



Haiti

Country Reports on Human Rights Practices - [2007](#)

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Haiti is a constitutional republic with a population of approximately 8.7 million. International observers assessed the 2006 presidential and parliamentary elections as generally free and fair, after which President Rene Preval and the new parliament took office in May of that year. Instead of supporting the creation of a permanent electoral council to supervise the expected November senatorial elections, those elections were not held, and the government reconstituted the existing provisional electoral council in December with a mandate to schedule new elections in 2008. The civilian authorities generally maintained effective control of the security forces, but there were instances when elements of the Haiti National Police (HNP) acted independently.

The UN Stabilization Mission in Haiti (MINUSTAH), deploying 7,060 soldiers, 1,897 police officers, and 497 UN officials from 45 countries, provided security during the April 29 municipal and regional elections, trained and supported the national police force, and assisted the government in suppressing gang-related violence. Some residents and nongovernmental organizations (NGOs) alleged that MINUSTAH, while suppressing gang-related violence, may have used excessive force that resulted in the deaths of a number of residents. Upon investigation, however, MINUSTAH, the HNP, and other NGOs were unable to substantiate these claims.

Despite some improvements, the government's human rights record remained poor. The following human rights problems were reported: alleged unlawful killings by HNP officers; ineffective measures to address killings by members of gangs and other armed groups; HNP participation in kidnappings; overcrowding and poor sanitation in prisons; arbitrary threats and arrests; prolonged pretrial detention; an inefficient judiciary subject to significant influence by the executive and legislative branches; severe corruption in all branches of government; violence and societal discrimination against women; child abuse, internal trafficking of children, and child domestic labor; and ineffective enforcement of trade union organizing rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any politically motivated killings. However, there were incidents where HNP officers killed suspects, usually armed, who resisted HNP attempts to apprehend them, as well as allegations of HNP involvement in unlawful killings. The government and the HNP, for the most part, lacked rudimentary expertise and resources and as a result were unable to conduct thorough and reliable investigations of many incidents. If suspects were arrested, they were often released due to the country's corrupt and inefficient judicial system.

On January 24 and 25, MINUSTAH's antigang operations resulted in the deaths of 11 persons, not all of whom were armed gang members resisting arrest. During these operations, in addition to using Cite Soleil's dark and narrow alleys, gang members also used unarmed innocent persons as human shields in their attempts to evade capture. MINUSTAH and the HNP consequently recalibrated their methods, effectively eliminating the unintentional killing of innocent bystanders.

On March 12, a HNP officer killed a male citizen. The case was referred to the HNP Internal Affairs office, which upon completing its investigation, transferred the case to the criminal justice system. The accused officer remained in detention at the national penitentiary in Port-au-Prince at year's end.

On May 25, a detainee died in HNP custody on the same day that a judge ordered his release, after ruling that his detention was illegal and arbitrary. The authorities could not determine if the detainee's death was a homicide or suicide.

On December 4, a HNP officer killed a taxi driver when he failed to obey the officer's directions to stop his vehicle. The

officer was placed in detention, and an investigation was under way at year's end.

On December 16, the prosecutor for Port-au-Prince ordered the detention of three HNP officers for murder and attempted murder of residents in Martissant, a Port-au-Prince neighborhood. One resident died during the officers' attempt to rescue another resident from being lynched by a local mob for suspected murder. The prosecutor released the rescued man, whom the prosecutor had previously released from detention for another crime. The HNP officers remained in custody at year's end.

On March 16, a judge dismissed all charges against the two remaining HNP officers implicated in the 2005 killings of six persons at a soccer game in Martissant. There was no trial of the other 13 defendants, all HNP officers, who were released months earlier for "lack of evidence."

Violence stemming from the activities of organized criminal gangs was the primary cause for the arbitrary or unlawful deprivation of life in the country. Despite the diminution of kidnappings due to the HNP's and MINUSTAH's increased policing, common criminality and armed attacks against civilians continued to create fear among the population.

On March 19, armed gangsters killed four persons and injured several others in the Bel-Air neighborhood in Port-au-Prince. Witnesses claimed that the gang leader, who was arrested earlier but released from jail, made death threats against area residents.

On May 23, François Latour, a celebrated actor and radio personality, was kidnapped and killed in Port-au-Prince. On July 13, the HNP arrested and charged Fernando Hamilton, alias "Ti Junior," for the murder.

