

# HAITI 2015 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Haiti is a constitutional republic with a multiparty political system. President Michel Martelly took office in 2011 following a two-round electoral process that, despite some allegations of fraud and irregularities, international observers deemed generally free and fair. The government held a first round of legislative elections on August 9, the first elections of any kind in the country since 2011. Presidential, second-round legislative, and local elections occurred on October 25, and despite allegations of fraud, the results conformed to international observer estimated outcomes and were generally regarded as credible. A commission established by the government to evaluate the October 25 round found irregularities and recommended the continuation of the electoral process while making recommendations for improving the final round. Second-round presidential elections were postponed from December 27 to an undetermined date in 2016. Civilian authorities maintained effective control over the security forces.

The most serious impediments to human rights involved weak democratic governance in the country worsened by the dissolution of parliament in January, when the terms of all deputies and two-thirds of the Senate expired; insufficient respect for the rule of law, exacerbated by a deficient judicial system; and chronic corruption in all branches of government.

Other human rights problems included isolated allegations of arbitrary and unlawful killings by government officials; allegations of use of force against suspects and protesters; overcrowding and poor sanitation in prisons; prolonged pretrial detention; an inefficient, unreliable, and inconsistent judiciary; governmental confiscation of private property without due process. There was also rape, violence, and societal discrimination against women; child abuse; allegations of social marginalization of vulnerable populations; and trafficking in persons. Violence, including gender-based violence, and crime within the remaining internally displaced persons (IDP) camps remained a problem.

Although the government took steps to prosecute or punish government and law enforcement officials accused of committing abuses, credible reports persisted of officials engaging in corrupt practices, and civil society groups alleged that impunity was a problem.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary or Unlawful Deprivation of Life**

There were isolated allegations of police and other government officials' involvement in arbitrary or unlawful killings. Some of these resulted in arrests, but there were no convictions.

Human rights groups criticized the Departmental Brigade of Operations and Interventions (BOID), a special police unit, for its response to demonstrations by residents in Arcahaie over a controversial presidential decree establishing new communal boundaries promulgated in October. Reports alleged that BOID officers killed four persons, injured several others, destroyed personal and commercial property, and robbed a number of small businesses. Also in October nongovernmental organizations (NGOs) alleged that BOID officers killed a man while in their custody during a response to pre-electoral violence in the Cite Soleil neighborhood of Port-au-Prince. As of November a Haitian National Police (HNP) inspector general investigation was underway.

Two persons died in election-related incidents in August. In one case local citizens barricaded roads and protested the disruption of a voting center by a group of heavily armed men led by Frantzy Dagobert, president of the interim mayoral committee of Limbe in the North Department. After police were unable to disperse the crowd using tear gas, the Police Departmental Unit for Maintenance of Order (UDMO) intervened and allegedly fired live ammunition into the crowd, killing Soniel Jean. In another incident Lener Perard, the substitute prosecutor from Gonaives in the Artibonite Department, shot and killed Assondieu Inondieu following an altercation about election results. Following the incident Perard went into hiding and had not been found by police or brought to face any charges by year's end.

In May the Port-au-Prince Court of Appeal confirmed the results of an investigation launched by Judge Wilner Morin into the 2013 killing of HNP officer Walky Calixte, who was shot and killed after he had arrested then deputy Rodriguez Sejour's nephew on suspicion of illegal arms possession. The decision cleared the way for referral of the matter to the criminal court for Sejour to stand trial on charges of conspiracy to commit murder.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

The six HNP officers imprisoned for their involvement in the high-profile Clifford Brandt kidnapping ring remained incarcerated, and no trial date had been set by year's end.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices; however, there were several reports from international and domestic NGOs that members of the HNP allegedly beat or otherwise abused detainees and suspects. Prisoners at times were subject to degrading treatment, in large part due to overcrowded facilities. Several reports noted corrections officers used physical punishment and psychological abuse to mistreat prisoners.

In February police arrested Chelder Guilloux, a university student, on charges that he burned a government vehicle during protests demanding lower fuel prices. According to human rights advocates, Guilloux spent 11 days in jail without appearing before a judge, during which time prison officers beat him. Upon his release, Guilloux was immediately hospitalized to receive treatment for his injuries. As of November an HNP investigation was underway.

While allegations persisted that the UN Peacekeeping and Stabilization Force (MINUSTAH) soldiers were involved in incidents of sexual abuse and exploitation, the number of alleged incidents reportedly decreased from 2014. UN officials attributed the decline from 11 allegations in 2014 to four as of June in part to their efforts to combat the problem, and they highlighted a zero-tolerance policy that included training, awareness raising, and enforcement.

### **Prison and Detention Center Conditions**

Prisons and detention centers throughout the country remained overcrowded, poorly maintained, and unsanitary.

Physical Conditions: Prison and detention center overcrowding was severe, especially in the National Penitentiary; the Petionville women's prison; the Petit-Goave jail; and the prisons in Jeremie, Les Cayes, Port de Paix, and Hinche. Only the newly constructed prison in Croix des Bouquets conformed to international norms and was not significantly overcrowded, albeit slightly over capacity. Others, including the detention facilities in Port-au-Prince, Cap Haitien, Fort

Liberte, Mirabalais, Jacmel, Hinche, Les Cayes, Anse-a-Veau, and Port de Paix, exceeded the UN's prescribed capacity of 27 square feet per inmate. In some prisons detainees slept in shifts due to lack of space. Some prisons had no beds for detainees, and some cells had no access to sunlight. In others, the cells often were open to the elements and lacked adequate ventilation. Many prison facilities lacked basic services such as plumbing, sanitation, waste disposal, medical services, potable water, electricity, and isolation units for contagious patients. Some prison officials used chlorine to sanitize drinking water, but in general prisoners did not have access to treated drinking water.

International observers indicated prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and water-borne illness. An estimated 10 percent of the prison population suffered from malnutrition and severe anemia, while sanitation-related diseases, including scabies, diarrhea, and oral infections, were commonplace. In several prisons the Department of Corrections (DAP) and the International Committee of the Red Cross provided personal hygiene kits; in many others, inmates' families provided the kits. Because of the poor security, severe understaffing, and conditions of some detention centers, some prisons did not allow prisoners out of their cells for exercise. From January to September, the HNP's DAP recorded 54 inmate deaths in prisons. The majority of deaths were due to heart failure, severe anemia, and strokes.

Many detention facilities did not contain clinics for treatment of illnesses and diseases contracted while in custody. Few prisons had the resources to treat serious medical situations. In some prisons the incidence of HIV/AIDS and malaria remained a serious problem, although the programs of several NGOs, international organizations, and donor countries continued to reduce the incidence of these diseases. The National Penitentiary and Cap Haitien prisons experienced small-scale outbreaks of cholera. The outbreaks were quickly contained but resulted in four prisoners' deaths.

Prison conditions generally varied by inmate gender. Female inmates in coed prisons received proportionately more space in their cells than their male counterparts, but women at the Petionville women's prison, like men at mixed-gender prison facilities, had less than 11 square feet of cell space per person. Female prisoners also appreciated a better quality of life than did their male counterparts due to their smaller numbers, which wardens suggested was a contributing factor to their ease of control. Access to water and adequate plumbing

was a problem at the women's prison, which had no flushing toilets, and where one pit latrine served 319 inmates.

The DAP estimated there were 11,200 prisoners in the country's jails and as of September. The DAP also held prisoners in makeshift and unofficial detention centers, such as police stations in Petit-Goave, Miragoane, Gonaives, some parts of Port-au-Prince, and other locations. Local authorities held suspects in makeshift facilities, sometimes for extended periods, without registering them with the DAP. The number of prisoners in the country's jails did not include those held in unofficial detention centers such as police stations. For example, in September a police station in Petit Goave held 172 individuals awaiting trial or transfer to prison.

Corrections authorities in Port-au-Prince maintained separate penitentiaries for adult men, women, and minors. In Port-au-Prince all male prisoners under 18 years of age were to be held at the juvenile facility at Delmas 33, but due to the lack of sufficient documentation, authorities could not always verify the ages of detainees. At times authorities detained minors believed to be older, and whose ages could not be confirmed, with adult inmates. Authorities moved the vast majority of these minors to juvenile detention centers within two months of verifying their ages. Outside Port-au-Prince minors and adults often occupied the same cells due to lack of available space. Authorities did not hold girls separately from women at the Petionville women's prison but separated convicts from pretrial detainees when possible. Due to lack of space, resources, and oversight outside the capital, authorities often did not segregate juveniles from adult prisoners or convicted prisoners from pretrial detainees, as the law requires.

