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U.S. Department of State

Haiti Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

HAITI

President Rene Preval celebrated his second anniversary in office on February 7, the first time a democratically elected president reached that milestone. However, the country's fragile progress towards constitutional democratization remains threatened by the continuing political impasse that paralyzed its democratic institutions. Since the resignation of Prime Minister Rosny Smarth in June 1997, President Preval has governed with a cabinet consisting of only 8 ministers instead of the usual 12. Parliament twice rejected the President's nomination of Herve Denis to the position of Prime Minister and only approved the subsequent nomination of Education Minister Jacques Edouard Alexis to this post in mid-December. Negotiations to form a cabinet were not complete by year's end, and were complicated by President Preval's announcement that he would regard the mandates of all members of Parliament (except for nine senators) and those of all mayors and local and regional council members as expiring on January 11, 1999. The Government and Parliament did not resolve outstanding disputes from the April 1997 local, regional, and legislative elections. Although there has been some improvement in the theoretically independent judiciary, it is still largely weak and corrupt.

The military was disbanded in January 1995. At that time, the Government established the Haitian National Police (HNP), which continues to gain experience and to benefit from training. During the period of political uncertainty in late 1998 following the disagreement between the President and legislators over the formation of a cabinet and continuation of the Parliament, the HNP maintained political neutrality and played a crucial role in preserving internal calm. However, the HNP still grappled with problems of corruption and human rights abusers within its ranks. Allegations of corruption, incompetence, and narcotics trafficking at all levels of the force negatively affected morale.

The United Nations Police Mission in Haiti (MIPONUH) is composed of 290 civilian police officers from 11 countries; they advise and train the HNP and seek to increase its level of professionalism. On November 30, the U.N. Security Council extended MIPONUH's mandate to November 30, 1999. The HNP has a variety of specialized units, including a crisis response unit, a crowd control unit, a presidential and palace security unit, and a Special Investigative Unit (SIU). The SIU was formed to investigate high-profile political killings, but is ill-equipped, inexperienced, and has made limited progress on its cases. Although the HNP took over administration of the country's prisons in 1997, it appears that the prison system retains much of its previous autonomy. The 94-officer Coast Guard is also a component of the HNP and is being trained by foreign Coast Guard personnel. In addition to the centralized HNP forces, each of the nine administrative regions has its own crowd control force. Several mayors also maintained unofficial local law enforcement bodies to serve as municipal police. These groups lack legal standing, authority to carry weapons, or legitimate powers of arrest. Some members of local government councils (CASEC's) also exercise arrest authority without legal sanction. Members of the HNP, the other security forces, and the informal municipal police committed serious human rights abuses.

Haiti is an extremely poor country, with a per capita annual income of about \$500. This figure does not fully include significant unrecorded transfers from the estimated 1 million Haitians living abroad, as well as income from informal sector activities that constitute an estimated 70 percent of actual economic activity. The country has a market-based economy with state enterprises controlling telecommunications and utilities. A formal privatization strategy is being implemented slowly for nine parastatal enterprises. About two-thirds of the population work in subsistence agriculture, earn less than the average income, and live in extreme poverty. A small, traditional elite controls much of the country's wealth. A small part of the urban labor force works in the industrial and assembly sectors, with an equal number in government or service sector employment. Assembled goods, textiles, leather goods, handicrafts, and electronics are a major source of export revenue and employment. Other important exports are mangoes and coffee. The Government relies heavily on international financial assistance.

The Government generally respected the human rights of its citizens; however, a number of serious abuses occurred. The police committed extrajudicial killings, although fewer than in previous years, and were also responsible for mistreatment of detainees, including repeated, severe beatings and incidents of torture. Persons responsible for human rights abuses rarely are punished. Poor prison conditions and arbitrary arrest and detention remained problems. Officials made limited progress in addressing the problem of lengthy and unauthorized pretrial detention. The authorities continued to detain illegally several persons arrested in 1996 who were members of the political opposition. The overburdened and inadequate judicial system remained incapable of processing detainees in accordance with the law, and a large proportion of crimes, including some that may have had political motivations, remain unsolved. The judiciary remained weak and corrupt. The judicial docket remained clogged, and the courts were unable to ensure fair and expeditious trials. There were numerous reports that the authorities infringed upon citizens' privacy rights, and of illegal searches and arrests without warrants. Societal discrimination against women, violence against women, and abuse of children remain problems. The widespread practice of rural families sending young children to the larger cities to work as unpaid domestics (restaveks) is also still a problem. Child labor persists. Vigilante activity, including killings, remained a common alternative to formal judicial processes.

