



U.S. DEPARTMENT OF STATE  
DIPLOMACY IN ACTION

## 2008 Human Rights Report: Haiti

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

**2008 Country Reports on Human Rights Practices**

**February 25, 2009**

Haiti is a constitutional republic with a population of approximately 9.3 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 2006. Parliament confirmed Michele Pierre-Louis as the new prime minister in September, filling a vacancy that had existed since the April removal of former prime minister Jacques-Edouard Alexis. Elections for one-third of the Senate's members, originally scheduled for late 2007 and rescheduled to May, did not occur, leaving the Senate at two-thirds membership for most of the year. Civilian authorities generally maintained effective control of the security forces, but in some instances elements of the Haitian National Police (HNP) acted independently. The United Nations Stabilization Mission in Haiti (MINUSTAH) was made up of approximately 9,000 military and police officers and civilians who assisted and advised government and security authorities.

The following human rights problems were reported: failure to hold timely parliamentary elections; 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 worker 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 known politically motivated killings. However, HNP officers killed several persons, who were usually armed and resisting arrest; there were also allegations of HNP involvement in unlawful killings. The government and the HNP often lacked sufficient expertise and resources and often did not conduct thorough and reliable investigations.

On July 11, Renece Cheron, arrested in the case of the kidnapping of a three-year-old, died after suffering physical abuse while in HNP custody. At year's end the case remained under investigation by the Office of the HNP Inspector General with no further developments.

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.

Organized criminal gangs mainly were responsible for the arbitrary or unlawful deprivation of life. In some areas of Port-au-Prince formerly known as "No Law" areas, notably Martissant, criminals and gangs operated with near impunity.

During the year police arrested three suspects, including a 15-year-old minor, for the kidnapping, rape, and murder of 20-year-old Farah Natacha Kerby Dessources. One adult suspect died in July as a result of gunshot wounds sustained during his arrest. The other two suspects remained in detention at year's end pending completion of the investigative phase.

On May 20, despite payment of ransom, unknown actors kidnapped, tortured, and killed a 16-year-old student who was returning home from school.

In response to continuing violence perpetrated by suspected criminals, residents in some neighborhoods resorted to vigilante justice. Nongovernmental organizations (NGOs) also reported vigilante incidents including shootings, beatings, and lynchings in rural areas, an area where effective judicial and law enforcement institutions largely were absent. Police statistics documented 70 lynchings during the year.

#### b. Disappearance

There were no reports of politically motivated disappearances by government agents.

Current and former HNP officers were accused of participation in kidnappings. Since some HNP officers were involved in narcotics trafficking, credible observers assumed HNP officers' complicity in narcotics trafficking-based disappearances.

On July 3, the HNP arrested three Cap Haitien police officers for allegedly heading a gang responsible for multiple kidnappings. An investigating judge dismissed the case against the first officer. At year's end the second suspect remained in prison awaiting trial, and the third suspect was a fugitive.

On December 4, Gonaives Police Commissioner Ernst Dorfeuille Bouquet was arrested and charged with the November 29 kidnapping and murder of Monica Pierre, a convicted drug trafficker and alleged personal associate. Other police officers also were linked to the case, but there were no further arrests as of year's end.

Armed and organized criminal elements continued kidnapping during the year. While payment of ransom resolved most cases, some victims were tortured, raped, and killed while in their kidnappers' custody. There were 263 reported kidnapping victims during the year, compared with 237 in 2007. Many kidnappings were never reported officially.

The August 2007 disappearance of Lovinsky Pierre-Antoine, a supporter of former president Jean-Bertrand Aristide and a potential senatorial candidate, was unresolved. Pierre-Antoine remained missing at year's end.

#### 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. Criminal gangs, however, frequently employed these practices.

On February 5, an 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 September 12, members of the HNP's crowd control unit reportedly beat three local residents in their home as the unit reacted to a dispute between the family and a girlfriend of one of the implicated officers. The case was referred to the corrections court on September 24, and there were no further developments at year's end.

On September 25, HNP officers beat Natacha Jeune Saintil after she objected to their arrest of her brother without a warrant. She underwent emergency surgery for a perforated intestine and broken pelvis. The four officers involved were on administrative leave pending results of the investigation.