Corrections officers were severely underresourced and lacked basic riot control and self-defense capacity. Prisoners' access to adequate nutrition remained a problem. The HNP has contractual and fiscal responsibility for the delivery of food to prisons. Some prisons had kitchen facilities and employed persons to prepare and distribute food. Prison authorities generally provided prisoners with one or two meals a day, consisting of broth with flour dumplings and potatoes, rice and beans, or porridge. None of the regular meals served to prisoners provided sufficient calories, according to medical standards. As a result authorities allowed prisoners regular deliveries of food from relatives and friends. Human rights groups reported that families sometimes paid prison staff to deliver supplemental meals and clothing to prisoners.

The HNP also managed other service contracts at prisons, such as sewage treatment. Most prisons had insufficient sewage facilities for their populations. Since only one HNP central office handled all contracts for law enforcement and prisons, attention to sewage problems often was lacking.

Administration: The government did not keep adequate prison records. The effectiveness of a 2009 database created by the UN Development Program (UNDP) and the government was limited because the UNDP system was not completely compatible with the internal HNP recordkeeping system. Prisons utilized only handwritten paper files to document and manage inmates. There was no alternative sentencing for nonviolent offenders.

There was no prison ombudsman to handle complaints; however, the country's independent human rights monitoring body, the Office of the Citizen Protector (OPC), maintained a presence at several prison facilities and advocated for the rights and better conditions of prisoners, especially juveniles in preventive detention, and investigated credible allegations of inhuman conditions. The OPC regularly visited prisons and detention facilities in the country's 18 jurisdictions and worked closely with NGOs and civil society groups.

Independent Monitoring: The DAP permitted the International Committee of the Red Cross, MINUSTAH, local human rights NGOs, and other organizations to freely monitor prison conditions. These institutions and organizations investigated allegations of abuse and mistreatment of prisoners, resulting several times in the improvement of their situations.

Improvements: Construction of a new 200-bed prison facility in Cabaret and a 300-bed facility in Fort Liberte continued during the year. A clinic for prisoners suffering from multidrug-resistant tuberculosis opened at the National Penitentiary earlier in the year. The facility also served to fulfill urgent requests from prisons throughout the West Department for laboratory tests and x-rays.

In July the government began a "Coup de Poing" initiative to reduce pretrial detention at the youth and women's prison and the National Penitentiary. The program brought judicial officials to prisons to hold hearings for prisoners in pretrial detention. At the youth facility, the program resulted in an 18 percent reduction in the number of pretrial detainees after two weeks. At the National Penitentiary, the program operated for two weeks in September and resulted in the release of 91 prisoners who were found to be innocent or had exceeded the maximum sentence prescribed for their crime while awaiting trial.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, and the constitution stipulates that authorities may arrest a person only if apprehended during the commission of a crime or based on a warrant issued by a competent official such as a justice of the peace or magistrate. Authorities must bring the detainee before a judge within 48 hours of arrest. By routinely holding prisoners in pretrial detention, authorities often failed to comply with these provisions.

The OPC's national and 12 regional offices worked on behalf of citizens to verify that law enforcement and judicial authorities respected the right to due process. When authorities detained persons beyond the maximum allotted 48 hours, the responsibility of the OPC was to intervene on their behalf to speed the process. The OPC did not have the resources to intervene in all cases of arbitrary detention.

The law requires that authorities refer to the HNP's Office of Inspector General (OIG) all cases involving allegations of HNP criminal misconduct. Despite installing a full cadre of six inspectors during the year, the past shortage of investigators and expertise impeded cases from being investigated or closed in a timely manner. Senior HNP officials acknowledged receipt of several complaints alleging abuses committed by HNP officers during the year but noted that financial, staffing, and training limitations prevented the institution from readily addressing all reports of such misconduct.

In December 2014 President Martelly released Rony Thimothee, and Enold and Josue Florestal, the high-profile detainees described by administration opponents as political prisoners, as part of a series of moves to implement the recommendations of the Presidential Consultative Commission to end the country's political stalemate. All charges were dropped against Thimothee, who had been arrested for allegedly inciting violence during antiadministration protests. The Florestal brothers, plaintiffs in a corruption lawsuit against First Lady Sophia Martelly and her son Olivier Martelly, were arrested for allegedly planning the 2010 shooting death of Florestal's brother-in-law. In March all charges in the corruption case against the first lady were dismissed.

#### **Role of the Police and Security Apparatus**

The HNP is an autonomous civilian institution under the authority of a single director general and includes police, corrections, fire, emergency response, airport

security, port security, and coast guard functions. The HNP's capabilities and professionalism continued to improve, resulting in a sustained reduction in kidnapping.

The HNP took steps toward imposing systematic discipline on officers found to have committed abuses or fraud, but civil society continued to allege that impunity was a problem. The OIG, which is responsible for conducting internal investigations into allegations of police misconduct and recommending administrative action or referring criminal cases to the prosecutor, was more active than in previous years. In an effort to increase transparency, the OIG held monthly press conferences that served as awareness campaigns to inform the public of their roles and responsibilities and provided an opportunity to report on cases of misconduct. The OIG instituted a 24-hour hotline to receive public reports of police corruption or misconduct. In May 2014 the OIG recommended dismissal of 645 officers, approved by the HNP director general and the Ministry of Justice and Public Security. The vast majority of cases were for dereliction of duty, including many officers who remained on the HNP payroll but may not have worked for years. As of September these individuals had not been removed from the HNP's official personnel database but were not being paid. The majority of OIG investigations concerned police officers who failed to pay child support, defaulted on loans, or were involved in corruption or misconduct. The office also adjudicated cases of homicide, drug trafficking, and embezzlement. A lack of well-trained internal investigators in the HNP resulted in slow case investigations and impeded final resolutions.

The Ministry of Justice and Public Security, through its minister and the secretary of state for public security, provides oversight to the HNP.

Women constituted approximately 8.5 percent of police. The HNP Sexual and Gender-Based Violence (SGBV) unit remained underresourced and understaffed. The unit had two satellite offices at Fort National and Delmas 33. The HNP assigned officers who benefited from SGBV training to serve as regional SGBV representatives in all 10 departments. These officers had minimal links to the SGBV unit in Port-au-Prince.

Since 2004 MINUSTAH, consisting of 4,577 international military and police officers and 1,451 international and local civilian personnel as of June, operated with a mandate to assist and advise the government on security-related matters. MINUSTAH retained responsibility for patrolling the remaining 45 camps for IDPs.



Foreign governments and other entities continued to provide a wide variety of training and other types of assistance to improve HNP professionalism, including increasing respect for human rights. The HNP continued to expand its outreach to and relations with local populations in Port-au-Prince by supporting the community policing unit. One year after its inception, the unit had increased its force from 80 to 124 officers. The unit aimed to implement policing strategies oriented toward crime reduction and fostering positive police-populace communication over aggressive interdiction.

### **Arrest Procedures and Treatment of Detainees**

The law permits police officers to make arrests with a court-authorized warrant or when they apprehend a suspect during the commission of a crime.

Authorities generally allowed detainees access to family members after arrest. While authorities generally acknowledged the right to counsel, most detainees could not afford a private attorney. Some departmental bar associations and legal assistance groups provided free counsel to indigents. Some NGO attorneys also provided free services to the indigent, and the initial Ministry of Justice and Public Security budget draft for the year included an allocation for government-provided legal assistance through bar associations. The criminal procedure code does not allow for a functional bail system.

Arbitrary Arrest: Independent reporting confirmed instances in which, contrary to law, police without warrants or with improperly prepared warrants apprehended persons not actively committing crimes. Authorities frequently detained individuals on unspecified charges. Persons arrested reported credible instances of extortion, false charges, illegal detention, physical violence by HNP personnel, and judiciary officials' refusal to comply with basic due process requirements. The judicial system rarely observed the constitutional mandate to bring detainees before a judge within 48 hours. In some cases detainees spent years in detention without appearing before a judge.

Pretrial Detention: Prolonged pretrial detention remained a serious problem. Prison population statistics did not include the large number of persons held in police stations around the country for longer than the 48-hour maximum initial detention period. Of the approximately 11,200 prison inmates, authorities held an estimated 8,000 (or 72 percent) in pretrial detention. Approximately 72 percent of adult male prisoners and 83 percent of adult female prisoners were in pretrial

detention, while 80 percent of male minors and 92 percent of female minors were pretrial detainees. Pretrial detention was significantly more prevalent in Port-au-Prince, where the pretrial detainee population represented approximately 48 percent of the national pretrial detainee prison population. As of September authorities had yet to try an estimated 88 percent of Port-au-Prince's inmates.