The Government's limited effort to redress the legacy of human rights abuse from the 1991-94 period largely has failed. Important cases, such as those from the 1994 Raboteau killings, languish in the Judicial officials failed to begin processing many other complaints involving human rights abuses.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

The police were responsible for extrajudicial killings, according to the UN-OAS International Civilian Mission (ICM) and the HNP inspector general's office, but the number was significantly lower than in previous years. According to statistics gathered by the ICM, the police killed 31 persons in 1998, compared with 53 in 1997 and 59 in 1996. Reports of deaths resulting from excessive use of force dropped from 20 in 1997 to 11 in 1998. Based on evidence gathered by international organizations and nongovernmental organizations (NGO's), these killings generally were not political in character; however, many resulted from excessive use of force and a lack of professionalism on the part of the police.

In January police shot two youths in connection with antigang operations in the Port au Prince slum of Cite Soleil, and a third was found shot after last being seen as he was placed under arrest. Also in January, police serving summonses shot and wounded a 17-year-old boy in St. Marc, and a policeman near Les Cayes shot and wounded a man during a fight. In March in Cite Soleil, an employee of the Delmas mayor's office was found shot in the head after being questioned by police about stolen motorcycles. In late March, police on patrol in Port au Prince shot and killed the driver of a car that had collided with theirs.

Throughout the year, there were numerous instances of suspects killed in shootouts with police. The circumstances of some of these deaths indicated use of excessive force on the part of the HNP and other police officers. For example, on February 2, an off-duty member of the Special Weapons and Tactics (SWAT) team in Port au Prince saw a suspected thief and drew his gun and fired, killing the suspect and wounding a bystander. On April 13, a national park policeman reportedly beat a man to death after the policeman had threatened him in connection with the illegal cutting of trees. On May 4, an officer from the HNP's specialized crowd control unit (CIMO) in Petionville called for assistance after armed men tried to break into his home; when police arrived, the officer reported finding two bodies in a nearby ravine. The incident was under investigation at year's end.

In July the Haitian Platform of Human Rights Organizations stated that 154 human rights violations were committed by police during June, mostly by the HNP and justices of the peace. On August 25, police shot and killed 16-year-old Johnson Mercius, whom they had pulled over early that morning. The police claimed that he refused orders to raise his hands, and that he made a threatening gesture. Witnesses asserted that he was shot without provocation. His family demanded an autopsy to verify the allegation that Mercius had been shot in the back, but the body disappeared from the hospital morgue.

Other extrajudicial killings occurred when suspects were already in police custody. For example, Dieudonne Pierre died on May 11 at the doors of Cap Haitien prison from injuries sustained during beatings administered by police the previous night. Although in good condition at the time of his arrest on May 10, he could hardly speak or stand at the time of his court appearance the next day. Police then took him to the prison, where he was refused admittance due to his poor physical condition. He was dumped by the door of the prison registry, where he died. His body remained there when ICM officials visited the prison on May 15. The ICM voiced concerns about police brutality in its June report. It was especially concerned with the number of reports of brutality at the Ouanaminthe police station and with reports of retaliation against detainees who dealt with the ICM.

One inmate reportedly died in the Jeremie prison as a result of beatings while in custody. At least one death in prison was attributed to inadequate health care (see Section 1.c.).

Some mayors control unofficial security forces that committed abuses. In Port au Prince, a member of Delmas Vice Mayor Ernst Erilus' security force shot and killed a man on March 27. The mayor allegedly removed the body before the requisite legal procedures had been performed.

In what may have been a political killing, unknown assailants shot and killed Father Jean Pierre Louis, an outspoken opponent of the 1991-94 military regime, on August 3 in the Bizoton area of Port au Prince. Although robbery has not been ruled out, Father Pierre Louis' long history of social activism and speaking out on controversial issues led many persons to believe that his murder was politically motivated. At year's end, the authorities had arrested three suspects, and the investigation continued.

Vigilante justice remains a widespread problem, especially in rural areas. Angry mobs, composed of persons who lack faith in the ability of the police and the courts to bring criminals to justice, attack and often kill suspected thieves, bandits, murderers, rapists, and sorcerers, usually by stoning, beating, or burning. A survey of police records and media reports indicated that approximately 100 deaths resulted from such incidents during the first half of the year. However, on occasion, timely police intervention prevented lynchings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The 1987 Constitution prohibits the use of unnecessary force or restraint, psychological pressure, or brutality by the security forces; however, members of the security forces frequently violate these provisions. Police officers often use excessive--and sometimes deadly--force in making arrests or controlling demonstrations and rarely are punished for such acts. Police frequently beat suspects. There were sporadic instances of torture and other forms of abuse. In at least one instance, police beatings resulted in death (see Section 1.a.).

The ICM found that police mistreatment of suspects, at both the time of arrest and during detention, remained pervasive in all parts of the country. Beating with fists, sticks, and belts is by far the most common form of abuse. However, the ICM documented other isolated forms of mistreatment, including crushing fingers with pliers, burning with cigarettes, and kalot marassa (severe boxing of the ears, which can result in eardrum damage). The ICM also was concerned about the practice, noted in particular in Cap Haitien, of blindfolding suspects during interrogation. Police rarely are prosecuted for the abuse of detainees.