MINUSTAH's Office of Internal Oversight Services investigated cases of alleged sexual exploitation and abuse of minors by MINUSTAH security forces during the year and submitted completed investigations to UN headquarters for final disposition. The government did not receive expected reports from UN headquarters or the government of Sri Lanka concerning the accusations against Sri Lankan peacekeepers of "transactional" sexual exploitation or sexual involvement with minors in 2007.

#### Prison and Detention Center Conditions

Prisons and detention centers throughout the country remained overcrowded, poorly maintained, and often unsanitary. The destruction of three prisons in 2004 and the large number of pretrial detainees in custody resulted in severe overcrowding. There were credible reports that in some prisons, detainees slept and stood in shifts due to lack of space. Some prisons had no beds for detainees. Many prison facilities lacked basic services such as adequate kitchens, medical services, electricity, and medical isolation units for contagious patients. Most prisons also periodically lacked water.

Many prisoners and detainees suffered from a lack of basic hygiene, malnutrition, poor quality health care, and the presence of rodents. The incidence of preventable diseases such as AIDS, malaria, and tuberculosis remained a serious problem.

The overburdened prison system had insufficient holding facilities, especially as new arrests mounted during the year. The National Penitentiary in Port-au-Prince held prisoners in its intake room. Overcrowding prevented the constitutionally mandated separation of violent from nonviolent prisoners and convicts from detainees. Provincial authorities, in particular, incarcerated many convicted prisoners for long terms in temporary holding cells. Successful escapes occurred and sometimes included persons charged with serious crimes. Police stations served as prisons in the cities of Gonaives and Petit Goave, whose prisons were destroyed in 2004. They were severely overcrowded. Gonaives, for example, housed 214 long-term prisoners in its local police station. In February several facilities released prisoners in an effort to reduce overcrowding.

Prisons also suffered from guard abuse, corruption, and indifference. Prisoners reported physical abuse by correctional officers; officers reported limiting their exposure to cell blocks due to insufficient staffing and security.

At year's end the total prison population, including both pretrial detainees and sentenced prisoners in the country's 17 prisons, was 8,204; international standards supported a maximum population capacity of 2,448 persons. The National Penitentiary in Port-au-Prince, built in 1915, continued to be severely overcrowded. Enlarged to a total capacity of 1,200, it held 3,908 inmates in December.

At year's end approximately 88 percent of the country's 316 incarcerated minors were in prolonged pretrial detention, several since 2005.

Port-au-Prince maintained separate penitentiaries for adult men and women. Both penitentiaries suffered from overcrowding, poor maintenance, and unsanitary conditions, but the problems at the men's penitentiary were more

severe. In the 15 other detention centers throughout the country, space permitting, male and female prisoners were held in separate cells. Children 16 and older were confined with adults. Minors and adults sometimes occupied the same cells due to lack of available space. Pretrial detainees were held together with convicted prisoners.

Most boys were held in a separate facility in Port-au-Prince. By law, that facility may hold only boys ages 13 to 15, although a few children claimed to be as young as eight and others as old as 17 years of age. Female minors at the Petionville Women's Penitentiary were segregated from adult prisoners in a separate but overcrowded cell.

As of December 1, 764 of the 8,204 prisoners in custody had been tried and sentenced, while 6,440 still awaited trial.

Prison population statistics did not include the large number of persons held in police stations around the country in "preventive detention" (without a hearing or filed charges) 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 (see section 1.d.).

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

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. Primary concerns for most groups monitoring the conditions in the prisons related to adequate water, food, and sanitation. Although some programs, such as efforts to improve sanitation at the National Penitentiary, reported success, the government did not implement all changes recommended by NGOs and donor governments.

#### 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. Officials frequently did not comply with these provisions in practice.

#### Role of the Police and Security Apparatus

MINUSTAH, deploying 6,854 soldiers, 1,858 police officers, and 494 civilian UN officials, trained and supported the national police force, provided disaster recovery assistance, and assisted the government in suppressing gang-related violence.

The 8,546 member HNP has sole responsibility for law enforcement and maintenance of order; there are no military forces. The UN estimated that the country needs a force of at least 14,000 police. The HNP is an officially autonomous civilian institution under the authority of a director general and includes police, corrections, and coast guard functions in separate units. The Ministry of Justice, through its minister and the secretary of state for public security, provides oversight.