In response to continuing violence perpetrated with impunity by suspected criminals, residents in some neighborhoods resorted to vigilante justice. On April 23, the media reported the vigilante killing of five presumed bandits in Miragoane and on May 24, the vigilante killing of two presumed bandits in Carrefour. On July 26, MINUSTAH expressed concern over the increase in credible reports of irate citizens killing individuals who were suspected of rape, murder, or kidnapping. According to MINUSTAH, there were at least 106 documented vigilante killings during the year. However, many vigilante killings were not reported or recorded.

b. Disappearance

There were no reports of politically motivated disappearances by government agents; however, there were reports of disappearances that may have stemmed from the unsettled conditions in the country.

HNP officers were the sole government agents implicated in disappearances due to their occasional participation in kidnappings. Similarly, since some HNP officers were involved in narcotics trafficking, HNP officers' complicity in narcotics trafficking-based disappearances was assumed.

On March 7, authorities arrested an HNP officer for an attempted kidnapping in Port-de-Paix. The officer remained imprisoned at year's end.

On August 28, the media reported the participation of HNP officers in a kidnapping in Petionville. A police officer was among the arrested perpetrators and remained in detention at year's end.

Armed and organized criminal elements continued to participate in widespread kidnappings of citizens, including children from all social strata during the year. While most cases were resolved through the payment of ransom, some victims were tortured, raped, and killed while in their kidnappers' custody. There were 246 reported kidnapping victims during the year, compared with 554 in 2006. Many kidnappings were not reported.

On July 22, Manne Gregory Jean-Charles, a 10-year-old boy, was kidnapped in Delmas, a suburb north of Port-au-Prince. On August 2, the HNP rescued him from his kidnappers, who had held him across the street from a police station in Port-au-Prince.

On August 12, Lovinsky Pierre-Antoine, a supporter of former president Jean Bertrand Aristide and potential senatorial candidate, was kidnapped in Port-au-Prince. Pierre-Antoine was not found, and at year's end the HNP had no suspects.

On August 22, MINUSTAH reported that eight of its Haitian staff members had been kidnapped since the beginning of the year. At year's end the total number of MINUSTAH and UN employed staff or immediate family members kidnapped was 13.

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

The law prohibits such practices, and with the exception of a few HNP officers, there were no reports that government officials employed them. However, criminal gangs frequently employed these practices.

On February 5, a HNP officer assigned to the Canape-Vert precinct in Port-au-Prince beat a local resident. At year's end the HNP Internal Affairs unit was investigating the case.

On August 14, a HNP officer assigned to the Cite Soleil precinct in Port-au-Prince beat a local resident who was on his way home. After completing its investigation, the HNP Internal Affairs office sent the case to the HNP director general for determination of disciplinary measures, such as suspension or termination. Internal Affairs did not transfer the case to the criminal justice system.

On November 25, after arresting a presumed kidnapper, several HNP officers in Port-au-Prince's Delmas 33 police station were accused of severely beating him. The case became public after another police station refused to accept the victim after Delmas 33 tried to transfer him to that station. The government's prosecutor for Port-au-Prince released the victim, who was represented by a relative of the prosecutor. The accused HNP officers remained in detention at year's end.

On November 3, MINUSTAH sent 111 Sri Lankan peacekeepers home on disciplinary grounds. Although a high-level Sri Lankan investigation of the allegations continued and UN headquarters had not released a final report, 108 of the troops were accused of "transactional" sexual exploitation or sexual involvement with minors. In addition, MINUSTAH's Office of Internal Oversight Services investigated other cases of alleged sexual exploitation and abuse of minors by MINUSTAH security forces during the year, and submitted 10 completed investigations to UN headquarters for final disposition.

Prison and Detention Center Conditions

Prisons and detention centers throughout the country remained overcrowded, poorly maintained, and unsanitary. Overcrowding resulted from the destruction of three prisons in the instability surrounding former president Jean Bertrand Aristide's 2004 departure, and from the large number of pretrial detainees remaining in custody because of the judicial system's failure to process cases and bring them to court. The HNP's and MINUSTAH's decision to tackle gang-related crime resulted in a dramatic increase in arrests, which aggravated the overcrowded conditions in the prisons and police detention centers. Prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and the presence of rodents. Furthermore, most prisons lacked adequate food and sanitation and periodically suffered from lack of water. The incidence of preventable diseases such as beriberi, AIDS, and tuberculosis remained a serious problem. Overcrowding at the National Penitentiary prompted the government to release 200 prisoners who for the most part were either very ill or committed very minor offenses, but some of whom had been detained for very serious, violent offenses.

Prisons also suffered from guard abuse, corruption, and indifference. Prisoners reported being victims of physical abuse and corruption by correctional officers. Correction officers reported limiting their exposure to the inmate cell blocks due to insufficient staffing and equipment.