During the year, there were reports of the use of excessive force by members of the HNP, including the CIMO. In January CIMO members arrested and beat several youths after a policeman allegedly was killed by a gang. In March several disputes over land in the area around Milot turned violent, resulting the burning of fields, the destruction of property, and the occupation of land. In response, the HNP sent SWAT and CIMO units to the area to restore order. On March 19, members of the CIMO reportedly entered a peasant-run radio station in Milot, allegedly looking for persons suspected in the sabotage of a local factory. After entering the radio station late at night, CIMO members ransacked it and shot and injured the radio station janitor, who was the only occupant at the time. The Minister of Justice later ordered that the radio station be repaired and that an investigation into the incident be opened.

In early February, an extrajudicial killing in the town of Mirebelais led to a massive police deployment, which was accompanied by allegations of human rights violations. The episode began on February 5,

when local police arrested two members of an organization known as Mete Lod Nan Dezod (MLND, or "Putting Order Into Disorder") after an altercation about a traffic citation. After the arrest, a crowd of MLND members formed outside the police commissariat. Shots were fired, allegedly by the police, killing a bystander and wounding an MLND member. Soon after, a crowd that blamed police for the death of the bystander stormed the police commissariat, killed police commissioner Ricelin Dorneus, and burned his body. The crowd then proceeded to ransack the police station, set fire to vehicles, and steal radios and weapons. The crowd then went to Mirebelais prison, where it freed all 78 inmates. Later that evening, police reinforcements in the form of SWAT and CIMO units arrived from Hinche, the provincial capital, and from Port au Prince to restore order.

The ICM subsequently received complaints of human rights violations in connection with the authorities' attempts to arrest those responsible for the lynching of Dorneus. There were reports of 30 to 40 warrantless arrests in connection with the incident, mostly of MLND members. Many were beaten either upon being arrested or while in custody at the Mirebelais police station; three persons required hospitalization due to severe beatings they received in custody. All but four of the detainees were released later. Tensions in the area reportedly were running high between the MLND, which supports Fanmi Lavalas (FL), and the Mourman Peyizan Papaye (MPP or Papaye Peasant Movement) prior to the incident. Investigations into the incident were opened by the HNP, the Port au Prince judicial police, the Senate, and the permanent Human Rights Committee of the Chamber of Deputies.

On April 1, a parliamentary committee released a report on the conduct of CIMO and other police units in Mirebelais and Milot during the events of early February and March. The report accused the police of illegal arrests, arresting family members of wanted persons when the persons themselves could not be found, arresting persons for their apparent political affiliations, torture, and repression. It also recommended a redefinition of the CIMO's functions.

On April 5, members of the CIMO broke into, ransacked, and seriously damaged a women's clinic in Port au Prince, alleging that weapons were hidden there. No weapons were found. The Government later pledged to repair the damage to the clinic. On April 15, two SWAT team members threatened a judge in Petionville with their guns in an attempt to free a friend who was on trial. The two were detained in a National Penitentiary Administration (APENA) facility in Petionville. On November 18, armed men dressed in black uniforms resembling those of CIMO members entered a moneychanging store in Port au Prince and stole money; on November 21, approximately 12 armed men also dressed in uniforms similar to those of CIMO members entered a brasserie in Plaine on the pretext of conducting a search for illegal drugs and stole money from the owners. The head of the CIMO denies allegations that men under his command are conducting such activities, and it is unclear whether these two incidents were carried out by CIMO members, former CIMO members, or by persons who duplicated CIMO uniforms.

The HNP Director General and the State Secretary for Public Security cooperated with the ICM. In several instances where the ICM presented the HNP leadership with credible accounts of police abuses, improvements were noted as a result. The HNP's Inspector General's office (IG) has a mandate to investigate human rights complaints. During the first half of the year, the IG received 50 reports of human rights violations and completed investigations in 33 cases. However, many other human rights violations are neither reported nor acted upon by the HNP.

There continued to be sporadic instances of brutality on the part of local officials exercising unauthorized law enforcement functions. Especially in rural areas, the ICM has documented brutality by members and agents of the local government councils (CASEC's), who tend to assume an illegal law enforcement role in the absence of a regular police presence. For example, in the Procy section of Carrefour (on the outskirts of Port au Prince), the bodyguard of a CASEC member shot a man in the mouth while arresting him on January 14.

Unofficial security forces controlled by mayors also committed human rights abuses. On August 19, a man attending a concert in a public park in Port au Prince became involved in an argument with members of the security detail for the Delmas mayor; he was followed home and shot in the leg during a gunfight near his home. In early February, State Secretary for Public Security Robert Manuel wrote the mayors of Port au Prince, Delmas, and Croix des Bouquets, instructing them to disarm their unofficial security forces and to turn their weapons over to the HNP by February 6. The ICM reported limited compliance with this request.

