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Haiti

Country Reports on Human Rights Practices - [2005](#)

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Haiti is a republic with a constitution that calls for an elected president and a bicameral legislature. Its population is approximately 8 million. After then President Jean Bertrand Aristide resigned and departed the country in February 2004, Boniface Alexandre, chief justice of the Supreme Court, assumed office as interim president in accordance with the constitution. In March 2004 Gerard Latortue was installed as prime minister of the Interim Government of Haiti (IGOH) upon recommendation from a Council of Eminent Persons to President Alexandre. The IGOH's primary mission was to act as a government of unity following Aristide's departure and to create an environment favorable for presidential and parliamentary elections, which were eventually scheduled for February 2006. While civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority.

In April 2004 the UN Security Council authorized 6,700 troops and 1,622 civilian police for the UN Stabilization Mission in Haiti (MINUSTAH). MINUSTAH security forces faced increased security challenges throughout the year, and in June the Security Council passed a resolution increasing the number of military troops and civilian police. MINUSTAH concentrated on providing security in advance of the scheduled elections.

The government's human rights record remained poor. Systematic state-orchestrated abuses stopped under the IGOH, but retribution killings and politically motivated violence continued throughout the country. Various actors perpetrated numerous human rights abuses during the year, and the following human rights problems were reported:

- arbitrary killings by the Haitian National Police (HNP)
- disappearances committed by the HNP
- overcrowding and poor sanitation in prisons
- prolonged pretrial detention and legal impunity
- use of excessive--and sometimes deadly--force in making arrests or controlling demonstrations, often with impunity
- self-censorship practiced by most journalists
- widespread corruption in all branches of government
- violence and societal discrimination against women
- child abuse
- internal trafficking of children and child domestic labor

The IGOH made some progress in improving the HNP, as well as in key areas of judicial reform, during the latter portion of the year. Despite delays and poor management by the electoral authorities, more than three million citizens registered and were prepared to choose among 35 presidential candidates and to fill 129 parliamentary seats in the 2006 elections.

There were credible reports of arbitrary killings by some members of the disbanded armed forces (FAd'H) who helped force President Aristide's resignation, by partisans of Aristide's political party Fanmi Lavalas (FL), and by street gangs who were suspected of being paid and armed by supporters of former President Aristide.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including

Freedom From:a. Arbitrary and Other Unlawful Deprivation of Life

Arbitrary and other unlawful deprivation of life perpetrated by state agents and others continued throughout the year. Members of the HNP continued to commit arbitrary and unlawful killings. With rare exceptions, there was no followup or investigation into these killings. In addition members of gangs and other illegally armed groups arbitrarily killed citizens (see section 1.g.).

On January 4, an HNP operation in the Port-au-Prince slum of Cite de Dieu resulted in the deaths of seven persons, including 16-year-old Angela Amazan.

A MINUSTAH patrol arrested Jimmy Charles on January 5 in the Fort National section of Port-au-Prince. The patrol turned Charles over to the police at the Anti-Gang Police Station. On January 12, he appeared before a judge, who released him from custody. He was found dead on January 13; the cause of death, while unknown, was suspicious.

On January 14, an HNP officer shot and killed journalist Abdias Jean while conducting an operation against gangs in Cite de Dieu (see section 2.a.).

On February 12, HNP officers shot and killed four-year-old Milderly Valbrun in crossfire during a police operation against members of the former military.

On April 27, HNP officers shot and killed four persons during a violent pro-Lavalas demonstration near UN headquarters (see section 2.b.).

On August 20, HNP officers raided a soccer match in the Martissant slum of the capital in an operation to root out gang members. Police shot and killed six young men: Reginald Michel, Nesdou Fevry, Denis Jean Marie, Gregory Odice, Frank Herne, and Alcidas Erinel. Civilian police informants (*attachés*) identified gang members to the police and hacked with machetes those gang members who tried to flee the scene, injuring an estimated 30 others. By October an HNP investigation resulted in the arrest of 15 police officers, including 2 top commanders, for their role in the operation. On November 7, the director general of the judicial police submitted a 900-page investigative report that concluded that actions taken by the commanders were criminally negligent. At year's end those arrested remained in prison in preventive detention; no determination had been made whether to file formal charges against them.