Many pretrial detainees had never consulted with an attorney, appeared before a judge, or been given a docket timeline. While statements from prison wardens suggested that the majority of inmates spent between two and five years in pretrial detention, reports indicated that time spent in pretrial detention was much lower and varied by geographic jurisdiction. The average lengths of pretrial detention for inmates in the prisons in Saint-Marc, Fort Liberte, and Cap Haitien were 4.0, 4.2, and 8.6 months, respectively. Prisoners in the National Penitentiary and women's prison spent an average of 15 and 21 months, respectively.

Amnesty: In December 2014 the government pardoned 340 prisoners; however, civil society leaders and the international community raised concerns that a number of violent repeat offenders, kidnappers, and notorious gang leaders were among those pardoned.

#### **e. Denial of Fair Public Trial**

Although the law provides for an independent judiciary, senior officials in the executive and legislative branches exerted significant influence on the judicial branch and law enforcement. Allegations of high-level executive intimidation of judicial officials and corruption were frequent. MINUSTAH and international and local NGOs repeatedly criticized the government for attempting to influence judicial officials. Judges assigned to politically sensitive cases complained about interference from the executive branch.

In March, Woodley Etheart was indicted on charges of leading a kidnapping ring that abducted businessmen for ransom, a total of 17 over a six-year period. The prosecutor overseeing the case, a presidential appointee, disagreed with the investigative judge's findings and recommended dropping the charges, and Etheart was subsequently released in April. A number of civil society and human rights groups, including the Bar Association of Port-au-Prince, raised questions of executive influence on the judicial process, citing Etheart's close ties to the first lady's brother, Kiko St. Remy.

Internal political divisions as well as organizational, funding, and logistical problems often hampered the efficient functioning of the Supreme Council of the Judiciary (CSPJ), charged with independently overseeing judicial appointments, the discipline of judges, ethics issues, and management of the judiciary's financial resources.

Pervasive and longstanding problems, primarily stemming from a lack of judicial oversight and professionalism, contributed to a large backlog of criminal cases. Judiciary personnel were paid haphazardly, with arrears often running into months, and worked in facilities that often lacked basic supplies. The failure to appoint or re-appoint judges at the expiration of their terms further slowed the functioning of the judiciary and negatively impacted the conditions in the prisons, where thousands of detainees in prolonged pretrial detention waited several months before they could see a judge (see section 1.d.).

The code of criminal procedure does not clearly assign criminal investigation responsibility, which it divides among police, justices of the peace, prosecutors, and investigating magistrates. As a result authorities often failed to question witnesses, complete investigations, compile complete case files, or conduct autopsies. While the law provides magistrates two months to request additional information from investigators, authorities were not supposed to invoke this delay more than twice for a given case. Magistrates often did not follow this requirement, and investigative judges frequently dropped cases or did not return them within the two-month limit. This resulted in extended pretrial detention for numerous detainees. The criminal procedure code also calls for twice-yearly jury trial sessions for offenders of major crimes; however, due to a shortage of active judges, these sessions took place only once a year for a two-week period, further delaying the administration of justice in criminal matters.

Corruption and a lack of judicial oversight also severely hampered the judiciary. Human rights organizations reported that several judicial officials, including judges and court clerks, arbitrarily charged fees to initiate criminal prosecutions, and that judges and prosecutors failed to respond to those who could not afford to pay. There were widespread, credible allegations of unqualified and unprofessional judges who received appointments as political favors. There were also persistent accusations that court deans--who are responsible for assigning cases to judges for investigation and review--at times assigned politically sensitive cases to judges with close ties to figures in the executive and legislative branches. In response human rights organizations often formally requested that the CSPJ investigate the behavior and review the judicial decisions of judiciary officials.

The CSPJ was not always effective in providing judicial accountability and transparency. Many judicial officials also held full-time occupations outside the courts, although the constitution bars judges from holding any other type of employment except teaching.

### **Trial Procedures**

The judiciary follows a civil law system based on the Napoleonic Code and has remained largely unchanged since 1835. The constitution expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice is present or the suspect waives this right. Authorities, however, widely ignored certain constitutionally provided trial and due process rights.

The constitution provides defendants a presumption of innocence, as well as the right to attend trial, confront hostile witnesses, and call witnesses and evidence on their own behalf. Judges often denied these rights. The perception of widespread impunity also discouraged some witnesses from testifying at trials. Defendants and their attorneys had access to government-held evidence before trial, and defendants had the right of appeal.

The functioning of justice of peace courts (tribunaux de paix), the lowest courts in the judicial system, was poor. Judges presided in chamber based on their personal availability and often maintained separate, full-time jobs. Law enforcement personnel rarely maintained order during court proceedings, and frequently there was no court reporter. Bribes were often the principal factor in a judge's decision to hear a case.

In multiple communities, especially in rural areas, appointed communal administrators (CASECs) took the place of state judges and asserted powers of arrest, detention, and issuance of legal judgments. Some CASECs turned their offices into courtrooms. The most recent elections for CASECs took place in 2011.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Victims of alleged human rights abuses were legally able to bring their cases before a judge. Courts could award damages for human rights abuse claims brought in civil forums, but seeking such remedies was difficult and rarely successful.

Cases involving violations of an individual's human rights may be submitted through petitions by individuals or organizations to the Inter-American Commission of Human Rights, which in turn may submit the case to the Inter-American Court of Human Rights. The court can order civil remedies, including fair compensation to the individual injured.

### **Property Restitution**

There were several highly publicized reports that the government failed to provide proportionate and timely restitution or compensation for governmental confiscation of private property.

The government's program to reconstruct Port-au-Prince's downtown area raised anger and dissatisfaction over the enforcement of eminent domain laws in the area. Many residents and business owners claimed they did not receive proper notice from government officials to vacate their property prior to demolition. The government asserted its right to exercise eminent domain and claimed all property owners would be compensated at some future date. Residents and business owners whose property was demolished in 2014 were required to submit their property titles to government-appointed notaries to receive compensation. Despite fulfilling this requirement, a majority had not received compensation as of November.

A slowdown in construction abated tensions somewhat during the year over the implementation of an initiative to develop Ile-a-Vache, a sparsely populated island off the southern coast, for international tourism. During 2014 the project prompted outcries from islanders, who directed protests against the administration for taking private property and the potential environmental and economic damage associated with coconut tree removal and harbor dredging. Some compensation was provided during the year to residents whose homes were relocated as part of the project to enlarge the harbor. Remaining disputes over compensation for land taken involved those who had difficulty proving title to their land or were unsatisfied with potential payouts.

### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and the government generally respected these prohibitions.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The law provides for freedom of speech and press, and the government generally respected these rights. The independent media were active and expressed a wide variety of views without restriction.

Press and Media Freedoms: There were isolated incidents of actions against journalists by national and local government officials. As a result some independent media believed they were unable to criticize the government freely. Certain topics such as narcotics trafficking and organized crime remained largely unreported because of perceived danger.

In March the National Telecommunications Council (CONATEL) threatened to apply retaliatory measures against any media that published information considered false and, in their estimation, likely to disturb the public order, destabilize the institutions of the republic, and undermine the integrity of the citizenry. CONATEL threatened to sanction several media outlets for spreading what it considered unsubstantiated, derogatory information about government and police authorities, citing a 1977 executive order issued by the former dictator Jean-Claude Duvalier as legal authority.

In December 2014 President Martelly distributed envelopes of cash to journalists invited to the palace for a Christmas reception. Some journalists believed the cash was a bribe and refused to take it. The president's spokesperson explained after the fact that the administration intended to purchase computers for the journalists but instead gave them the cash.

Violence and Harassment: Some journalists were subjected to threats, harassment, and physical assault, allegedly due to their reporting throughout the year. In some instances government authorities participated in these acts. In July a police officer assaulted a TV Signal cameraman with the cameraman's tripod following a traffic collision involving their vehicles; the cameraman was pursuing a story. Authorities did not open an investigation. There were no further developments in the trial of Markington Phillippe, who was arrested in 2014 in Argentina and extradited to Haiti to stand trial for the 2000 killing of journalist Jean Dominique.

Oriel Jean, the former head of security for former president Jean Bertrand Aristide and a key witness allegedly linking Aristide to the Dominique murder, was shot and killed in March shortly after his return to Haiti upon the completion of a prison sentence abroad. At year's end an investigation into the matter had yet to determine if there was evidence that the killing was related to his role in Dominique's death.