Prison conditions remained poor. Prisoners and detainees, held in overcrowded and inadequate facilities, continued to suffer from inadequate basic hygiene, poor quality health care, and 24-hour confinement to cells in some facilities. Late in the year, the 17 prisons held 3,494 inmates, a slight increase over 1997, which resulted in considerable overcrowding.

Fort National prison in Port au Prince is the only prison facility expressly for women and juveniles. In other prison facilities, women are housed in cells separate from the men. However, overcrowding often prevents strict separation of juveniles from adults, convicts from those in pretrial detention, or violent from nonviolent prisoners.

ICM statistics indicated a significant increase in reports of ill treatment by prison guards in 1998. It received 191 such reports, compared with 41 in 1997 and 29 in 1996. One reason for the increase was two separate reports of beatings of large groups on inmates in connection with escape attempts at Carrefour and St. Marc prisons. In April a guard was arrested after an ICM investigation, conducted with the full cooperation of the APENA authorities, found strong evidence that an inmate in the Jeremie prison died as a result of multiple beatings in custody. The ICM has expressed concern that allegations of the abuse of detainees by prison officials are not dealt with quickly and seriously. The mission stated in a July 1997 report that it had encountered only two instances in which prison guards were disciplined for the mistreatment of prisoners. On November 13, HNP Director General Pierre Denize fired Marceau Jean Lohier, Director of the National Penitentiary, for his alleged role in beatings that took place at Carrefour jail following an escape by inmates on April 29. Lohier fled the country after publicly contending that he really was fired for political reasons.

Prisoners nationwide generally received one or two meals per day, often supplemented with food brought by family members. The authorities were unable to keep prison clinics, funded by the International Committee of the Red Cross (ICRC), adequately stocked with medicines and other health care supplies. At least one prison death was attributed to inadequate health care.

Persons detained in politically sensitive cases often were kept in police station holding cells, rather than in regular prison facilities. These and other holding cell detainees depended largely on their families for food and medicine. In some cases, police officers used their personal funds to buy food for such persons.

The authorities freely permitted the ICRC, the Haitian Red Cross, the ICM, and other human rights groups to enter prisons and police stations, to monitor conditions, and to assist prisoners with medical care, food, and legal aid.

d. Arbitrary Arrest, Detention, or Exile

The security forces continued to use arbitrary arrest and detention. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or if a judicial warrant has been issued. Judicial warrants cannot be executed between 6:00 p.m. and 6:00 a.m., and the authorities must bring the detainee before a judge within 48 hours of arrest. In practice, the authorities

frequently ignored these provisions. In one case, a man arrested on a traffic charge was detained for 5 days without a warrant and without seeing a judge or a lawyer. He was released only when his family provided a used car to the police station. After the February disorders in Mirebalais, there were many cases of arrests made without warrants (see Section 1.c.).

The HNP frequently detained suspects well beyond the 48 hours in which the authorities must demonstrate that there is a legal basis for the arrest. Despite this practice, respect for the 48-hour rule generally increased.

Arbitrary arrests by those lacking legal arrest authority, including some elements of the security forces, quasi-official forces, and local government councils also occurred sporadically. Detainees who had never seen a judge or whose cases stagnated in the judicial system continued to crowd the prisons nationwide. An estimated 80 percent of the 3,500 prison inmates are being subjected to illegal or prolonged detention. To address this problem, the Ministry of Justice, in cooperation with prison authorities, established the Office to Control Preventive Detention (BUCODEP) to accelerate review and processing of these cases by improving judges' access to the detainees. The BUCODEP facilitated the review of 1,198 cases, resulting in the release of 477 prisoners and the referral of 160 detainees to the courts.

The authorities have been known to use the criminal justice system to retaliate against politically undesirable persons and have detained such persons in open defiance of court orders for their release. Persons detained in this manner also may be involved in private disputes with influential political figures. As of year's end, the ICM was tracking 67 cases in which due process was not followed or persons apparently were detained for political reasons. During the year, the authorities failed to execute release orders issued by judges in at least seven high-profile and politically sensitive cases.

The ICM registered concern regarding irregularities in the authorities' handling of the case of former general Claude Raymond, who was arrested in 1996 with two others on charges of plotting a coup and threatening the security of the State. Raymond and his two companions were held in pretrial detention until November 10, at which time they were released. While the authorities freed Raymond's two companions, they immediately rearrested him on charges related to the 1987 Port au Prince election day massacre. On March 19, the authorities arrested lawyer Osner Fevry in Petionville on charges related to a land dispute. On March 25, a judicial release order for Fevry was issued. He remained in custody until November, when, as in the case of Raymond, he was released and rearrested on new charges. Fevry was released and set free on December 15. Although technically legal, the authorities' handling of the Raymond and Fevry cases permitted continued detention of two persons already detained for months contrary to court rulings, an example of the way in which the judicial system remains subject to manipulation by the executive in politically sensitive cases.