There were reports of corruption in the HNP, which the HNP has mechanisms to investigate. For instance, affluent prisoners sometimes obtained favorable conditions of detention. A businessman arrested for fraud visited a local hospital for emergency medical services but he resided there many months after his recovery. The HNP conducted investigations of police malfeasance, leading to the arrest or termination of employment of some officers. The

Inspector General's (IG) Office of the HNP accepts and investigates allegations from any complainant of police wrongdoing, including human rights violations, complicity in criminal acts, and other violations. The IG established two toll-free hot lines to accept citizen complaints--one directly to the HNP and one to MINUSTAH. Upon completion of investigations, the IG forwarded its findings to the director general of the HNP and high-level Ministry of Justice officials for appropriate action. IG investigations revealing criminal activity were referred to the regional prosecutor.

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. During the year more than 2,000 police officers were vetted for human rights abuses, complicity in criminal acts, and other violations. Nevertheless, reform efforts remained incomplete, and HNP officers occasionally were implicated in corruption, kidnapping, and narcotics trafficking. The Corrections Department of the HNP did not perform the same vetting and background procedures on new employees and guards as its HNP law enforcement counterparts; the director general dismissed 19 corrections cadets prior to graduation due to improper, biased recruiting. With the assistance of the National Network for the Defense of Human Rights and the international community, the HNP participated in human rights training.

A MINUSTAH poll reported that 58 percent of the population perceived improvement in the HNP during the year. In another poll 66 percent of respondents listed the HNP as the most trusted government institution.

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. In April MINUSTAH provided assistance when violent protests in Les Cayes and Port-au-Prince overwhelmed HNP responders.

#### Arrest and Detention

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

In areas with little or no HNP presence, justices of the peace frequently and illegally sent members of locally elected councils to execute arrest warrants.

Police frequently did not observe the legal requirement to present detainees before a judge within 48 hours, and prolonged preventive detention remained a serious problem. For example, judges sometimes failed to report for work or the police lacked vehicles to transport the accused to courthouses. Consequently, many detainees were held for extended periods in preventive detention without being informed of charges against them.

Investigative judges granted bail at their discretion. Bail hearings were not routine, 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 routinely did not provide free counsel. In contrast to past years, persons who were found not guilty were released quickly.

The government detained repatriated citizens upon their return for approximately two weeks if the citizen had a criminal record or if the crime committed abroad was considered minor. The authorities used the deportee's time in detention to assess whether the citizen planned to participate in criminal activities and to locate local family members. Because of lack of available space in prisons and detention centers, the government made efforts to release the deportees quickly. Deportees, many of whom spent most of their lives abroad, alleged widespread

discrimination and social abuse after returning home.

The Detention Commission, established in June 2007, studied outstanding cases dating from 2004 and released 892 prisoners between June 2007 and March 2008. Days after issuing its final report in March, the commission disbanded. Media and credible groups reported that the commission permitted numerous dangerous persons to reenter local communities.

#### e. Denial of Fair Public Trial

Although the law provides for an independent judiciary, in practice the executive and legislative branches exerted significant influence on the judicial branch. Judges assigned to politically sensitive cases complained about interference from the executive branch. Credible reports of judicial corruption were commonplace.

On June 23, the Ministry of Justice and Public Security fired two judges in Les Cayes for freeing drug traffickers in exchange for money.

Pervasive and long-standing 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, and many detainees waited months for a court date.

Another problem in the judicial system created a barrier for crime victims requesting investigation of their cases. After a citizen reported being the victim of a crime, some justices of the peace charged varying "fees" to initiate criminal prosecutions. Amnesty International reported that some judges extorted money from rape suspects to avoid investigation and prosecution and sometimes brokered marriages between rape victims and their attackers instead of pursuing criminal investigations.

In mid-April justices of the peace began charging private citizens fees of up to 20,000 gourdes (\$500) for a legal document to certify damage to citizens' personal property during rioting that occurred that month. On April 24, the Chief Prosecutor's Office of Port-au-Prince demanded that all justices of the peace return these fees.