Throughout the year various international bodies, including the Inter-American Commission on Human Rights (IACHR) and the International Crisis Group, called on the government to establish an independent commission to investigate human rights abuses at the hands of the HNP and to better equip the judicial system to prosecute such cases.

There were deaths in prison during the year (see section 1.c.).

There were no developments and none were expected in the killings reported in 2004.

The IGOH's investigations into the high-profile killings of journalists Jean Dominique in 2000 and Brignol Lindor in 2001 continued at year's end (see section 2.a.).

b. Disappearance

There were credible reports of disappearances after arrests by the HNP during the year.

On January 29, an HNP patrol arrested Wilbert Jeanty, Jean Casimir Pierre, Jean Louis, Saurel Marcellus, and Thomas Fils Aime after they left a construction supply store near the airport. None of the five young men were seen since the arrest.

There were also reports of disappearances stemming from the internal conflict (see section 1.g.).

There were widespread kidnappings by armed criminal elements of citizens from all social strata throughout the year. While most were resolved through the payment of ransom, some victims were tortured and killed while in their kidnappers' custody.

On March 31, kidnappers abducted cardiologist Dr. Michel Theard from his medical offices in downtown Port-au-Prince.

Community Radio station employee Lorency Cavalier was kidnapped in May and held for 11 days by her captors. She was reportedly raped and mistreated while in custody and subsequently committed suicide on July 1.

There were no developments in the disappearance cases reported in 2004, including Wisly Francique and Jasmy Emmanuel.

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

Although the law prohibits such actions, members of the security forces continued to violate these prohibitions. Police officers used excessive and sometimes deadly force in making arrests or controlling demonstrations and rarely were punished for such acts. Members of the HNP also used excessive force, such as shooting and using teargas, to suppress demonstrations (see section 2.b.).

On May 17, men dressed in black and aboard a Nissan Patrol shot and killed a young man whose body was later found, with his head covered with a bag, in the Pacot neighborhood of Port-au-Prince.

The Carrefour police station (also called Omega) was known as a center of torture and beatings of detainees. On May 6, a team from the National Network of Defenders of Human Rights (RNDDH) visited the station and spoke with 30 detainees, who denounced the mistreatment they had received. The delegation observed scars on some detainees, apparently from beatings they received while being arrested. Nikenson Jean Baptiste, a prisoner whom police arrested on April 26, could not remain standing while the delegation was present. Ralphe Ramvil, arrested on May 2, had been beaten on the testicles and had difficulties urinating. Some of the remaining detainees complained of hearing problems and earaches, suggesting that police tortured them by boxing their ears (*kalot marassa* in Creole).

Judie C. Roy, who repeatedly was tortured in various prisons during 2003 and ultimately incarcerated at the Petionville police station for "plotting against the security of the state," escaped from prison following President Aristide's departure and was not rearrested. There were no efforts made to rearrest Roy, who was the only female presidential candidate in the scheduled elections.

There were no developments in the 2003 torture investigations of Joseline Desroses or Jonathan Louime.

Prison and Detention Center Conditions

Prison conditions worsened during the year. In 2004 many police stations and prisons around the country were damaged or destroyed, and by year's end, only 17 of 21 prisons were rehabilitated and rendered functional. An already burdened prison system was stressed further with insufficient facilities to hold prisoners, especially as new arrests mounted during the year. Conditions in these facilities deteriorated and, due to lack of available space, minors and adults often were held in the same cell. The most severe overcrowding was in Port-au-Prince, where the National Penitentiary, built to hold a maximum of 800 prisoners, held approximately 1,800 inmates at year's end.

Police holding cells are located within principal and sub-police stations and hold individuals being questioned by the police as well as those who have been arrested by the police. Each police station contains an investigative unit responsible for preparing police reports and, when required, accompanying those in custody to a courthouse within 48 hours of the individual's arrest. Police routinely violated the 48-hour rule.

Prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and, in some facilities, 24-hour confinement. Most prisons periodically suffered from lack of water, especially in the provinces. The incidence of preventable diseases such as beriberi, AIDS, and tuberculosis increased. The prison population numbered 3,670 as of November. Approximately 89 percent of prisoners still awaited a judicial determination on their cases; only 417 had been sentenced. The situation was particularly grim at the National Penitentiary, where out of 1,833 prisoners, 73 were sentenced, about 4 percent of the population. The prison population did not reflect the large number of persons who were held in police stations around the country in prolonged preventive detention for longer than the constitutionally mandated 48-hour time period. Due to poor record keeping at the police stations, it was difficult to estimate the number of people held in preventive detention.