The Government also has detained several other political opponents and former leading members of the military, including Remy Lucas, Claude Schneider, Evans Francois (the brother of former Port au Prince police chief Michel Francois), Phanel Dieu, Steve Conserve, and Patrick Moise, on vague charges of plotting against the state. None of these individuals were brought to trial. Moise and Conserve were being held in contravention of judges' orders for their release. The authorities released Schneider and Dieu on November 10.

The Constitution prohibits involuntary exile of citizens, and there were no reports of its use.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, but the judiciary is not independent in practice. Years of rampant corruption and governmental neglect have left the judicial system poorly organized and nearly moribund. The Constitution sets varying periods of tenure for judges above the level of justice of the peace. In practice, however, the Ministry of Justice exercises administrative oversight of the judiciary, prosecutors, and court staff. The Ministry of Justice can remove justices of the peace and occasionally dismisses judges above this level as well.

At the lowest level of the justice system, the justices of the peace issue warrants, adjudicate minor infractions, take depositions, and refer cases to prosecutors or higher judicial officials. Investigating magistrates and public prosecutors cooperate in the development of more serious cases, which are tried by the judges of the first instance courts. Appeals court judges hear cases referred from the first instance courts, and the Supreme Court deals with questions of procedure and constitutionality.

The judicial apparatus follows a civil law system based on the Napoleonic Code; the Criminal Code dates from 1832, although it has been amended on occasion. The Constitution provides for the right to a fair public trial, but this right was widely abridged in practice. The Constitution also expressly denies police and judicial authorities the right to interrogate persons charged with a crime unless the suspect either has legal counsel, has a chosen representative present, or waives this right. While trials are public, most accused persons cannot afford legal counsel for interrogation or trial, and the law does not require that the Government provide legal representation. Despite the efforts of local human rights groups and the international community to provide legal aid, many interrogations without counsel continued to occur. However, during actual trials, most defendants had access to counsel. Defendants enjoy a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf. The Government respects these rights in practice.

A shortage of adequately trained judges and prosecutors, among other systemic problems, created a huge backlog of criminal cases, with many detainees waiting years in pretrial detention for a court date. The serious problem of case backlogs is related to the general shortage of qualified judges, prosecutors, and justices of the peace, and to inadequate resources and work habits at those levels. In some regions, there are not enough judges to hear cases, and the judges lack adequate resources to perform their duties, such as office space, legal reference texts, and supplies. Professional competence sometimes is lacking as well. In at least one case, a lawyer complained about a judge's inability to draft basic legal documents. If an accused person ultimately is tried and found innocent, there is no redress against the Government for time served in detention. The Code of Criminal Procedure does not clearly assign responsibility to investigate crimes and divides the authority to pursue cases among police, justices of the peace, prosecutors, and investigating magistrates. The code provides for 2 criminal court sessions per year in each of the 15 first-instance jurisdictions, each session generally lasting 2 weeks, to try all major crimes, primarily murder, requiring a jury trial.

Although the judicial system remains in urgent need of reform, government cooperation with international donors resulted in some positive developments in this area. International donors assisted the Justice Ministry with its effort to provide training to sitting magistrates, in order to improve the administration of the public prosecutors' offices, to improve documentation and case presentation, to strengthen judicial supervision, and to establish prison registries. During the year, the Justice Ministry also trained a corps of 60 new magistrates (all of whom are law school graduates). In August the Government enacted a law on judicial reform, but the legislation lacked specific measures to implement such reform.

There were no reports of political prisoners, although the Government continued to hold some political opponents on charges of threatening state security (see Section 1.d.).

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution prohibits interference with privacy, family, home, or correspondence. However, police and members of other security forces conducted illegal, warrantless searches (also see Section 1.c.). Members of quasi-official forces also conducted illegal searches and seizures of property. The police reportedly arrested family members of wanted persons when the suspects themselves could not be found (see Section 1.c.).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights. The press energetically exercises this freedom. Print and electronic media from opposite ends of the political spectrum often criticize the Government.

With a literacy rate of only about 20 percent, broadcast media, especially Creole-language radio, have an unusual importance, and some 40 radio stations operate in the capital alone. Uncensored foreign satellite television is available. Broadcast media tend to criticize the Government less than the press but freely express a wide range of political viewpoints.

However, one major radio station known for its opposition to the Government may have been the target of politically motivated bureaucratic harassment during the year. The station claimed to have received complaints about its broadcasts from government authorities on several occasions coupled with threats to terminate the satellite uplink it uses to transmit to affiliates in the provinces. The national telephone company terminated the station's satellite service in August. Despite a court order invalidating the grounds for termination, the telephone company did not rescind its instructions to the commercial supplier to block the station's satellite service. However, the supplier resumed satellite service in October. The Ministry of Public Works supported the telephone company and imposed a moratorium on use of satellite uplinks pending an act of Parliament.