Access to the judicial system was limited also by long distances and limited transportation between citizens' places of residence and the courts. In most regions judges lacked basic resources and professional training. However, the School for Magistrates, closed since 2004, resumed in-service training of justices of the peace. During the year 76 justices from Port-au-Prince completed the intensive six-week training program. An internationally funded program provided training for judges, prosecutors, and other court personnel, furnished technical assistance in drafting rules and procedures, and assisted in curriculum planning for the school. The National Center for State Courts provided assistance with training and curricula for judges and court personnel.

#### Trial Procedures

The judicial apparatus follows a civil law system based on the Napoleonic Code. In practice authorities widely ignored the constitutionally provided right to a fair public trial. 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, judges frequently denied defendants these rights. Recruitment and advancement of judges remained poorly regulated pending full implementation of a 2007 law governing qualifications and

requirements for all magistrates and judicial personnel.

There was no action taken on judicial reform laws passed in 2007 that require the formation of a supreme judicial council which would include members of the judiciary and civil society and prescribe the re-opening of an academy for judges.

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 criminal investigations and divides authority among police, justices of the peace, prosecutors, and investigative magistrates. Authorities often failed to question witnesses or complete investigations, and examining magistrates often received incomplete files. 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 awaiting trial. Many courts lacked adequate funding for staff salaries, transportation for court staff and defendants, or funds for meals and incidentals during long trials.

Traditionally, each annual assise processes approximately 10 jury trials. With international donor assistance, some jurisdictions, such as St. Marc and Port-au-Prince, processed significantly more. During the year the court in Port-au-Prince held a second jury session for the first time in many years and conducted trials for an additional 19 cases. With the support of the national government and the local legal community, international groups provided funds to indigent defendants for professional legal representation at these hearings. The Ministry of Justice underwrote special summer felony hearings in Port-au-Prince to reduce pretrial detention backlogs, and the courts adjudicated an additional 115 cases at these special sessions. Still, since most of the 3,908 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. Approximately 10 percent of detainees in the National Penitentiary were convicted; the rest awaited trial or release.

#### 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.

On May 16, 97 victims of the 1994 "Raboteau Massacre" received more than 16 million gourdes (\$430,000) in court-awarded damages from former colonel Carl Dorelien, a member of the military dictatorship who fled the country after Aristide resumed the presidency.

In June the Inter-American Court of Human Rights (IACHR) ruled that political persecution by the government violated the human rights of Yvon Neptune, prime minister under the 2004 Aristide government, who was imprisoned from 2004 to 2006. The IACHR detailed 11 violations of Neptune's rights and awarded damages.

#### 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 government officers and elected officials harassing journalists and numerous reports of gang members killing or harassing journalists.

On July 1, the deputy mayor of Cap Haitien and his bodyguards attacked news correspondent Joachim Marcel and destroyed his equipment in radio station Signal FM's Cap Haitien office, allegedly in retaliation for Marcel's investigation of voting corruption. The public prosecutor's office had not developed the case as of year's end.

### Internet Freedom

The government did not restrict access to the Internet or monitor e-mail or Internet chat rooms. Individuals and groups freely engaged in communication via the Internet, including by e-mail. The International Telecommunication Union reported that in 2007 there were 75,000 Internet subscribers and 10 Internet users per 100 inhabitants.

### 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. Citizens must apply for a permit in order to hold legal demonstrations; the HNP regularly issued permits.

### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice.

### Societal Abuses and Discrimination

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

For a more detailed discussion, see the 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

### 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.

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

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

#### Internally Displaced Persons (IDPs)

The government reported displacement of approximately 150,000 persons from their homes due to two hurricanes and two tropical storms that ravaged much of the country during a three-week period in August and September. Large-scale international and NGO humanitarian assistance efforts were actively solicited and accommodated by the national government to provide emergency aid to displaced persons and storm victims. Emergency legislation enabled the national government to redirect nearly \$180 million of accrued oil revenues toward emergency aid efforts.

#### 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 the expulsion or return of refugees to a country where their lives or freedom would be threatened, but it did not routinely grant refugee status or asylum.