Censorship or Content Restrictions: There were no reported cases of government-sponsored censorship. Human rights advocates claimed that certain government officials used public security ordinances to limit radio commentary criticizing the executive branch.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authorization. Socioeconomic and infrastructure hurdles contributed to the dominance of radio and, to a lesser extent, television, over the internet. According to the International Telecommunication Union, approximately 11 percent of citizens had access to the internet in 2014, of which approximately 50 percent was through smartphones.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The constitution provides for freedom of assembly, and the government generally respected this right. There were several instances when police used force to impose order during demonstrations. Citizens must apply for a permit to hold legal demonstrations. Impromptu political demonstrations in some instances provoked aggressive law enforcement responses. The HNP generally responded to these protests in a professional and effective manner.

### **Freedom of Association**

The constitution provides for freedom of association, and the government generally respected this right.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with international and humanitarian organizations, as well as other countries, in providing protection and assistance to internally displaced persons (IDPs), refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

Foreign Travel: The Institute for Social Well-Being and Research (IBESR), under the Ministry of Social Affairs and Labor, maintained its policy of requiring minors departing the country without their parents to have parental documentation authorizing the travel. According to IBESR officials, this policy helped deter child trafficking and smuggling.

### **Internally Displaced Persons**

The government engaged in efforts to promote the safe, voluntary return, or resettlement of post-2010 earthquake IDPs but required substantial operational and financial support from international partners. These actions contributed to the significant decline of the IDP population during the year. The presence of IDP camps in the country persisted, with a large concentration of the estimated 45 remaining camps located in the greater Port-au-Prince metropolitan area. June estimates placed the number of IDPs remaining in camps at 60,000 persons. Statistics from the International Organization for Migration (IOM) Displacement Tracking Matrix suggested that by June the overall post-2010 earthquake IDP population had decreased 96 percent from its estimated peak in 2010.

In the first six months of the year, the government closed 60 camps. Return programs carried out by the government, with the aid of international partners, accounted for all closures during this period with the exception of one camp, where



IDPs spontaneously decided to vacate, causing its closure. From these closed sites, a total of 6,222 households (representing 18,457 individuals) were relocated. Unlike the preceding year, no camps were closed through evictions.

Through the UN police force (UNPOL), MINUSTAH maintained its presence in IDP camps and provided 24-hour security in some camps with high levels of reported violence. Nonetheless, even in camps with a law enforcement presence, residents and international observers reported minimal protection from violence, including SGBV and urban crime. MINUSTAH and UNPOL members did not have arrest authority and typically functioned as a deterrent force rather than one actively engaged in law enforcement. International arrangements governing MINUSTAH's operations require an HNP officer to be present for any law enforcement operation, which effectively prevented MINUSTAH officers from engaging in crime prevention in the IDP camps without an HNP presence. Understaffing by the HNP sometimes prevented this partnership from functioning effectively. International workers in the camps noted that the HNP and MINUSTAH did not always enjoy positive relationships with IDPs. Camp residents and NGO workers reported that most police patrols, both UNPOL and HNP, monitored only the perimeter of camps and typically did not patrol after dark.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of refugee status or asylum through Haitian missions or consulates abroad. Additionally, individuals could petition for asylum through the local office of the UN High Commissioner for Refugees. There were few reports, however, of requests for such status.

### **Stateless Persons**

The country's dysfunctional civil registry system yielded no reliable estimates on the number of stateless persons within the country. Haitians abroad reported complex bureaucratic procedures and high fees when obtaining government documentation such as birth certificates. Many of these individuals were effectively stateless in their country of residence.

## **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections based on universal and equal suffrage, and citizens exercised that right.

### **Elections and Political Participation**

Recent Elections: The country held parliamentary elections on August 9, the first elections of any kind in the country since 2011, and first-round presidential, local, and second-round legislative elections on October 25. The terms of all elected local government officials expired in 2011, and parliament became defunct on January 12, when the terms of all members of the lower house (Chamber of Deputies) and two-thirds of the upper house (Senate) expired, leaving no quorum to conduct business. Using his presidential decree powers, President Michel Martelly established a Provisional Electoral Council (CEP) on January 23, and the CEP proposed both a new legal framework for elections and an election calendar with first-round legislative elections on August 9; second-round legislative, first-round presidential, and all local contests on October 25; and the second round of presidential elections on December 27, which was postponed to an undetermined date in 2016.

A total of 128 political parties registered to participate in the first round of elections on August 9; 1,621 candidates competed for 119 seats in the Chamber of Deputies, and 232 vied for 20 seats in the Senate. Local and international observers offered varying assessments of the election. While the Organization of American States (OAS) acknowledged incidents of violence and proclaimed that those issues “did not affect the overall voting process,” a local observation mission led by a network of human rights organizations denounced the process as “an assault on democracy,” citing fraud, irregularities, and violence in 50 percent of voting centers across the country. Other groups such as the Core Group of partner countries and institutions (Brazil, Canada, France, Spain, United States, EU, OAS, and the UN) and the Citizen Observatory for Institutionalizing Democracy, a coalition of three domestic NGOs, welcomed the fact that elections occurred and recognized that the results should be considered valid while condemning violence and some grave irregularities. The CEP declared that parliamentary elections in 25 jurisdictions were annulled because fewer than 70 percent of vote tally sheets were returned to the vote tabulation center. The CEP noted additional problems, including fraud and other “irregularities.” The HNP reported that 103 of the 1,508 voting centers closed on election day due to vandalism, arson, ballot destruction or theft, or assaults at the centers on voting officials.

On August 27, 12 major opposition political parties wrote to the head of the CEP, Pierre Louis Opont, and accused the organization of favoring those close to the government, refused to recognize the results posted by the CEP, and called for his resignation. More than 200 candidates contested election results through an official contestation process. The CEP faced some controversy in the period preceding the August 9 elections, most notably its disqualification of First Lady Sophia Martelly's senate candidacy on grounds of nationality, residency, and lack of an official discharge of duties involving the oversight of public funds, and its disqualification of the presidential candidacies of former prime minister Laurent Lamothe and Jacky Lumarque, a candidate of the VERITE party backed by former president Rene Preval, on the lack of a discharge involving oversight of public funds.

The October 25 round of elections involved 54 presidential candidates and tens of thousands of contenders for other races. Domestic and international election observers reported many positive general patterns in the October 25 national elections, particularly when compared with the August 9 elections. These included timelier poll openings, higher voter turnout (29 percent compared with 18 percent), a more consistent and effective security presence, and a dramatic decrease in voting place disruptions and interruption of voting.

Despite the relative improvements over the August 9 round, election observers on October 25 recorded instances of voter intimidation and violations of voter secrecy. Ballots were burned at four polling stations in the north of the country, and the HNP arrested 234 individuals nationwide. Many candidates alleged widespread fraud perpetrated by political party representatives who voted more than once. While most observers agreed this was problematic, it was difficult to quantify. International observers "deplored isolated incidents of violence and vandalism." Some human rights groups and opposition parties alleged ballot box stuffing and vote fraud. One of the two candidates in the December presidential run-off called the first-round results of the October 25 elections a "farce." A total of 162 candidates filed complaints with the CEP alleging fraud. All but two complaints alleged fraud in the legislative and mayoral balloting.

The second rounds of presidential elections scheduled for December 27 were postponed to allow a commission charged with evaluating the October 25 round to issue its findings. The commission concluded there were irregularities and recommended the continuation of the electoral process while making suggestions for improving the postponed runoff.

Political Parties and Political Participation: The 2014 Law on Formation, Functioning, and Financing of Political Parties was not implemented. Opposition parties claimed that parties close to President Martelly won in the August 9 elections because they made use of government resources.

Participation of Women and Minorities: For the year's elections, 23 of 232 candidates running for senate seats were women. There were 129 female candidates in a field of 1,621 candidates running for deputy. Four of the 54 presidential candidates for the first-round presidential elections in October were women. In the period preceding the elections, female candidates expressed concerns regarding their security. The HNP committed to offering protection to every female candidate during the second round of elections on October 25. During the first round of elections, the HNP was unable to offer such comprehensive protection but provided protection for female candidates who it determined were facing credible threats. Overall, the HNP maintained a more consistent and effective security presence on October 25 compared with the August round of elections, and there were no security concerns among female candidates in the second round of elections.

In local races the CEP enforced the constitution, which calls for "at least 30 percent women's participation in national life and in public service." As a condition to running for local races, the CEP required that each mayoral cartel (with three candidates) include one woman. Election laws since 2008 provide significant financial incentives for political parties to field women candidates, but parties consistently failed to meet the incentive criteria. The 2015 electoral decree includes such provisions, but only 10 percent of the government's funding available for support to candidates and political parties was used for various incentives, including rewarding parties fielding higher numbers of female candidates.