Foreign journalists generally circulate without hindrance.

The Government respects academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the authorities generally respect this right in practice. Popular organizations, including several opposed to the Government or its policies, formed and held demonstrations.

Political parties across the spectrum generally were able to meet and to recruit members. However, on July 8 in St. Marc, members of Fanmi Lavalas disrupted and forced the cancellation of a multiparty political roundtable sponsored by the International Republican Institute (IRI). In late July, the opposition Movement for National Development (MDN) announced cancellation of its party congress scheduled for August, citing the refusal of police authorities to ensure security for the event. In December there were reports of more threats against IRI consultants and anti-IRI demonstrations in Port au Prince.

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion

The Constitution provides for the right to practice all religions and faiths, provided that such practice does not disturb law and order, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government respects the right of freedom of movement within the country, foreign travel, emigration, and repatriation.

An unknown number of undocumented migrants put to sea seeking better economic opportunities in other countries. The Government operated, with international support, a national migration office to assist citizens involuntarily repatriated from other countries, notably from the Dominican Republic and the Bahamas.

The Government has no policy regarding foreign nationals seeking refuge or asylum from third countries. The question of provision of first asylum did not arise. There were no reports of the forced return of persons to countries where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides for regular elections for local and parliamentary offices and for the presidency, and voters elected President Rene Preval in late 1995 in an election regarded by the international community as free and fair. The Parliament, most of whose members were chosen in 1995 in elections that were administratively flawed but free and fair, continued to operate independently of the executive branch through the end of the year.

The country remained in a state of political paralysis that originated in a split within the ruling Lavalas party, which pitted the Fanmi Lavalas, led by former President Jean-Bertrand Aristide, against the Organisation du Peuple en Lutte (OPL--formerly the Organisation Politique Lavalas). The divisions initially arose over economic policy and deepened over the outcome of the 1997 legislative, regional, and local elections, which led to the resignation of Prime Minister Rosny Smarth in June 1997. Parliament failed to approve President Preval's first two nominees to replace Smarth and only approved his third nominee, Jacques Edouard Alexis, to the post in mid-December. However, the executive and legislative branches did not agree on a permanent cabinet or plan of government.

The continued impasse between the President and the Parliament prevented the holding of elections originally scheduled for November to replace mayors, local and regional council members, the members of the House of Deputies, and one-third of the Senate, all of whose terms were due to end January 11, 1999, under provisions of a 1995 electoral law. In November the Parliament passed a resolution to extend its mandate until October 1999 and bring parliamentary terms into line with the Constitution. However, President Preval announced that he would not recognize the extension. President Preval and the political parties began discussions to resolve the institutional crisis that resulted from this disagreement. Negotiations focused, among other issues, on the formulation of a new Provisional Electoral Council (CEP) that would organize the delayed elections.

There was little progress towards resolving questions surrounding April 1997 legislative, regional, and local elections. At the polls, an OAS observer mission found numerous irregularities and instances of fraud. A majority of Parliament contested the results, citing deficiencies and irregularities in the electoral process. Over the objections of the parliamentary majority, the Ministry of Interior provided

funds for the local and regional assemblies to begin meeting in July. Although in a disputed decision two of the contested senate seats were awarded to the FL, none of the total of nine seats actually were filled. A report on the 1997 elections was prepared by a presidential commission, but its findings were not made public. There was discussion that the next CEP would resolve the dispute, in addition to its other responsibilities.

There are no legal impediments to women's participation in politics or government, but they are underrepresented. The election law provides that the deposit required of female candidates for political office is half that required of male candidates, if a recognized party sponsors them. In the recent past, Haiti has had a female president, prime minister, foreign minister, and finance minister. However, the low status of women limits their participation in government and politics. Of the 80 sitting members of the Chamber of Deputies (3 seats are vacant), 3 are women. The Senate has no female members.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups operate without government restriction, commenting on human rights cases. The Government tolerates their views but rarely is responsive to their recommendations. The exception is the HNP Inspector General's office, which opened a number of investigations at the request of human rights groups. About a dozen local human rights groups monitor conditions in the country, with some working on civic education and legal aid as well.

The National Coalition for Haitian Rights, an international human rights organization, maintained a permanent presence. Representatives of other international human rights organizations visited freely during the year. The ICRC was active throughout the year, particularly in prison renovation and assistance to prisoners.

In August the leader of the Haitian Platform of Human Rights Organizations, Chenet Jean-Baptiste, reported receiving politically motivated death threats following statements he made concerning the murder of Father Pierre Louis (see Section 1.a.).

The Office of the Protector of Citizens, an autonomous, ombudsman-like office established by the 1987 Constitution, began operating. However, the office's effectiveness remained limited by a lack of resources, severe budget constraints, and inexperience. The ICM provided consultants to the office to assist in developing a work plan and budget and assist in preparing reports.