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

The law provides citizens 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 in February and March 2006 were relatively stable and peaceful. Rene Preval won the presidency with 51 percent of the vote. Additional rounds of parliamentary and municipal elections were held in December 2006 and April 2007. Citizens and international observers considered the election process acceptable, the results credible, and noted few incidents of violence or fraud.

The constitution requires that, following local and municipal elections, local officials hold a series of indirect elections to staff departmental organs of self government and an interdepartmental council to advise the national government, as well as to nominate candidates for the Permanent Electoral Council. The three branches of the national government were to select from among these nominees the council's nine members.

Since these indirect elections did not take place, the country continued to operate with a Provisional Electoral Council (CEP). Lacking necessary presidential instructions to do so, the CEP, installed in December 2007, did not hold elections to replace one-third of the Senate, whose terms expired in May, and two other open Senate seats. As a result the Senate operated with 18 members instead of 30. The government rescheduled these elections for April 2009.

The CEP cited the lack of a comprehensive electoral law and a budget shortfall as impediments to elections. In June

parliament passed a new electoral law that included a provision to increase the number of polling places. Many persons, including the president, declared the constitutionally mandated calendar of frequent elections either too impractical or too expensive.

The electoral legislation mandated that political parties presenting at least 30 percent female candidates and succeeding in electing 20 percent of them receive twice as much public financing for those same positions in the next election. 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 served in the 129-seat National Assembly, and four women sat in the 18-member cabinet, including the prime minister.

#### 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. The constitution mandates that high-level officials and parliament members accused of official corruption be prosecuted before the Senate, not within the judicial system. However, the Senate brought no such cases of corruption. Poverty, lack of economic opportunity, and weak governmental institutions (especially relating to law enforcement and the judiciary) contributed to widespread corruption.

The HNP, with the assistance of UN Civilian Police, continued efforts to eliminate corruption within its ranks, and the government continued to investigate individuals in the business sector and in government entities for corruption but brought no charges. The Center for Pleas and Legal Assistance (CEPAJ) began offering judicial assistance to victims and witnesses of government corruption and widely disseminated phone and e-mail contact information. At year's end the CEPAJ had taken five complaints since its inception in May.

Authorities arrested or detained a few low-level public servants, mainly customs officials, on corruption or corruption-related charges. The government's Financial Intelligence Unit within the Ministry of Justice conducted an investigation into misuse of funds within the social security system. After parliamentary and public criticism of efforts by the chief prosecutor for Port-au-Prince to arrest the agency's director, judicial authorities questioned the director but did not arrest or charge him. The president relieved the director of his duties in November. There were no known developments in the investigation begun in 2007 concerning alleged mismanagement of funds at the Ministry of Foreign Affairs in 2004-06.

In January the president signed into law a financial disclosure bill that requires the president, the prime minister, cabinet ministers, and other high-level public officials to declare assets. The Financial Control and Information Office has responsibility for combating financial crimes. The chief prosecutor for Port-au-Prince arrested or attempted to arrest several government officials for corruption, including HNP officers and the director of the national airport authority. After the business community, the HNP, and NGOs publicly questioned his commitment to applying the laws objectively, the chief prosecutor resigned his post on August 12.

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 national and international levels, human rights organizations actively and effectively monitored human rights issues, meeting frequently with government officials. Human rights organizations made media appearances and published reports.

The OPC exists to protect individuals against any form of abuse by the government. The OPC offered free legal assistance to any citizen who appeared before a court regarding a filed complaint. The OPC had a reputation for ineffectiveness and primarily operated within Port-au-Prince. The government rarely acted on OPC recommendations.

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, no effective governmental mechanism administered or enforced 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 minimum of 10 years of forced labor, increasing to a mandatory 15 years if the victim was less than 16 years old. In the case of gang rape, the maximum penalty is forced labor for life. Sentences were often less rigorous. The criminal code excuses a husband who kills his wife or her partner found engaging in an act of adultery in his home, but a wife who kills her husband under similar circumstances is subject to prosecution. Anecdotal evidence suggested that some younger women were detained after violently resisting sexual attackers, sometimes family members. Amnesty International confirmed that rape remained commonplace and underreported. Kidnappers often raped their female abductees. In July MINUSTAH's Child Protection Unit reported numerous incidents of gang rape and sexual violence against women and children in the "No Law" areas.