In a decrease from 2014, as of September, four of 21 ministers and one of 15 secretaries of state were women, as well as three of the nine CEP counselors. One of the nine members of the CSPJ and one of the nine members of the country's high court were women.

#### **Section 4. Corruption and Lack of Transparency in Government**

The 2014 Law on Prevention and Repression of Corruption, the country's first anticorruption law, criminalizes a wide variety of corruption-related offenses, including illicit enrichment, bribery, embezzlement, illegal procurement, insider

trading, influence peddling, and nepotism. The law imposes sentences of three to 15 years' imprisonment and gives new legal authority to the government's Anticorruption Unit (ULCC) and its Financial Intelligence Unit, among others, to combat corruption. During the year the ULCC launched a national outreach campaign to sensitize the general population to offenses addressed by the new law. The ULCC also opened a national hotline that remained active, although underutilized, to field complaints that in some instances led to investigations.

Despite these efforts there were numerous reports of government corruption and a perception of impunity for abusers. Law enforcement authorities and the government's anticorruption agencies launched several investigations that led to the dismissal and arrest of some government officials. Although the government continued to implement legal, administrative, and management reforms designed to increase accountability in several ministries and government institutions, the perception of corruption remained widespread in all branches and at all levels.

Corruption: The constitution mandates that the Senate prosecute high-level officials and parliament members accused of official corruption instead of handling such cases within the judicial system. In the absence of a functioning parliament, no such investigations or prosecutions occurred during the year, nor was there any progress on matters before the Senate in 2014.

In April, HNP police and judicial officials were implicated in a scheme to extort money from a Haitian-American inmate. Enock Gene Genelus, the prosecutor in Gonaives (Artibonite Department) investigating an assault and domestic dispute matter against the accused, directed HNP officers to escort the defendant from jail to an ATM machine, where he was instructed to withdraw \$50,000 to be paid to his attorney, Marcelin Duclas. A Ministry of Justice investigation resulted in the firing of Genelus.

In March Nonie Mathieu, one of the 10 judges on the high administrative and financial court (CSCCA), was alleged to have misappropriated 37 million Haitian Gourdes (HTG) (\$694,000). While there was an internal investigation, by law only the Senate can order an official audit of the CSCCA and formally charge the judge, and the Senate ceased functioning as of January.

There were frequent reports of corruption in the HNP. For instance, affluent prisoners at times obtained favorable conditions of detention. The HNP investigated some allegations of police malfeasance. New leadership at the HNP OIG helped to improve the unit's efficiency and advance more internal

investigations. Initial OIG investigations indicated the 2014 prison break at the Croix-des-Bouquet facility was an orchestrated event involving multiple HNP officers. Five officers were fired, seven were suspended, and 12 others received letters of reprimand.

The former ULCC director was removed in February and replaced by someone with little anticorruption experience, according to government watchdog groups. Although the ULCC remained operational, there was a significant reduction in the number of cases forwarded for prosecution. ULCC officials cited a lack of prosecutorial follow-through as an impediment to resolution of matters referred for prosecution.

Financial Disclosure: The law requires all senior officials of the government to file financial disclosure forms within 90 days of taking office and within 90 days of leaving office. There is no requirement for periodic reporting. Disclosure reports are confidential and not available to the public.

The sanction for failure to file financial disclosure reports is a withholding of 30 percent of the official's salary, but the government did not apply this sanction in previous years.

Public Access to Information: No law requires the government to provide citizens access to government information.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated in addressing the views of various human rights groups, although they disagreed at times on the scope of certain human rights problems and the most appropriate means of addressing human rights issues.

Government Human Rights Bodies: In August the Martelly administration promulgated a decree forming an interministerial commission to create and implement a national strategy to combat trafficking in persons. The commission is chaired by a representative from the Ministry of Social Affairs and Labor and is composed of representatives from the Justice Ministry, Ministry of Women's Affairs and Women's Rights, Ministry of Public Health, Ministry of Education and

Professional Training, Ministry of the Interior and Territorial Collectivities, Ministry of Foreign Affairs and Worship, IBESR, Office of National Migration, OPC, and two civil society human rights groups.

The constitution provides a seven-year mandate to the OPC, the country's independent human rights ombudsperson, post held by Florence Elie. The OPC investigated allegations of human rights abuse and worked collaboratively with international organizations. The OPC's regional representatives implemented its assistance programs throughout the country. Elie stated that despite its budget and international donor support, the institution did not possess the necessary funding or physical or human capacity to implement its strategic development and advocacy plan in each of the 10 departments. Human rights advocates and international partners noted that the OPC remained one of the country's most important national institutions responsible for independently monitoring potential human rights abuses, especially in detention centers.

The Interministerial Human Rights Commission, established in 2013 to create and implement a national human rights policy strategy, met sporadically but did not produce any tangible results. In January the government eliminated the position of minister delegate for human rights and the fight against extreme poverty.

The Chamber of Deputies and the Senate each had a human rights committee; however, due to the dissolution of parliament in January, the committees were inactive most of the year.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The law does not specifically prohibit discrimination on the grounds of race, sex, political opinion, national origin or citizenship, social origin, disability, sexual orientation or gender identity, age, language, HIV-positive status, or other communicable diseases, but the preamble to the constitution specifically reiterates the importance of adhering to the Universal Declaration of Human Rights, which prohibits all forms of discrimination. Nonetheless, no effective governmental mechanism administered or enforced such provisions, including provisions called for in various regional and international agreements.

### **Women**

**Rape and Domestic Violence:** While the law prohibits rape, it does not recognize spousal rape as a crime. The penalty for rape is a minimum of 10 years of forced

labor, increasing to a mandatory 15 years if the survivor was less than 16 years old or if the rapist was a person of authority. In the case of gang rape, the maximum penalty is lifelong forced labor. Actual sentences were often less rigorous, and prosecution frequently was not pursued due to lack of reporting and follow-up on survivors' claims. The criminal code excuses a husband who kills his wife or her partner found engaging in an act of adultery in his home, but a wife who kills her husband under similar circumstances is subject to prosecution.

The law similarly does not classify domestic violence against adults as a distinct crime. Women's rights groups and human rights organizations reported that domestic violence against women remained commonplace and underreported. Police rarely arrested the perpetrators or investigated the incidents, and the survivor sometimes suffered further harassment and reprisals from perpetrators. Judges often released suspects arrested for domestic violence and rape.

SGBV was a chronic problem. International observers noted that the weakness of the justice system made it difficult for SGBV survivors to find redress, and the fear of reprisals and social stigma attached to being a survivor of SGBV contributed to underreporting and infrequent prosecutions.

Human rights groups and lawyers said barriers to reporting rape remained high and included stigmatization, fear of reprisal, and distrust of the judiciary and legal system. They also said there were wide disparities in access to and the quality of medical services from hospitals treating rape survivors. Multiple credible groups said that legal authorities often asked rape survivors inappropriate questions, such as whether the survivor was a virgin before the incident and what clothing the survivor was wearing at the time of the alleged rape. In some cases authorities advised survivors against pressing charges to avoid the public humiliation of a trial. Survivors of rape and other forms of sexual violence faced major obstacles in seeking legal justice, as well as access to protective services such as women's shelters.

Attorneys who represented rape survivors said that authorities were reasonably responsive to cases involving the rape of minors, as the law is clear and judicial measures exist to deal with such cases. Due to the lack of clear legal or administrative structures to deal with such cases, however, authorities frequently dropped or did not pursue cases when the offender was also a minor or the survivor was an adult.



Students at the magistrate school--who serve as new judges, prosecutors, and court clerks upon graduation--received training on SGBV and strategies for improved investigation and prosecution of such crimes, victim assistance, and evidentiary procedures. Funding from the international community added a special advisor to the HNP's SGBV Unit to strengthen law enforcement's capacity to prevent and respond to SGBV crimes.

Government and international partners also conducted mentoring sessions on SGBV as part of pilot program for chief judges, prosecutors, and justice of the peace courts in order to increase the number of SGBV cases sent to the Prosecutors' Office for prosecution.

Sexual Harassment: The law does not specifically prohibit sexual harassment, although the labor code states that men and women have the same rights and obligations. Data concerning sexual harassment in the workplace were not available, but observers suggested that sexual harassment occurred, particularly in factories. Such incidents were unreported because of high unemployment and because victims had little confidence in the ability of the judicial system to provide protection.