There were separate penitentiaries for adult men and women in Port-au-Prince. Both suffered from overcrowding, poor maintenance, and unsanitary conditions, but the scope of these problems at the men's penitentiary was larger and more severe. There were 15 other detention centers throughout the country. In those centers, space permitting, male and female prisoners were held in separate cells. Children 16 and older were confined with adults. Due to lack of available space, minors and adults sometimes were held in the same cell.

Most boys were held in a separate facility in Port-au-Prince. By law, that facility may only hold boys ages 13 to 15, although there were a few children who claimed to be as young as eight and as old as 17 years. Most girls under age 16 were held in the same cells as female adults in the women's penitentiary.

In October the total prison population, including both pretrial detainees and sentenced prisoners in the country's 17 prisons, was 6,370. Overall prison capacity, which by most international standards would hold a maximum of 2,448 persons, was deemed by prison authorities to be 4,895 persons. By their calculation, this produced a 30 percent overcrowding rate. The National Penitentiary in Port-au-Prince, built in 1915, was the most severely crowded. Enlarged over the years to a total capacity of 1,200, it held 3,159 inmates in October.

The already-burdened prison system had insufficient facilities to hold prisoners, especially as new arrests mounted during the year. Overcrowding prevented the constitutionally mandated separation of violent from nonviolent prisoners or convicted individuals from individuals in preventive detention. Many convicted prisoners were incarcerated for long terms in temporary holding cells, particularly in the provinces.

As of October, of the 6,370 prisoners in custody, only 1,056 had been tried and sentenced, while 5,314 detainees still awaited trial.

The prison population did not include the large number of persons who were held in police stations around the country in "preventive detention" (without a hearing or charges being filed) for longer than the constitutionally mandated 48-hour maximum detention period. Inadequate record keeping and data entry at the police stations made it difficult to estimate the number of persons held in preventive detention.

The International Committee of the Red Cross (ICRC), MINUSTAH, the NGO National Human Rights Network for Haiti, and the government's Office for the Protection of Citizens monitored prison conditions in cooperation with the Department of Prison Administration.

The authorities freely permitted the ICRC, the Haitian Red Cross, and human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical care, food, and legal aid. The primary concerns for most groups monitoring the conditions in the prisons related to adequate water, food, and sanitation; however, the government continued to lack the resources to implement necessary changes.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or on the basis of a warrant by a legally competent official such as a justice of the peace or magistrate. The authorities must bring the detainee before a judge within 48 hours of arrest. In practice officials frequently ignored these provisions. With so many detainees being held in preventive detention without the benefit of a hearing and in violation of the 48-hour rule, it was difficult to determine how many of them were arbitrarily arrested or detained.

Role of the Police and Security Apparatus

The 8,949-member HNP has the sole responsibility for law enforcement and maintenance of order in the country; there are no military forces. The HNP is an officially autonomous civilian institution under a director general who controls the force. The Ministry of Justice, through its minister and the secretary of state for public security, provides oversight.

Under the director general's leadership, the HNP conducted at times swift investigations of officer malfeasance, leading to the arrest or termination of employment of suspected officers. Authorities relieved more than 700 officers from duty because of malfeasance.

Reform and professionalization of the HNP continued as international programs provided human rights and other training and equipment for new recruits and for existing officers; police station upgrades; security and humanitarian improvements to prisons; vehicles, computers, and communications equipment; and other technical assistance. Nevertheless, efforts to reform the HNP remained incomplete, and HNP officers continued to be implicated in corruption, kidnapping, and narcotics trafficking.

On May 31, the HNP in Leogane seized 924 pounds of cocaine and arrested 11 persons, four of whom were HNP officers.

Although the HNP's efforts resulted in significantly increased levels of physical security and policing effectiveness, in many cases the HNP could not prevent or respond to gang-related and other societal violence due to an insufficient number of officers and inadequate equipment or training. However, UN Civilian Police (UNCIVPOL) and international donor assistance strengthened the HNP's capacity and effectiveness.

Arrest and Detention

Police sometimes apprehended persons without warrants or on warrants not issued by a duly authorized official. The authorities occasionally detained individuals on unspecified charges or pending investigation.

On November 24, the government's chief prosecutor for Port-au-Prince instructed the HNP to detain overnight 88 young persons, the overwhelming majority of them minors. At the time of the arrests, the youth were participating in a morning school party in a facility owned by an alleged trans-sexual. Police arrived at the scene due to complaints of noise and unsubstantiated rumors that inappropriate activity was occurring in the party venue. The prosecutor did not charge the minors with any offenses, and the police station did not have the facilities or resources to adequately care for the young detainees; however, the authorities refused to release them, even though the authorities had earlier released 22 of the initial 110 persons detained.

On November 25, authorities arrested two persons and briefly detained them when their vehicle failed to quickly clear a path for the Port-au-Prince prosecutor's vehicle. The persons were released that same day after a number of NGOs complained about the arbitrary arrest, with one media outlet calling the traffic infraction "purely imaginary."