National police statistics showed that 282 rapes were reported during the year, an increase of 89 percent over the 2007 figure of 149; 90 rape victims were adult women, 189 were female minors, two were adult men, and one was a male minor.

Rape was often treated in practice as a relatively minor infraction or a family or community issue instead of a prosecutable offense. MINUSTAH cited difficulty in persuading judges and the HNP to give adequate attention to rape cases. Cases were often relegated to a justice of the peace, who acted as a mediator, with an emphasis on finding family or community solutions as opposed to punishing the perpetrator.

Rape was especially common in urban slum areas with minimal police presence. Many credible NGOs and government sources believed that urban gangs used rape as a systematic instrument of intimidation. Women's shelters and organizations reported that armed gangs frequently raped and harassed girls and women. At least one kidnapping gang kidnapped women in Port-au-Prince primarily for purposes of rape, making ransom demands considerably lower than in other kidnapping cases.

In 2007 doctors and hospitals began issuing free medical certificates to victims of sexual aggression, including rape, for use when pressing charges against attackers. The certificate was often the only evidence presented by the victim, and despite notices from the Ministry of Justice to the contrary, judges dismissed cases in the absence of such a certificate.

Substantial disincentives discouraged victims from reporting rapes: victims' desire to protect themselves from the social or physical consequences of bringing accusations against the perpetrators, who often lived in the community; tacit cultural acceptance of sexual assault; the lack of facilities or services at police stations to aid rape victims; required payment of a nominal fee for medical services necessary to obtain the free certificate; the long distances between homes and a qualified tribunals; and finally, the corrupt judicial system that fostered a perception of impunity.

The law prohibits and provides penalties for domestic violence, but women's rights groups and human rights organizations reported that domestic violence against women remained commonplace and underreported. Government figures reported 31 incidents of domestic violence (down 19 percent from 37 in 2007); the 25 female victims were all adults. Police rarely arrested the perpetrators or investigated the incidents, and the victims sometimes suffered further harassment and reprisals from perpetrators. Corrupt judges often released suspects arrested for domestic violence and rape.

On January 26, 27-year-old Martine Lindor of Petit-Goave was allegedly beaten by her former spouse and lost sight in her left eye. Police conducted a swift investigation and arrested the suspect, but an investigative judge intervened the same day to procure his release without notifying the prosecutor or speaking with the victim. When the victim pursued further legal action, a higher court returned the case to the same judge.

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. Haitian Women in Solidarity estimated that the number of women reporting instances of violence against them increased 58 percent in the first half of 2008, primarily cases of spousal rape.

Although prostitution is illegal, it remained a widespread practice, particularly among women and girls. Local NGOs reported that police generally ignored prostitution.

The law does not specifically prohibit sexual harassment, although the labor code states that men and women have the same rights and obligations. Data concerning sexual harassment in the workplace were not available, although observers suggested that sexual harassment occurred. 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 faced 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. Government and private sectors seldom promoted women to supervisory positions. Excepting the HNP, which continued efforts to recruit and increase the percentage of women in its ranks, there were no government efforts to combat economic discrimination.

Many domestic women's rights groups worked through a national network, the Coordination for Advocacy on Women's Rights.

Children

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

While the constitution provides for free and compulsory public primary education, in practice many children did not have access due to the insufficient number of public schools and lack of necessary documentation. According to the government, 40 percent of children never attended school. Of those who did, less than 15 percent graduated from secondary school. Religious institutions, community organizations, and NGOs managed nearly 90 percent of the country's approximately 15,000 schools. Poorer families sometimes rationed education money and sent only some of their children to school.

Credible sources reported that large numbers of domestically trafficked children were forced to work as indentured household 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 labor legislation and other laws, including those prohibiting and penalizing slavery, kidnapping, and violence against women, could be used to combat human trafficking. There were reports that persons were trafficked from, to, through, and within the country.

The country was a source for persons trafficked to the Dominican Republic, the Bahamas, the U.S., Europe, and Canada. Trafficked citizens reported conditions of bonded servitude, slavery, and forced labor. Extreme poverty and lack of employment were among key risk factors supporting human trafficking. Women from the Dominican Republic were trafficked into the country for sexual exploitation. Traffickers also used the country as a transit point for third-country nationals.