Anecdotal evidence also suggested that sexual harassment and other derogatory treatment was a particular problem for female law enforcement officers, who constituted 8.5 percent of the HNP. Female police officers reported facing challenges their male counterparts did not, including more limited access to training, fewer promotion opportunities, and discriminatory administrative policies.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, and violence. According to the most recent UN Population Fund data, maternal mortality rate was 380 per 100,000 live births, with 37 percent of births assisted by skilled attendants. Despite high levels of general knowledge of contraceptive methods and the government's active engagement, social, cultural, and legal barriers often impeded women from acquiring additional information on family planning methods and reproductive health care. In the largely conservative society, modern contraception was often socially discouraged. A lack of adequate family planning resources continued to hamper protection of women's reproductive rights. Young, sexually active women found it especially difficult to gain access to family planning services. Governmental family planning services,

often located in public health facilities such as hospitals, generally did not have private or confidential screening areas for patients.

Most women used “matrons,” often experienced but untrained local women, to help them give birth at home or in nonmedical facilities. Health-care professionals attributed this practice to the poor and inconsistent quality of maternity services at hospitals and clinics. While most women in rural provinces chose to deliver at home, many women in urban areas with access to professional delivery services also chose to deliver at home.

Discrimination: The law does not provide for the same legal status and rights for women as for men. Women did not enjoy the same social and economic status as men, despite the constitutional amendments recognizing the principle of “at least 30 percent women’s participation in national life and notably in public service,” but conditions reportedly improved during the year.

In some social strata, tradition limited women’s roles. The majority of women in rural areas remained in the traditional occupations of farming, marketing, and domestic labor. Very poor female heads of household in urban areas also often faced limited employment opportunities, working in domestic labor, sales, and as merchants.

While women continued to be underrepresented in supervisory or managerial positions in government and in the private sector, more women held such positions than in previous years.

By law men and women have equal protections for economic participation. In practice women faced barriers to accessing economic inputs such as land ownership; receiving profits from work (particularly agricultural labor); and securing collateral for credit, information on lending programs, and resources for financial security and growth for themselves, their families, and their businesses.

## **Children**

Birth Registration: Citizenship is derived through an individual’s parents; only one parent of either sex is necessary to transmit citizenship. Citizenship can also be acquired through a formal request to the Ministry of the Interior. The government did not register all births immediately and did not keep statistics concerning the number of unregistered births each year. Birth registry is free until the age of two years, after which it can be difficult and expensive to obtain a birth certificate,

particularly in the provinces. The government continued to increase efforts to reduce the number of unregistered births, particularly in the country's most impoverished rural communes.

Birth documents are legally necessary to open bank accounts, apply for credit, gain admission to hospitals, and vote. Individuals who did not possess required birth documents were not denied emergency medical services or educational opportunities on that basis.

The dysfunctional civil registry system and weak consular capacity made obtaining documentation extremely difficult for individuals living inside or outside the country. This problem was particularly acute for many Haitians living in the Dominican Republic seeking to participate in the Dominican government's migrant regularization plan. Approximately 20,000 persons who applied through the regularization plan lacked any kind of Haitian document, and many more did not apply because they had no documents. Between 40,000 and 70,000 Haitians in the Dominican Republic applied for Haitian documents, but Haitian authorities stated it would take more than one year to process these cases, since government capacity to manage its databases and issue documents was extremely weak.

Education: Constitutional provisions require the government to provide free and compulsory primary education for all children; however, neither primary nor secondary education was compulsory, free, or universal. The government continued to implement the government's free national education program, which provided primary education for the children of poor families without taking children's previous student status into consideration.

Child Abuse: The law prohibits domestic violence against minors. The government continued to lack sufficient resources and an adequate legal framework to fully support or enforce existing mechanisms to promote children's rights and welfare but made some progress in institutionalizing protections for children. The government closed a number of creches after assessing them as substandard, strengthened the accreditation process, and, in conjunction with international partners, trained approximately 300 judges on the implementation of the 2013 adoptions and 2014 antitrafficking legislation. Additionally, the government continued to station outside the capital more personnel from the Brigade for the Protection of Minors (BPM) and IBESR. The BPM and IBESR expanded partnership with international organizations and training opportunities for government officials on how to recognize victims of child abuse and exploitation better. Both offices had representatives in each of the 10 departments,

as well as a presence at official border crossing points; however, most of their outreach and collaborative efforts with local community-based organizations to promote children's rights were focused in Port-au-Prince.

While accurate statistics for children working in indentured domestic servitude (referred to as "restaveks") did not exist, authorities estimated that there were between 250,000 and 500,000 such children, the majority of whom were girls. Host families often abused restaveks and subjected them to domestic servitude, a form of trafficking (see section 7.c.). The IBESR worked with international and local NGO partners to promote and strengthen community dialogue on the problems and abuses and trafficking associated with the restavek system.

In 2014 the Ministry of Social Affairs and Labor--in collaboration with national and international organizations--launched a national child domestic servitude census project designed to help government agencies better assess and record the number of restaveks. As of November 7, this study was not released.

The National Week of the Child, a yearly, nationwide campaign aimed to increase awareness and understanding of children's rights, continued again in June under the auspices of the IBESR. Local organizations and international partners participated, engaging in topics such as forced child labor, human trafficking, and sexual abuse and exploitation.

For more information see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/) and the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

Port-au-Prince's population of several thousand street children, the majority of whom were boys, included not only many who were dismissed from or fled employers' homes or abusive families, including situations of domestic servitude, but also some children who lost parents or caretakers in the 2010 earthquake. NGOs reported that street children were likely to be sexually or otherwise abused, received little or no education, and were easily exploited and subjected to forced prostitution and forced begging by trafficking recruiters. Criminal gangs also reportedly forced minors to commit illegal acts. The Ministry of Social Affairs and Labor and the OPC as well as several NGOs and international organizations provided direct social support services and other assistance to street children and victims of exploitation.

The IBESR has official responsibility both for child protection and for monitoring and accrediting the country's numerous residential care centers. As of February, IBESR representatives stated there were approximately 32,000 children residing in 756 institutions nationwide. They assessed that 90 percent of residential care centers were not up to standards.

Early and Forced Marriage: The legal age of marriage is 18 years. No data were available regarding early and forced marriage, but early marriage was not a widespread custom.

Sexual Exploitation of Children: The minimum age for consensual sex is 18 years. The law prohibits the corruption of youth under the age of 21, including by prostitution, with penalties ranging from six months' to three years' imprisonment for offenders. The antitrafficking law provides significant penalties. For example, those guilty of human trafficking can serve prison sentences ranging from seven to 15 years and pay a fine ranging from HTG 200,000 to HTG 1.5 million (\$3,750 to \$28,140). Similar penalties apply to exploitative employers and individuals attempting to obtain sexual services from a victim of trafficking, and the law provides for increased penalties for offenders when there are aggravating circumstances, including trafficking involving minors.

Recruitment of children for sexual exploitation, pornography, and illicit activities is illegal, but the UN reported that armed gangs recruited children as young as 10 years old for such purposes.

Displaced Children: Displaced children continued to reside in 45 IDP camps and were at risk for exploitation and abuse.

Institutionalized Children: Children residing in orphanages and residential care centers were at times at risk of being abused or placed in a situation of forced labor. For more information see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of Child Abduction. For country-specific information see [travel.state.gov/content/childabduction/en/country/haiti.html](http://travel.state.gov/content/childabduction/en/country/haiti.html).

## **Anti-Semitism**

The Jewish community numbered fewer than 100, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The constitution stipulates that persons with disabilities should have the means to provide for their autonomy, education, and independence. The law prohibits discrimination in employment practices against persons with disabilities, requires the government to integrate such persons into the state's public services, and imposes a 2 percent quota for persons with disabilities in the workforces of private sector companies. There was no information available on the extent of government enforcement of these legal protection mechanisms. Government officials also took steps to include protections for persons with disabilities to vote.

The 2010 earthquake substantially increased the size of the community of persons with disabilities and focused international attention on the need to bolster support mechanisms for this group. Because of widespread and chronic poverty, a shortage of public services, and limited educational opportunities, persons with disabilities remained disadvantaged. Additionally, individuals with disabilities faced significant social stigma because of their disability. As a group, persons with mental or developmental disabilities were marginalized, neglected, and abused in society. While information about the number of persons with disabilities was scarce at the national level, the Office of the Secretary of State for the Integration of Handicapped Persons (BSEIPH), which falls under the Ministry of Social Affairs and Labor, estimated that 10 percent of citizens had disabilities. The BSEIPH is the lead government agency responsible for providing assistance to persons with disabilities and ensuring their civil, political, and social inclusion. International and local NGOs continued to provide most direct services to persons with disabilities. Access to quality medical care posed a significant challenge for persons with disabilities. Hospitals and clinics in Port-au-Prince did not have sufficient space, human resources, or public funds to treat such individuals. Where facilities existed to treat and rehabilitate them, the conditions were below international standards.

