whom they depend financially. Added to this, some students who have to bear the impact of domestic violence because it is not possible for them to leave economically." <http://reliefweb.int/report/haiti/haiti-education-el-ve-en-milieu-rural-h-ros-face-l-chec>

<sup>39</sup> <http://www.hpnhaiti.com/site/index.php/politique/6712-port-de-paix-corruption-13-des-fonds-prevus-pour-leducation-gratuite-ont-ete-detournees>

<sup>40</sup> Confirmed recently by the UN Committee on the Rights of the Child, in its review of Haiti, para. 58



50. Fraud and corruption have been registered with examples of school principals claiming that they have children in their schools and received tuition fees for them, but in fact there is no school.<sup>41</sup> In its recent review of Haiti, the UN Committee on the Rights of the Child found that these “ghosts schools’ have mismanaged funds received in the context of PSUGO.<sup>42</sup>
51. One component of the PSUGO is called, “Ti Manman Cheri”.<sup>43</sup> Launched in 2012 this is a government program that provides monthly direct money transfers via cell phone to mothers that have at least one child in elementary school. The aim is to incentivize parents to send their children to school and to reduce obstacles to attendance related to economic difficulties. Our research revealed an overall positive assessment of the aims of this program and a sense that it is really aiming for the true problems of Haitian mothers. Its success stories are seen to reveal a willingness and determination to fight for mothers and children living in poverty on the part of the State.
52. Unfortunately, the successes of the program are held back by several obstacles.<sup>44</sup> The city of Les Cayes is an illustrative example. Les Cayes has more than 70,000 people and there are a total of 32 slums. There, many people do not have access to electricity, water, sanitation, and health care. The average number of children per household is seven. There is an extremely high incidence of pregnancies with children less than 18 years old. Illiteracy remains at a staggering 53%. In Les Cayes very few women are part of the program, in part because of problems related to the dependence on mobile distribution. Many of those most in need are not eligible because they cannot afford to buy a cell phone and do not have electricity at home making it impossible for them to charge a cell phone even if they had one. So by default some of the poorest women and families are excluded from this very important program.
53. Finally, it was reported that many of those on whom the implementation of the program depends are not sufficiently trained or supervised in the executive of their role. For example, we received reports of bank employees siphoning funds and telling mothers that the money had not come in.<sup>45</sup>

### ***Recommendations***

#### **54. We recommend the Government of Haiti to:**

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[http://www.radiotelevisioncaraibes.com/nouvelles/haiti/education\\_psugo\\_des\\_coles\\_impliqu\\_es\\_dans\\_des\\_d\\_tournements\\_de\\_f.html](http://www.radiotelevisioncaraibes.com/nouvelles/haiti/education_psugo_des_coles_impliqu_es_dans_des_d_tournements_de_f.html); <http://lematinhaiti.com/contenu.php?idtexte=35020>

<sup>42</sup> Confirmed recently by the UN Committee on the Rights of the Child, in its review of Haiti, para. 58

<sup>43</sup> Now named “Ti Manman Cheri tou nèf” <http://www.haitilibre.com/en/news-15361-haiti-social-launch-of-the-program-ti-manman-cheri-tou-nef.html>

<sup>44</sup> This report comes from our consultations carried out in this region for the purposes of this report.

<sup>45</sup> For more on this situation, see [http://www.cgap.org/sites/default/files/eg2p\\_Haiti.pdf](http://www.cgap.org/sites/default/files/eg2p_Haiti.pdf), pages 24 & 25.



- a) **Ensure that teachers are qualified and properly trained; provide salaries for teachers that are adequate and paid in a timely manner;**
- b) **Effectively regulate education providers to ensure that they comply with quality standards and regularly report on their financial operations.**
- c) Strengthen mechanisms to regulate salary payments to teachers in accordance with a predetermined schedule at the beginning of each school year.
- d) **Take all necessary measures to eradicate all discrimination in education, including disparities by class, gender, and geography (urban or rural).**

## VI. Birth Registration: Right to Name and Identity

55. In its first cycle of the UPR, Haiti accepted two recommendations related to birth registration, focused on empowering, modernizing, and simplifying the civil registry system.<sup>46</sup>
56. In its mid-term report, the Government reported that the process of modernization of the Haitian civil registry and identification was launched on 14 November 2012. Nonetheless, it confirmed that “especially in the communes, many adults and children have no birth certificate.” However, as of December 2015 “only five communal sections of five hundred and seventy have an office for registering births.”<sup>47</sup>
57. This was a priority issue for the people consulted in the research for this report and identified as a human-rights violation that contributes to vulnerability to further marginalization and violations in the future. The consequences for unregistered people that were reported included that they are not legally recognized in society; children cannot enter to study and adults cannot obtain a tax registration number, passport, or voter ID card, and thus they deprived of the right to vote or have a bank account.
58. In Haiti, by law everyone can enjoy free birth registration under certain conditions. The certificate is produced automatically for births in the hospital. However, if the birth takes place at home, arrangements for the registration must be made with the registrar between 1 – 4 months after birth in order for the certificate to be free. Many children, especially the very poor, are born at home and most are not registered civilly. If parents wait too long to register their child, there is a cost because they have to pay a court judgment to obtain the birth certificate. Parents may not comply with the requirements for a free certificate for a variety of reasons: they may not see the importance or priority of the registration, they lack of information, there are obstacles related to literacy, or lack of economic resources for the costs related directly or indirectly to the process.
59. Correcting mistakes can also be very costly and out of reach for the poor. If a person goes home with the wrong act, they must pay to do the correction even when the error was

<sup>46</sup> 88.113 & 88.114.

<sup>47</sup> <http://www.alterpresse.org/spip.php?article19380#.VvAyDMv2bq4>, 16 décembre 2015



committed by a public officer. Especially in rural zones, many people are illiterate and cannot verify the accuracy of the document. In light of the additional fees later to get the correction, the poorest and most vulnerable wind up bearing the costs for the mistakes of others.

60. For example: In the rural town of Aquin, from 1990 to 2009 births were documented but the information was never sent to the National Archives. All persons whose birth certificate was written between those years is unable to obtain a copy from the Archives because their name was never recorded. To get a copy from the Archive (required for obtaining a passport, for example), they must pay a court judgment at their own expense. The amounts are often arbitrary. Since 2010, the city Aquinas has successfully carried out its duties and responsibilities to the National Archives in this respect, but the people born in the 20 years prior continue to have this challenge.
61. Additionally, there is fraud surrounding the civil registry procedures. Although efforts have been made to improve the situation,<sup>48</sup> racketeers at the entrance of the national archive take advantage of people unfamiliar with the process. They pretend to be lawyers not and have people to quickly make a document for a sum of money. Once paid, the applicant presents the paper obtained at the office of the National Archives to get the registration, and there the person realizes that the document is not worth anything because the seal is invalid. The person must then go to court and pay again to get a valid document. Moreover, there is corruption in the charging for bureaucratic processes to be expedited.

### *Recommendations*

#### **62. We recommend that the Government of Haiti:**

- a) **Ensure that all Civil Status Offices issue birth certificates free of charge and throughout Haitian territory;**
- b) **Allocate the necessary human, technical and financial resources to these offices, including training of employees;**
- c) **Increase the number of and access to Civil Status Offices in all parts of the country, in particular in rural and remote areas,**
- d) **Immediately provide children of Haitian descent who have been expelled from the Dominican Republic and their families with identity documentation.**

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<sup>48</sup> See <http://hpnhaiti.com/site/index.php/societe/12236-haiti-archives-de-nouvelles-mesures-pour-ameliorer-la-qualite-des-services-aux-archives-nationales>