Police frequently disregarded the legal requirement to present detainees before a judge within 48 hours, often because of the sluggishness of the judicial system. Consequently, many detainees were held for extended periods in preventive detention without being informed of charges against them. Prolonged preventive detention remained a serious problem.

Bail was available at the discretion of the investigative judge. Bail hearings were not automatic, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds such as a need for medical attention. Detainees generally were allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the government did not provide free counsel.

Prisoners sometimes remained in detention after they were acquitted. The National Center for State Courts confirmed that an inefficient judicial record system occasionally caused detainees to remain in prison for weeks or months after a court had ordered their release.

The government detained repatriated citizens upon their return for a period of up to two weeks if the citizen had a criminal record in Haiti. The authorities used the deportee's time in detention to assess whether the citizen planned to participate in criminal activities. The government modified its earlier policy of detaining all repatriated citizens who completed a prison sentence abroad because of lack of available space in prisons and detention centers, and because the International Organization for Migration continued its program to help the government reintegrate the deportees into society.

e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, in practice the judiciary was subject to significant influence by the executive and legislative branches. Judges assigned to politically sensitive cases complained about interference from the executive branch. There were widespread and credible reports of judicial corruption.

Systemic problems--including a shortage of funding and adequately trained and qualified justices of the peace, judges, and prosecutors--created a large backlog of criminal cases, with many detainees waiting months for a court date.

Another systemic problem in the judicial system created a barrier for crime victims having their cases investigated. After a citizen reported his or her victimization, justices of the peace charged inconsistent "fees" to initiate a criminal prosecution. These fees varied across jurisdictions and justices. The fees, which effectively barred some citizens from full access to the judicial system, were tantamount to corruption.

Judges increasingly conducted legal proceedings exclusively in Creole rather than French (spoken by only a minority of citizens). However, since some proceedings were conducted in French without translation, language remained a barrier to full access to the judicial system.

In most regions judges lacked basic resources and professional training. An internationally funded program provided training for judges, prosecutors, and other court personnel, furnished technical assistance in drafting rules and procedures, and worked with the parliament to draft legislation that was enacted to establish a judicial council to oversee the court system. In addition, the UN Development Program provided training for judges and court personnel in Port-au-Prince, Jacmel, Port-de-Paix, and Fort Liberte.

Trial Procedures

The judicial apparatus follows a civil law system based on the Napoleonic Code. Although the constitution provides for the right to a fair public trial, this right was widely ignored in practice. The constitution also 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 they waive this right. Most accused persons could not afford legal counsel for interrogation or trial, and the law does not require that the government provide legal representation. However, some defendants had access to counsel during trials. While the constitution provides defendants with a presumption of innocence, the right to be present at trial, the right to confront witnesses against them, and the right to present witnesses and evidence on their own behalf, in practice corrupt and ill-trained judges frequently denied defendants these rights.

At the lowest level of the justice system, justices of the peace issue warrants, adjudicate minor infractions, mediate cases, 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. Thirty appeals court judges hear cases referred from the first instance courts, and the 11-member Court of Cassation, the country's highest court, addresses questions of procedure and constitutionality.

The Code of Criminal Procedure does not assign clear responsibility for investigating crimes, dividing the authority among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often received files that were empty or missing police reports. Authorities rarely conducted autopsies and seldom issued reports. The law provides for at least two criminal court sessions (assises) per year in each of the 15 first-instance jurisdictions for all major crimes

requiring a jury trial, with each session generally lasting two weeks. However, this did not occur in practice, which was a significant reason for lengthy delays for prisoners who were awaiting trial. The number of court sessions held did not conform to the legally mandated requirement because many courts lacked adequate funding for staff salaries, transportation for court staff and defendants, or funds for meals and incidentals during long trials.

There was one criminal court in Port-au-Prince, the largest jurisdiction, which has held sessions only once a year since 1998. A winter session, which began in December 2006, was interrupted by a strike of judicial system workers. That court session in Port-au-Prince, which resumed on February 12, handled only cases originally on its December docket. The Port-au-Prince jurisdiction court met again during the summer.

Traditionally, each annual assise processes approximately 10 jury trials. With international donor assistance, some jurisdictions, St. Marc and Port-au-Prince, for example, processed significantly more, 29 and 73 cases respectively. Still, since most of the 3,055 detainees awaiting trial in the National Penitentiary were held for serious crimes that warranted a jury trial, they were effectively denied the right to a prompt trial.

Political Prisoners and Detainees

The government generally did not hold political prisoners; however, since most prison detainees were awaiting trial, it was possible that some of them were being held for political reasons.