Parliamentary committees investigated reports of abuses by security forces in Mirebelais and Milot following large-scale disturbances in those areas. These investigations were indicative of the developing capacity of the Parliament to monitor the human rights situation in the country.

The UN/OAS International Civilian Mission continued to play a vital and successful role in monitoring the human rights situation and in promoting adherence to human rights norms by the authorities. The ICM investigated all reports of human rights violations, issued periodic reports and press releases, conducted civic education, and trained local human rights groups. The ICM also worked with the Government to develop its institutional capacity to prevent and provide redress for human rights abuses. Its mandate expired on December 31. In December the U.N. General Assembly extended the U.N. component of the ICM until December 31, 1999.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The 1987 Constitution does not specifically prohibit discrimination on the grounds of race, sex, religion, disability, language, or social status. It does provide for equal working conditions regardless of sex, beliefs, or marital status. However, there is no effective governmental mechanism to administer or to enforce these provisions.

Women

According to women's rights groups, rape and other violence against women is common, both within and outside of marriage. A recent study by the Haitian Center for Research and Action for the Promotion of Women documented widespread rape and violence against women. The report also found that many women do not report these forms of abuse due to fear, shame, or lack of confidence in judicial remedies. A recent survey by the United Nations Children's Fund (UNICEF) of violence against women found that 37 percent of women reported being victims of sexual violence or reported knowing a woman who had been; another 33 percent reported being victims of other types of physical abuse. The law provides penalties for these crimes, but the authorities do not enforce these provisions adequately. The law excuses a husband if he murders his wife or her lover upon catching them in the act of adultery in the home; but a wife who kills her husband upon discovering him in the act of adultery is not excused. The National Commission of Truth and Justice, formed after the 1991-94 period of military rule, recommended several improvements to existing laws concerning the rape and abuse of women, including the amendment of the Penal Code to define rape, to criminalize violence within the family, and to eliminate the distinction between virgins and nonvirgins in rape cases. However, Parliament has not enacted any of these proposed changes. There are no government-sponsored programs for victims of violence.

On May 12, 20 women's organizations met with parliamentarians and proposed changes to laws that they considered discriminatory. The changes proposed include the decriminalization of adultery, the classification of rape as a crime against the person rather than as a crime against honor, and the extension of the Labor Code to cover domestic work. They also proposed a law on violence against women and changes to the family code. Sexual harassment of female workers in the assembly sector is a problem (see Section 6.b.).

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but it did little in this regard.

Women generally have the same legal status as men. However, women do not enjoy the same social and economic status as men. In some social strata, tradition limits women's roles. Peasant women, often the breadwinners for their families, remain largely in the traditional occupations of farming, marketing, and domestic labor. Very poor urban women, who head their families and serve as their economic support, also often find their employment opportunities limited to traditional roles in domestic labor and marketing. Female employees in private industry or service jobs, including government jobs, seldom are promoted to supervisory positions. Laws governing child support recognize the widespread practice of multiple-father families but rarely are enforced. However, well-educated women have occupied prominent positions in both the private and public sector in recent years. Women's rights groups are small and localized, and receive little publicity.

Children

The Government's programs do not promote or defend children's rights effectively. Government health care and education programs for children are inadequate or nonexistent. Primary education is supposed to be free and compulsory, but there are not enough schools to accommodate all children, especially in

rural areas. Poorer families sometimes ration education money to pay school fees for male children only.

Rural families continued to send young children to serve as unpaid domestic labor for more affluent city dwellers, a practice cited by a 1991 U.N. study as an example of slavery in the 20th century. UNICEF estimated that 250,000 to 300,000 children, 85 percent of them girls, may be victims of this practice, called "restavek" (which means "lives with" in Creole). It is primarily lower middle and lower class families who use restavek children, as the more well-to-do prefer paid adult employees. The Ministry of Social Affairs believes that many employers compel the children to work long hours, provide them with little nourishment, and frequently beat and physically, emotionally, and sometimes sexually abuse them. The law requires that restaveks 15 years of age and older be paid "not less than one half the amount payable to a hired servant to performing similar work", in addition to room and board. To avoid this obligation, many if not most restaveks are kicked out of the employer's home before reaching the age of 15.

Most local human rights groups do not report on the plight of restavek children as an abuse or seek to improve their situation. The Ministry of Social Affairs believes that it can do little to stop this practice, regarding it as economically motivated; the Ministry assigned five monitors to oversee the welfare of restavek children. Society holds such children in little regard, and the poor state of the economy worsened their situation. Port au Prince's large population of street children includes many restaveks who have been kicked out or are runaways.