The BSEIPH has several departmental offices outside the capital and continued to refine a strategic development plan to guide the institution's efforts. The BSEIPH also offered scholarships and grants to students with disabilities and initiated a program to help fund the study of disabilities-related issues at the Haitian State University.

The BSEIPH ensured that existing efforts to craft or reform legislation took into account the needs of persons with disabilities. The BSEIPH provided technical assistance to governmental efforts to harmonize the labor code to the law on the integration of persons with disabilities, reform domestic adoptions framework, and conform the building code (in partnership with representatives from the Ministry of Social Affairs and Labor, IBESR, and Ministry of Public Works, Transport, and Communications) to standards of universal accessibility. Similarly, the BSEIPH worked with international NGO Handicap International and the Ministry of Public Health to develop standardized training protocols for physical therapists and other health practitioners.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

There were no laws criminalizing sexual orientation or consensual same-sex conduct between adults, nor were there any reports of police officers actively perpetrating or condoning violence against members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community.

There were no laws criminalizing the changing of one's gender or sex; however, local attitudes remained hostile to outward LGBTI identification and expression, particularly in Port-au-Prince. Religious and other conservative organizations actively opposed the social integration of LGBTI persons and discussion of their human and civil rights. Leading presidential candidates publicly noted that they would not and should not consider any type of LGBTI rights legislation, particularly one calling for marriage equality.

There were no antidiscrimination laws that protected LGBTI persons and minority groups. Additionally, traditional mistrust of law enforcement and judiciary officials, along with a historically low rate of successful prosecution of SGBV and related crimes, hindered LGBTI advocates and community members from successfully cooperating to reduce violence and discrimination experienced by the group. Some civil society advocates claimed that in the greater Port-au-Prince

area, HNP authorities were inconsistent in their willingness to document or investigate LGBTI persons' claims of abuse.

LGBTI advocacy groups in the capital reported a greater sense of insecurity and less trust of government authorities than did groups in rural areas. Several local NGOs and international organizations provided direct support to LGBTI persons who alleged discrimination due to their sexual orientation or gender identity or being victims of SGBV.

LGBTI advocacy and human rights groups, as well as international organizations, continued to assert that LGBTI persons consistently experienced great difficulty in formally registering complaints of abuse and discrimination with government authorities. Reporting of rape and sexual assault remained low across all demographics of the LGBTI community. Although advocates and international partner institutions insisted that the incidence of such abuse remained high, there was a lack of consensus among advocates on the extent of abuses. The women's victims organization KOFAVIV claimed that since the 2010 earthquake, cases of rape and other forms of SGBV perpetrated against women, children, and LGBTI persons rarely yielded arrests and convictions of the perpetrators. LGBTI advocacy groups also expressed fear of reprisal from perpetrators if they report crimes to police.

HNP academy instructors incorporated a community policing framework and philosophy, teaching police officers to respect the rights of all civilians without exception, into their adapted human rights training curriculum.

### **HIV and AIDS Social Stigma**

In the most recent demographic and health survey for Haiti (2012), 61 percent of women and 55 percent of men reported discriminatory attitudes towards those with HIV.

### **Other Societal Violence or Discrimination**

According to MINUSTAH reports, vigilante reprisals, including by lynching or burning persons alive, remained a problem, especially in rural areas outside the capital. Limited or nonexistent presence of law enforcement and judicial authorities meant that in practice it carried few or no legal repercussions. Citizens often retaliated against police officers, particularly after incidents in which police officers attempted to quell mob violence.



## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

Labor relations are established and regulated by a special provision of the 1984 labor code. The code provides for the right of some workers, excluding public-sector employees, to form and join unions of their choice and strike (with restrictions). The code allows for collective bargaining and requires employers to conclude a collective contract with a union if that union represents two-thirds of the workers and requests a contract. Strikes are legal provided they are approved by at least one-third of a company's workers. The code prohibits firing workers based on union activities, and employers are subject to a monetary fine for each individual violation. The code does not, however, require employers to reinstate workers illegally fired for union activity, although illegally fired workers have the right to recoup any compensation to which they are entitled.

The code places several restrictions on these rights. For instance, it requires that any union obtain prior authorization from the government to be recognized. The code limits legal strikes to four types: striking while remaining at post, striking without abandoning the institution, walking out and abandoning the institution, and striking in solidarity with another strike. Public utility service workers and public-sector enterprise workers may not strike. The code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." A 48-hour notice period is compulsory for all strikes, and strikes may not exceed one day. Furthermore, the law allows for compulsory arbitration at the request of only one party to halt a strike. The code does not cover freelance workers or workers in the informal economy.

The government made efforts to enforce labor laws. Government officials, unions, and factory-level affiliates also continued to expand their dialogue. Labor courts, which function under the supervision of the Ministry of Social Affairs and Labor, are responsible for adjudicating private-sector workplace conflicts. There was one labor court in Port-au-Prince. In the provinces plaintiffs had the legal option to use municipal courts for labor disputes. The code requires ministry mediation before filing cases with the labor court. In the case of a labor dispute, the ministry conducts an investigation to determine the nature and causes of the matter and facilitate a resolution. In the absence of a mutually agreed upon resolution, the matter is referred to court.

During the year the labor ombudsperson for the textile sector and the ministry provided mediation services to workers and employers in Port-au-Prince, Caracol, and Ouanaminthe. Due to the limited capacity and procedural delays in forwarding cases from the Labor Ministry to the courts, the mediation services of the textile sector's labor ombudsperson and the conciliation services of the ministry were often the only official recourse for workers' grievances. The ombudsperson supported a social roundtable dialogue and actively monitored conflicts that evolved at the factory level. For example, in the first three months of the year, the ombudsperson processed cases for six different factories and provided significant support for the successful remediation of each case.

The penalty under the code for interference with union activities is 1,000 to 3,000 HTG (\$19 to \$57). The fines were not high enough to deter violations, and authorities did not impose or collect them. During the year the government required some factories to remedy labor violations, including violations related to freedom of association.

Antiunion discrimination persisted, although to a lesser extent than in previous years. Workers continued to report acts of suspension, termination, and other retaliation by employers on the grounds of legitimate trade union activities, membership, collective action, and other associational activity. High unemployment and antiunion sentiment among some factory workers and employers were obstacles to union organizing efforts.

Workers exercised the right to strike. Despite the prohibition on public-sector strikes, teachers organized several illegal strikes during the year demanding payment of back due wages. There were no strikes in the apparel-manufacturing sector during the year.

The International Labor Organization (ILO) and International Finance Corporation's Better Work (ILO Better Work Haiti) program noted incidences of employer interference in union activity and cases of failure to respect collective bargaining within the apparel industry. In one case factory management allegedly failed to implement certain provisions of the collective bargaining agreement in force. In another factory the employer dismissed several union members in August, citing "lack of work" as the reason for dismissal. Despite several meetings between the union, factory representatives, and the ombudsperson, only one of the workers was reinstated.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor; however, the government did not effectively enforce the law in all sectors of the economy. In the textile industry, the Labor Ministry and the labor ombudsperson made efforts to address accusations of intimidation and employer abuse and worked with factory owners to ensure that working hours complied with national labor law. The labor ombudsperson, however, did not record any instances of intimidation or employer abuse. Penalties for violations of forced labor laws range from 1,000 to 3,000 HTG (\$19 to \$56) but are insufficient to deter violations.

There were reports that forced or compulsory labor occurred, specifically, instances of forced labor among child domestics, or *restaveks* (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum age for employment in industrial, agricultural, or commercial companies is 15 years. The minimum age for work outside of these three sectors is 14, although children ages 12 and older may work for up to three hours per day outside of school hours in family enterprises, under Labor Ministry supervision. The law allows children age 14 to be contracted apprentices; children ages 14 to 16 may not work as apprentices more than 25 hours a week. The law prohibits young persons and children from performing any work that is likely to be hazardous; interferes with their education; or is harmful to their physical, mental, spiritual, moral, or social health and development, including the use of children in criminal activities. The law also prohibits minors from working under dangerous or hazardous conditions, such as mining, construction, or sanitation services, and it prohibits night work in industrial enterprises for minors less than 18 years of age. Prohibitions related to hazardous work, however, omit major economic sectors, including agriculture in the current assessment cycle; no textile factory was reported noncompliant with respect to child labor.