In the case of four high-profile detainees held in the 2004 massacre of Aristide opponents near St. Marc, one died of tuberculosis in March and another, Amanus Mayette, was provisionally released after three years in detention pending trial for his alleged participation in the massacre. The other two defendants remained in detention for other alleged crimes unrelated to the 2004 massacre.

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

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

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government and elected officials generally respected these rights in practice. However, there were a few incidents of a government officer and elected officials harassing journalists. There were also numerous reports of gang members killing or harassing journalists.

In August the media reported that an elected official in Cap-Haitien, accompanied by several armed persons, went to a radio station to complain about the station's unfavorable reporting about the elected official. The elected official claimed that the report misrepresented the situation.

On October 8 and 9, the government prosecutor in Port-au-Prince reportedly targeted a radio station owner with verbal threats of investigation and arrest over the station's unfavorable reporting concerning the prosecutor. The prosecutor claimed that his comments were misinterpreted.

On December 3, journalists in St. Marc decided to boycott the activities of the city's mayoral office. The journalists accused the mayor of threatening them because of earlier stories implicating the mayor with corruption.

In March radio journalist Robenson Casseus received anonymous death threats over the telephone after broadcasting his support for a political party, and his home was burned down.

On April 13, gang members killed Edouard Johnson, a journalist, regional Lavalas spokesman, and leader of Zantray--an organization representing practitioners of voodoo--because he spoke out against the gangs in Gonaives. The HNP arrested a number of suspects.

On May 16, gang members killed Alix Joseph, a journalist and antigang radio station administrator in Gonaives. On July 13, the HNP arrested Remilien Emmanuel as a suspect in the killing.

On August 30, a court sentenced two young men to life in prison for the 2005 killing of poet and journalist Jacque Roches. The 2000 murder of journalist and activist Jean Dominique remained unsolved; on April 4, unknown assailants killed Robert Lecorps, arrested but never charged in Dominique's murder, on the anniversary of the latter's death.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, provided that practice does not disturb law and order, and the government generally respected this right in practice.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against members of religious groups, including anti-Semitic acts. The Jewish community was very small.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits the involuntary exile of citizens, and there were no reports of its being applied. However, there were anecdotal reports that former government officials imposed internal and external exile upon themselves and their families for fear of retaliation or prosecution.

Protection of Refugees

The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution, but it did not routinely grant refugee status or asylum.

Since there were no known refugees in the country, there was no opportunity for the government to cooperate with the Office of the UN High Commissioner for Refugees.

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

The law provides citizens with the right to change their government peacefully through free and fair elections based on universal suffrage, but the government did not provide citizens the full opportunity to exercise this right during the year.

Elections and Political Participation

Multiparty presidential and parliamentary elections were held in February and March 2006 in a relatively stable and peaceful process. Rene Preval won the presidency with 51 percent of the votes. In December 2006 the Provisional Electoral Council (CEP) conducted elections to fill 8,820 local government positions throughout the country. There were few incidents of violence or fraud, and citizens and international observers considered the election process acceptable and the results credible.

On April 29, the CEP supervised elections for one seat in the Chamber of Deputies in the commune of La Chapelle, 10 mayors, six town delegates, 29 communal section assemblies (ASEC), and 27 communal section administrative councils

(CASEC). Although there were credible reports of sporadic violence and the HNP made 18 arrests, the elections were considered peaceful and fair, with credible results.

At the completion of local and municipal elections, the 1987 constitution requires that local officials hold a series of indirect elections. The ASECs select representatives to the municipal assemblies, where they are joined by the elected town delegates. The municipal assemblies, in turn, send representatives to the 10 departmental assemblies. The departmental assemblies are responsible for selecting a three-member departmental council, one representative to serve on the interdepartmental council, and most importantly, nominating candidates for the Permanent Electoral Council. The final nine members of the Permanent Electoral Council are to be chosen from among these nominees by all three branches of the national government--the executive, the parliament, and the judiciary. The president designates the council's director general.

Since these indirect elections did not take place, the departmental assemblies and councils were never established, and there was no Permanent Electoral Council to supervise senatorial elections, originally expected in November. All elections since 1987 have been overseen by provisional electoral councils with fixed mandates. The government argued that the CEP's mandate terminated with the conclusion of the April 29 elections.

Numerous solutions were proposed for this electoral crisis. Many persons, including the president, declared that the constitutionally mandated process of frequent elections was either too impractical or too expensive. Since many politicians, including the president, viewed the CEP that oversaw the April 29 and previous elections as inept or corrupt, they were unwilling to extend its mandate and allow it to conduct new elections. The media also aired arguments for and against extending the mandate of the senators facing reelection.