People With Disabilities

The Constitution provides that disabled persons shall have the means to ensure their autonomy, education, and independence. However, there is no legislation to implement these constitutional provisions or to mandate the provision of access to buildings for the disabled. Although they do not face overt mistreatment, given the severe poverty in which most Haitians live, those with disabilities face a particularly harsh existence.

National/Racial/Ethnic Minorities

Some 99 percent of Haitians are descendants, in whole or in part, of African slaves who won their war of independence from France in 1804. The remaining population is of European, Middle Eastern, North American, or Latin American origin. The law makes no distinction based on race. Longstanding social and political animosities often are tied to cultural identification, skin color, and overlapping issues of class in this starkly inegalitarian society. Some of these animosities date back to before Haiti's revolutionary period.

The Government recognizes two official languages: Creole, which is spoken by virtually all Haitians; and French, which is spoken by about 20 percent of the population, including the economic elite. The inability to communicate in French has long limited the political and economic opportunities available the majority of the population. The Government prepares most documents only in French, and judges conduct most legal proceedings exclusively in French. However, Creole was the language chosen for parliamentary debate in the lower house.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Code provide for the right of association and provide workers, including

those in the public sector, with the right to form and to join unions without prior government authorization. The law protects union activities and prohibits a closed shop. The law also requires a union, which must have a minimum of 10 members, to register with the Social Affairs Ministry within 60 days of its formation.

Six principal labor federations represent about 5 percent of the total labor force, including about 2 to 3 percent of labor in the industrial sector. Unions are independent of the Government and political parties.

On January 12-13, public prosecutors and justices of the peace in many towns around the country began a strike, demanding higher pay and better working conditions. Judges joined the strike on January 19. The strike was lifted on January 26. On March 30, in response to a directive from the HNP command that police be required to increase their hours of work from 8 to 12 hours per day, 6 days per week, with no additional pay, some police in Port au Prince and other towns declared a work stoppage. The command declared the job action illegal and threatened sanctions; at least five policemen were suspended in Port au Prince and the work stoppage ended on April 3.

Each of the principal labor federations maintained some fraternal relations with various international labor organizations.

b. The Right to Organize and Bargain Collectively

The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right. Unions were generally free to pursue their goals, although the Government made little effort to enforce the law. Union leaders assert that some employers in the private industrial sector dismiss individuals who participate in union organizing activities. Organized labor activity was concentrated in the Port au Prince area, in state enterprises, the civil service, and the assembly sector. The high unemployment rate and antiunion sentiment among some factory workers limited the success of union organizing efforts.

Collective bargaining continued to be nonexistent, and employers set wages unilaterally. The Labor Code does not distinguish between industries producing for the local market and those producing for export. Employees in the export-oriented assembly sector enjoyed better-than-average wages and benefits. Female workers in the assembly sector report that some employers sexually harass female workers with impunity. Women also assert that, while the vast majority of assembly sector workers are female, virtually all the supervisors are men.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Labor Code prohibits forced or compulsory labor and applies equally to minors. Such labor is not known to occur among adults. However, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as *restaveks* in urban households (see Section 5).

d. Status of Child Labor Practices and Minimum Age for Employment

The minimum employment age in all sectors is 15 years, with the exception of domestic service, where the minimum age is 12. The Labor Code prohibits minors from working under dangerous conditions, and it prohibits minors under the age of 18 from working at night in industrial enterprises. High levels of adult unemployment and underemployment lead to fierce adult competition for jobs, which ensures that

child labor is not a factor in the industrial sector. Some manufacturing firms that produce products for export adhere to a voluntary code of conduct that prohibits the use of child labor. However, there is no labeling program to indicate that items were produced without child labor. Children under the age of 15 commonly worked at informal sector jobs to supplement family income, despite the legal prohibition. Children also commonly work on small family farms alongside their parents, even though the high unemployment rate among adults keeps children from being employed on commercial farms in significant numbers. Primary education is supposed to be free and compulsory, but there are far too few public schools to accommodate the country's children, especially in rural areas. The Labor Code's prohibition of forced or compulsory labor applies equally to minors, but some children are forced to work as unpaid domestic servants (see Sections 5 and 6.c.)

e. Acceptable Conditions of Work

The legal minimum daily wage, established in June 1995, is about \$2.18 (36 gourdes). Annually, a minimum wage worker would earn about \$680 (11,200 gourdes), an income considerably above the national average but sufficient only to permit a worker and family to live in very poor conditions. The majority of citizens work in subsistence agriculture, a sector where minimum wage legislation does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours, and the workweek at 48 hours, with 24 hours of rest on Sunday. However, the officers of the HNP work 12-hour shifts 6 days per week, in apparent violation of the Labor Code (see Section 6.a.). The code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. The assembly sector published a voluntary code of conduct in 1997, committing signatories to a number of measures designed to raise industry standards, including paying the minimum wage and the prohibition of child labor. However, the Ministry of Social Affairs did not enforce work hours or health and safety regulations.

With more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

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