Several NGOs reported a sharp increase during the year of child trafficking for sexual and labor purposes, especially to the Dominican Republic and the Bahamas. UNICEF estimated that approximately 30,000 children were trafficked into the Dominican Republic; the NGO Group d'Appui aux Repatriés et Réfugiés noted a substantial increase in child trafficking to the Bahamas.

Internal trafficking of children for domestic labor remained a significant problem. Rural families sent young children, most often girls, to city families as *restaveks* ("live with" in Haitian creole) in exchange for that child's room and board and, sometimes, school fees. While some *restaveks* received adequate care, many receiving families compelled the children to work long hours, provided them with little nourishment, and abused them. Most *restaveks* worked in low-income homes where conditions, food, and education for nonbiological children were not priorities. While difficult to quantify, reports estimated that the number of *restaveks* ranged from 170,000 to 200,000.

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 but faced many barriers to its operational effectiveness. NGOs were at the forefront of combating international trafficking of children carried out under the guise of international adoptions.

In general the government did not provide protection, shelter, or assistance to victims and witnesses, but referred victims to NGOs for services. Child victims of domestic trafficking living as street children in Port-au-Prince streets were so numerous that the BPM did not as a matter of routine try to help them. Intergovernmental organizations, including the International Organization for Migration, were primary providers of services to victims of trafficking. In

July national authorities, with the support of international aid, returned 47 trafficked children (between the ages of two and eight) to their families in Jeremie, at the southern tip of the country.

The government did not sponsor antitrafficking information and education campaigns.

#### 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. The Office of Secretary of State for the Integration of Handicapped Persons estimated that there were 800,000 persons with disabilities in the country and that only 3.5 percent of children with disabilities attended school. The secretary of state distributed wheelchairs and implemented an awareness campaign. Access for persons with disabilities was limited.

#### Other Societal Abuses and Discrimination

There were no confirmed reports of discrimination against homosexuals.

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. There were nine principal labor federations representing approximately 5 percent of the labor force.

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, usually related to the government's failure to pay staff on time. Doctors and staff struck for weeks in several public hospitals, including the central public hospital in Port-au-Prince, demanding back pay and better working conditions.

#### 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 ineffective. Seven labor courts operated in Port-au-Prince, and in the provinces plaintiffs utilized municipal courts.

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.

There is one export processing zone (EPZ) in Ouanaminthe, a town on the Dominican border. Legislation governing free trade zones provides that the labor code apply 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 that 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. There was no legal penalty for families that employed children in domestic labor as *restaveks*, the primary form of child employment. Children also worked on the street as vendors or beggars, and sometimes, in prostitution.

Although the government charged the Institute for Social Well-Being and Research with implementation and enforcement of child labor laws and regulations, this body lacked funding to investigate exploitive child labor cases effectively.

#### e. Acceptable Conditions of Work

The Tripartite Commission of Salaried Workers established the legal minimum daily wage, approximately 70 gourdes (\$1.75). The president appoints the commission's six members: two representatives each from labor, employers, and government. This wage did not provide a decent standard of living for a worker and family. Some workers earned more than the minimum wage by working on a piece-rate basis. The majority of citizens worked in the informal sector and subsistence agriculture, where minimum wage legislation does not apply and daily wages of 15 gourdes (\$0.37) were common. Many women worked as domestic employees, an area of work that is also exempted from minimum wage legislation.

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. It also provides for the payment of overtime and prohibits

excessive compulsory overtime. However, the law grants exemptions to health care, lodging, food and beverage, and entertainment establishments; managerial positions; and family establishments that employ only family members. The Labor 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. Due to staff shortages and special events, salaried HNP officers sometimes worked 12-hour shifts six days per week and received no overtime, although they received standardized bonuses at year's end. In severely understaffed regions, officers sometimes worked longer hours to serve the needs of their communities.

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. No group collects formal data, but unions alleged that job-related injuries occurred frequently in the construction industry and public works sectors. Although they have the legal right to do so, in practice workers could not exercise the right to remove themselves from dangerous work situations without jeopardizing their continued employment.