Although the government neither implemented the constitutionally mandated mechanisms for constituting the Permanent Electoral Council nor held elections to fill the senate seats scheduled for reelection, in December the government established another Provisional Electoral Council. After a consultative process that included various societal sectors, the government swore in new members on December 12 and a new CEP director general on December 19. The new CEP's mandate is to organize the senatorial elections, the constitutionally mandated indirect elections, and by-elections for posts that may become vacant during its mandate.

The monetary deposit required of female candidates for political office (if sponsored by a recognized party) was one-half that required of male candidates. Eight women were elected to the 129-seat National Assembly, and there were two women in the 18-member cabinet.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. According to the World Bank's worldwide governance indicators, government corruption was a severe problem. Corruption remained widespread in all branches and at all levels of government. High-level officials and parliament members accused of official corruption were not prosecuted within the judicial system, but before the Senate, an event that rarely happened. The factors contributing to corruption in the country were poverty, lack of economic opportunity, and weak governmental institutions (especially relating to law enforcement and the judiciary).

The HNP, with the assistance of UNCIVPOL, continued efforts to eliminate corruption within its ranks, and the government embarked on a highly publicized anticorruption campaign that targeted businesses and private persons. With the exception of corruption allegations brought against the CEP, however, the government focused relatively little attention on corruption within the judicial system and within its ministries, with the exception of the Ministry of Foreign Affairs.

The authorities arrested or detained a few low-level public servants, mainly customs officials, on corruption or corruption-related charges during the year. The government accounting authority initiated an investigation of alleged mismanagement of funds at the Ministry of Foreign Affairs in 2004-06. At year's end the investigation remained open.

There are no financial disclosure laws for public officials. The Financial Control and Information Office is responsible for combating financial crimes, but the government allowed the government prosecutor for Port-au-Prince to take the lead in combating corruption. His methods, which were at times controversial, prompted the Senate to threaten a no-confidence vote in the government. The business community, the HNP, and NGOs publicly questioned the prosecutor's commitment to applying the laws objectively.

No law requires public access to government information, but there were no reports that the government prevented public access to government information.

Section 4 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. The government cooperated with the various human rights observation missions and generally acknowledged their views but lacked the capacity to implement their recommendations. The government permitted special missions and the continued presence of UN bodies and other international organizations such as the ICRC.

At the national and international levels, human rights organizations were active and effective in monitoring human rights issues, meeting frequently with government officials. Human rights organizations made media appearances and published objective reports on violations. Human rights groups continued to focus on persistent problems such as killings, rapes, kidnappings, prison conditions, impunity for criminals, trafficking in persons, and the status of children and women.

The Chamber of Deputies and the Senate each had a human rights committee; however, neither committee published any reports or introduced any legislation during the year.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

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

Women

The law prohibits and provides penalties for rape but does not recognize spousal rape as a crime. The penalty for rape is a maximum of 10 years' imprisonment; for gang rape and premeditated, aggravated assault it is 15 years of hard labor. 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 not excused. Rape remained commonplace and underreported, and gangs often raped female kidnapping victims. Although comprehensive figures were not available, NGOs concluded that the number of reported rapes and rape victims seeking medical treatment increased compared with 2006.

On July 13, the Ministry for the Condition and Rights of Women, in conjunction with other international organizations, initiated an outreach project to provide medical, psychological, and legal counseling for female rape victims. Earlier in the year, this ministry signed protocols with the Ministry of Justice and Public Security and the Ministry of Public Health and Population that established a free and accessible medical certificate that victims of sexual aggression, including rape, could use if they decided to press charges against their attackers. Nevertheless, the HNP reported that substantial disincentives remained to reporting rapes, in particular some women's desire to protect themselves from the social or physical consequences of making accusations against the aggressor, who often lived in the community; the lack of facilities or services at police stations to aid rape victims; the need to pay a nominal fee for medical services needed to obtain the free certificate; and finally, the corrupt judicial system that fostered a perception of impunity.

On September 5, authorities arrested an HNP officer in Les Cayes for raping a 17-year-old girl. The officer, who remained in detention pending trial, had been arrested previously for rape but freed by the judicial system.

The law prohibits and provides penalties for domestic violence, but women's rights groups and human rights organizations said that domestic violence against women remained commonplace and underreported. A 2006 report from Haitian Women in Solidarity, a human rights organization for women, estimated that eight of 10 women experienced domestic violence. Women's shelters and organizations reported that armed gangs frequently raped and harassed girls and women. Police rarely arrested the perpetrators or investigated the incidents, and the victims sometimes suffered further harassment in retaliation and feared reprisals from the perpetrators. Corrupt judges often released suspects arrested for domestic violence and rape. The government, with the support of international donors, sponsored a program for victims of violence that provided medical and legal assistance for victims, as well as a campaign denouncing violence against women.