There are no legal penalties for employing children in domestic labor. The law requires employers to pay domestic workers over the age of 15 years, thereby allowing employers of domestic workers to use "food and shelter" as a means of unregulated compensation for those under 15 years of age. Although the law stipulates free and compulsory primary education for all children, children are

required to attend school only for six years, making children between the ages of 12 to 14, who are not required to attend school but also are not legally allowed to work, particularly vulnerable to illicit child labor, including the worst forms of child labor.

Persons between the ages of 15 and 18 seeking employment must obtain a work authorization from the Labor Ministry unless they are employed in domestic service. The labor code provides for penalties for failure to follow procedures, such as obtaining work authorization to employ legally minors between the ages of 15 to 18, but it does not provide penalties for the employment of underage children. The limited penalties of between 3,000 and 5,000 HTG (\$56 to \$94) were not sufficient deterrents to protect children against labor exploitation.

The Labor Ministry, through the IBESR, is responsible for enforcing child labor laws. While enduring resource constraints hindered the IBESR's ability to conduct effective child labor investigations, the IBESR and the HNP's BPM responded to reports of abuse in homes and orphanages where children worked. The government does not report statistics on investigations into child labor law violations or the penalties imposed. Although the government and international donors allocated supplemental funds for the IBESR to acquire a new administrative space and hire more staff, the IBESR continued to lack sufficient social protection programs and effective legislation to eliminate the worst forms of child labor. The ministry directed law enforcement resources to rescue trafficked children working in the informal economy.

An interministerial committee, which included civil society actors, unions, and employers to address the issue of child labor, continued to meet throughout the year on an informal basis to discuss the challenges associated with implementing laws on child labor.

The BPM is responsible for investigating crimes against children and referred exploited and abused children to the IBESR and partner NGOs for social services. Although the BPM has the authority to respond to allegations of abuse and apprehend persons reported as exploiters of child domestic workers, the BPM did not pursue restavek cases for investigation because there were no legal penalties it could impose on those who exploited children in this manner.

Children under the age of 15 years commonly worked in the informal sector to supplement family income. Activities and sectors in which children worked included domestic work, subsistence agriculture, and street trades, such as selling

goods, washing cars, serving as porters in public markets and bus stations, and begging. Children also worked with parents on small family farms, although the high unemployment rate among adults kept significant numbers of children from employment on commercial farms.

The worst forms of child labor, including forced child labor, continued to be problematic and endemic--particularly in domestic service. The most recent data from a 2012 IOM survey estimated that 250,000 to 500,000 children were employed in domestic work as *restaveks*. The Labor Ministry launched--in collaboration with national and international organizations--a national child domestic servitude census project in 2014 designed to help government agencies better assess and record the number of *restaveks* but, as of September, this study was not released. An estimated 225,000 children worked as *restaveks* in urban areas of the country. Most *restaveks* were girls between the ages of five and 17 years. Exploitation of *restaveks* typically included families forcing them to work excessive hours on physically demanding tasks without commensurate pay or adequate food, refusing to provide an education, and subjecting them to physical or sexual abuse. Girls were often placed in domestic servitude in private urban homes by parents who were unable to provide for them, while boys more frequently were exploited for labor on farms. *Restaveks* who did not run away from families usually remained with them until the age of 14 years. Many families forced *restaveks* to leave before the age of 15 years to avoid paying them wages as required by law. Others ignored the law, often with impunity.

Working on the streets exposed children to a variety of hazards, including severe weather, vehicle accidents, and crime. Abandoned and runaway *restaveks* constituted a significant proportion of the population of children living on the street, many of whom criminal gangs forced into prostitution or street crime, while others became street vendors or beggars.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment or Occupation**

The constitution provides for freedom of work for all citizens and prohibits discrimination based on sex, origin, religion, opinion, or marital status. For public-sector employment, the constitution sets a minimum quota of 30 percent for women. The labor code does not define employment discrimination, although it sets out specific provisions with respect to the rights and obligations of foreigners

and women such as the conditions to obtain a work permit, foreign worker quotas, and provisions related to maternity leave. The law does not prohibit discrimination based on disability, language, sexual orientation and/or gender identity, social status, and HIV-positive status.

The government took some steps to enforce the laws through administrative methods, through the Ministry of Women's Conditions and the Secretary of State for the Integration of the Disabled. In the private sector, several work areas, which used to be predominantly male oriented, began engaging female workers at the same pay scale, including the public transportation and construction industries. Despite these improvements, discrimination related to gender remained a major concern, although there was no governmental assessment or report of work abuses. In the garment industry, ILO Better Work Haiti reported that two factories were noncompliant with discrimination standards based on one finding of sexual harassment and one case of unlawful dismissal of a pregnant worker.

#### **e. Acceptable Conditions of Work**

In 2014 the daily minimum wage was adjusted for all sectors, ranging from 125 HTG (\$2.35) per day for domestic workers to 260 HTG (\$4.90) per day in certain professions including finance, telecommunications, and private educational institutions. In the apparel export sector, there was another increase in May, which set the minimum daily wage at 240 HTG (\$4.50). The law also requires employers in the export-apparel sector to set piece rates in a manner that permits workers to earn at least 320 HTG (\$6.00) for an eight-hour workday.

The law sets the standard workday for industrial, commercial, and agricultural establishments at eight hours and the workweek at 48 hours, with 24 hours of rest and paid annual holidays. It also requires payment of overtime, prohibits excessive compulsory overtime, and sets the maximum number of overtime hours allowed at 80 per trimester. The law grants exemptions to health care, lodging, food and beverage, and entertainment establishments; managerial positions; and family establishments that employ only family members. The Labor Ministry may grant exemptions for other employers not specifically exempted by law. The law is silent with respect to prohibiting overtime for public-sector employees. The law establishes minimum health and safety regulations and requires certain provisions in regards to workers' health and safety, including quotas for onsite nurses per factory, permanent medical services, and annual medical checks. The law allows workers to notify the employer of any defect or situation that may endanger their

health or safety and to call on the Labor Ministry or police if the employer fails to make the necessary ameliorations.

Although the law charges the ministry with enforcement of a range of labor-related issues, legislation on wage and hour requirements, standard workweek, premium pay for overtime, and occupational safety and health was not effectively enforced. Penalties were not sufficient to deter violations, and authorities often did not impose them. The penalty for not applying the occupational safety and health provisions of the labor code is 200 to 2,000 HTG (\$3.75 to \$37.50) or up to three months in prison. The penalty for violating the minimum wage or hours of work provisions of the labor code is from 1,000 to 3,000 HTG (\$19 to \$56). There were no prosecutions for the individuals accused of violating minimum wage hours of work.

The ministry's capacity to enforce the labor provisions in national and international law was limited by human resource and other constraints. There were 100 labor inspectors, of whom 50 were technicians trained as labor inspectors. Labor inspections in the capital and elsewhere faced challenges that included a lack of funding, questionable professionalism, and lack of support from law enforcement.

There were some reports of noncompliance with overtime provisions in apparel factories. ILO Better Work Haiti reported that 10 factories exceeded the legal limits for overtime hours, while five factories failed to receive the proper authorization from the Labor Ministry. ILO Better Work Haiti reported no cases of involuntary overtime in the apparel sector during the year.

Most citizens worked in the informal sector and subsistence agriculture, for which minimum wage legislation does not apply and where daily wages of 20 to 30 HTG (\$0.38 to \$0.56) were common. There continued to be reports of noncompliance regarding compensation, paid leave, social security and other benefits, contracts, health services and first aid, and worker protection in the industrial and assembly sectors. Although overall compliance remained low, several improvements were noted during the year, including in compliance efforts for employment contracts; granting required for weekly rest days, maternity leave, and annual leave; and paying social security payments and forwarding worker contributions.

Noncompliance with safety and health standards remained a major concern. ILO Better Work Haiti continued to report that all factories failed to provide the required number of medical facilities and staff as required by the law. Other noncompliance issues included unsafe storage of chemical and hazardous

materials, lack of adequate training for workers in regards to exposure to chemical and hazardous materials, and lack of protective equipment or safety warning signs.

ILO Better Work Haiti also reported cases where several workers exposed to work-related hazards failed to receive free health checks. According to the law, the annual medical exams are the responsibility of the Office of Labor Insurance, Maternity, and Accident (OFATMA). While some factories started to conduct medical checks-up independently, OFATMA began efforts to increase its capacities and also began performing medical checks at a number of factories. ILO Better Work continued to work with factories and OFATMA to improve compliance with this requirement.

No group collected formal data, but unions alleged job-related injuries occurred frequently in the construction and public-works sectors.