Although prostitution is illegal, it remained a widespread problem, particularly among women and girls.

The law does not specifically prohibit sexual harassment, although the labor code states that men and women have the same rights and obligations. Reports of sexual harassment in the workplace were not available, although observers suggested that sexual harassment occurred in the country. Such incidents went unreported because of high unemployment and because citizens had little confidence in the ability of the judicial system to protect them.

Women did not enjoy the same social and economic status as men. 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 had limited employment opportunities, such as domestic labor and sales. Laws governing child support recognize the widespread practice of multiple-father families but rarely were enforced. Female employees in the government or private sector seldom were promoted to supervisory positions.

Excepting the HNP, there were no government efforts to combat economic discrimination. The HNP, whose force included approximately 5 percent women, experienced a dramatic increase in women recruits when it announced a drive to increase the proportion to 30 percent.

Domestic women's rights groups were small, localized, and received little publicity.

Children

Governmental agencies and programs to promote children's rights and welfare existed, but the government lacked the capacity and the resources to adequately support or enforce existing mechanisms.

According to the constitution, public primary education is free and compulsory, but in practice many children did not have access due to the insufficient number of public schools. Nearly 90 percent of the approximately 15,000 schools in the country were managed by religious institutions, community organizations, or NGOs. The official school year begins in early September and ends in early June. Many children began their school year as late as January because of their families' inability to pay private school fees. Poorer families sometimes rationed education money to pay school fees only for male children. In August and September, the government disbursed a financial supplement to help parents cover educational costs.

According to the government, 40 percent of children never attended school. Of those who did, less than 15 percent graduated from secondary school. The Ministry of Education estimated net primary school enrollment at 65 percent but acknowledged that 500,000 children ages six to 11 were not in school; the actual number was thought to be much higher. In addition, nearly 75 percent of adolescents were not in school. No government programs existed to address the educational and social reinsertion needs of youth (ages 15 to 24) who had never attended school.

Government hospitals provided fee-based health care to children in pediatric wards. Boys and girls had equal access to these pediatric services.

Child abuse was a problem. There was anecdotal evidence that in very poor families caretakers deprived the youngest children of food to feed older, income-generating children. In January 2006 a UN independent expert stated that 47 percent of sexual assaults involved minors as victims.

There were credible reports that large numbers of children were trafficked within the country and forced to work as domestic servants. Port-au-Prince's large population of street children included many who were dismissed from or fled employers' homes. The Ministry of Social Affairs provided minimal assistance, such as food and temporary shelter, to street children.

Trafficking in Persons

The law does not specifically prohibit trafficking in persons, although there is labor legislation and other laws, including those prohibiting and penalizing slavery, kidnapping, and violence against women, which could be used to combat human trafficking. There were reports that persons were trafficked from, through, and within the country.

Persons were trafficked from and within the country for commercial sexual exploitation. In a highly publicized case in the Dominican Republic, the accused claimed to have had contact with a trafficking network in Haiti that trafficked young women from Haiti for sexual exploitation in the Dominican Republic. Dominican women also were trafficked into Haitian brothels.

The country was a source for persons trafficked to the Dominican Republic, the Bahamas, the United States, Europe, and Canada. Trafficked Haitians reported being subjected to conditions of bonded servitude, slavery, and forced labor. Extreme poverty and lack of employment were among key risk factors supporting human trafficking. Traffickers also used Haiti as a transit point for third-country nationals.

Internal trafficking of children for domestic labor remained a significant problem. Rural families continued to send young children, particularly girls, to more affluent city dwellers to serve as *restaveks* ("live with" in Haitian creole) in exchange for that child's room and board. While some *restaveks* received adequate care, many receiving families compelled the children to work long hours, provided them little nourishment, and frequently abused them. The majority of *restaveks* worked in low-income homes where conditions, food, and education for nonbiological children were not priorities. While difficult to quantify, the government and the UN Children's Fund estimated that the number of *restaveks* ranged from 90,000 to 300,000.

The government acknowledged the problem of internal trafficking, including that of children. The Brigade for the Protection of Minors (BPM), a branch of the HNP, investigated cases of child trafficking and monitored movement of children across the border with the Dominican Republic. However, in addition to the lack of specific penalties for trafficking, the lack of

resources, training, and institutionalized procedures remained barriers to its operational capacity. There were so many street children in Port-au-Prince who were victims of domestic trafficking that the BPM did not as a matter of routine try to help them.

NGOs were in the forefront in combating trafficking of children under the guise of international adoptions. On February 14, authorities arrested the operator of an orphanage and charged her with trafficking 32 children. On August 8, authorities in conjunction with two NGOs rescued 47 children from a rogue orphanage. Many of the children's parents were unaware of the true activities of the orphanage. The orphanage remained open at year's end.

Persons with Disabilities

There were no reports of discrimination by the government against persons with disabilities in employment, education, access to health care, or the provision of other state services. However, because of widespread and chronic poverty, a shortage of public services, and limited educational opportunities, persons with disabilities were severely disadvantaged. No governmental mandates or programs operated to ensure that persons with disabilities were treated equitably or, for example, had access to public buildings.

Other Societal Abuses and Discrimination

Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs sponsored by foreign donors and efforts by HIV/AIDS activists attempted to change that stigma.

Section 6 Worker Rights

a. The Right of Association

The law allows workers, except public sector employees, to form and join unions of their choice. The law also requires that a union must have a minimum of 10 members and register with the Ministry of Labor and Social Affairs within 60 days of its formation. The law prohibits employers, management, and anyone who represents the interests of employers from joining a union. In theory unions were independent of the government and political parties, but in practice most unions were extensions of political parties. Nine principal labor federations represented approximately 5 percent of the labor force.

The law prohibits antiunion discrimination by employers, who are liable to pay a monetary fine for each individual violation. The law does not specify that employers must reinstate workers illegally fired for union activity. Illegally fired workers have the right to recoup any compensation to which they are entitled. The Labor Court adjudicates all labor disputes, but it was considered weak and ineffectual.

b. The Right to Organize and Bargain Collectively

While the law protects trade union organizing activities and stipulates fines for those who interfere with this right, in practice the government made little effort to enforce the law.

High unemployment rates and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts.

Collective bargaining was 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.

Although workers had access to labor courts established to resolve common labor-management disputes, the courts' judgments were not enforced. The courts function under the supervision of the Ministry of Labor and Social Affairs and adjudicate minor conflicts, but unions stated that the process was inefficient. Seven labor courts operated in Port-au-Prince, and in the provinces plaintiffs utilized municipal courts.

The labor code provides for the right to strike, except for managers, administrators, other heads of establishments, and public utility service workers, and workers exercised this right in practice. The labor code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security."

Despite the prohibition, there were a few public sector strikes during the year, usually related to the government's failure to pay staff in a timely manner. In July the telephone workers' union decided to strike over management's plans to modernize and rationalize the state telephone company. The government did not interfere in the labor dispute. On June 12 and 13, drivers in the public transport union, which is not part of the public sector, went on strike over fuel price increases that were

initiated by the government. In this case, the government reached a settlement that allowed for a small reduction in the price of gasoline.

There is one export processing zone (EPZ) located in Ouanaminthe, a town on the Dominican border. Legislation governing free trade zones provides that the labor code applies in the EPZs.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including of children; however, there were reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The minimum employment age in all sectors is 15 years, but the minimum age for apprenticeships is 14. The law prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector. However, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers. In 2003 parliament repealed the chapter of the labor code that governed treatment of child domestic servants but neglected to enact a penalty provision. Consequently, there was no legal penalty for families that employed children in domestic labor as *restaveks*, the primary type of child employment. The unintended effect of the repeal was to decriminalize and deregulate child domestic labor. Children also worked on the street as vendors or beggars, and some were involved in prostitution.

Although the government designated the Institute for Social Well-Being and Research to implement and enforce child labor laws and regulations, resources were inadequate to fund programs to investigate exploitive child labor cases throughout the country.

e. Acceptable Conditions of Work

The legal minimum daily wage, which was approximately \$2.00 (70 gourdes), was established by the Tripartite Commission of Salaried Workers, whose six members are appointed by the president (two representatives each of labor, employers, and government). This wage did not provide a decent standard of living for a worker and family. Some workers were paid on a piece-rate basis and earned more than the minimum wage. The majority of citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply and daily wages of \$0.42 (15 gourdes) were common. Many women worked as domestic employees, where minimum wage legislation also does not apply.

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. There are also provisions for the payment of overtime and a prohibition of excessive compulsory overtime. However, the law grants exemptions to health care, lodging, food and beverage, and entertainment establishments. Family establishments that employ only family members and managerial positions are also exempt. The Labor Directorate also may grant exemptions for other employers not specifically exempted by the law. These laws were not effectively enforced. In addition, the law is silent concerning public sector employees. Consequently, HNP officers worked 12-hour shifts six days per week and received no overtime.

The law also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines, but the Ministry of Labor and Social Affairs did not enforce them effectively. There were no formal data, but unions alleged that job-related injuries were prevalent in the construction industry and public works sectors. Although they have the legal right to do so, in practice workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