The RNDDH actively monitored prison conditions in cooperation with the Department of Prison Administration (DAP), which offered a prisoners' rights awareness campaign. Both RNDDH's and DAP's programs continued during the year.

The DAP conducted objective testing of prison physicians and nurses to exclude those who were inadequately trained. Doctors were available in the capital but were less frequently available to those incarcerated in the provinces. Nurses did not conduct daily checkups on the physical condition of inmates. Dispensary supplies were limited, and family members often had to purchase needed medication.

On February 19, armed men attacked the National Penitentiary in downtown Port-au-Prince, resulting in the escape of 481 inmates. No injuries or deaths were reported among prisoners. One prison guard was attacked and injured on his way to the prison and an off-duty prison guard, Omeus Jean Marie Guerrier, was shot and killed in front of the prison as he drew his weapon while attempting to stop the attack. Two months earlier (in December 2004) the HNP used excessive force to quell a riot at the National Penitentiary; 7 prisoners were killed and 17 injured. The two incidents underscored the extent of the overcrowding problem at the penitentiary.

Space permitting, male and female prisoners were held separately. Juvenile detainees were not held separately from adults. After a November visit to study the situation of children and adolescents in the country, a joint delegation from the UN Children's Fund (UNICEF) and the IACHR criticized the "prolonged periods of detention without charges being brought against them and virtually without judicial controls, including the imprisonment of 10-year-old children, in flagrant violation of the law."

Overcrowding prevented the separation of violent from nonviolent prisoners or convicts from those in pretrial detention. Many were incarcerated in temporary holding cells, particularly in the provinces.

The authorities freely permitted the International Committee of the Red Cross (ICRC), the Haitian Red Cross, and other human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical care, food, and legal aid. The director general of the HNP and the DAP cooperated with the ICRC.

d. Arbitrary Arrest or Detention

While the law prohibits arbitrary arrest and detention, security forces continued to employ both practices. The constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or on the basis of a written order by a legally competent official, such as a justice of the peace or magistrate. The authorities can only execute these orders between 6:00 a.m. and 6:00 p.m. and must bring the detainee before a judge within 48 hours of arrest. In practice officials frequently ignored these provisions. There were also instances of arrests by security forces and local officials lacking proper authority. Former FAd'H members and former *chefs de section* sometimes executed arrest warrants in under-policed rural areas.

Role of the Police and Security Apparatus

The HNP has the sole responsibility for law enforcement and maintenance of order in the country. The HNP is an officially autonomous civilian institution, under a director general who controls the force while the minister of justice and the secretary of state for public security under the ministry provide oversight.

After President Aristide's departure, the new leadership of the HNP took steps to address corruption by firing 200 corrupt, inexperienced officers and inducting a new class of recruits who were cleared by local human rights organizations, assisted by an international one. A new director general, installed in July, purged the upper ranks of the internal affairs unit of corrupt officers and appointed a new professional inspector in charge of investigating accusations of police corruption and human rights abuses. Under the new director general's leadership, the HNP conducted swift investigations of human rights cases, arrested suspected officers, and shuffled leadership to remove tainted supervisors from the field. Nevertheless, efforts to reform the HNP remained incomplete, and some HNP officers were still implicated in corruption, kidnapping, and narcotics trafficking. Allegations of human rights abuses by the HNP, although diminished, continued throughout the year (see section 1.a.).

The UN-established civilian police (CIVPOL) element of MINUSTAH supplemented the police and improved the HNP's capacity to maintain order.

Arrest and Detention

Police often apprehended persons without warrants or on warrants not issued by a duly authorized official. The authorities frequently detained individuals on unspecified charges or pending investigation. Several former members and supporters of the Lavalas government who were suspected of human rights abuses, fomenting violence, or other crimes were arrested without proper warrants due to high levels of corruption in the judiciary. Certain police jurisdictions routinely disregarded the 48-hour requirement to present detainees before a judge, and some detainees were held for extended periods in pretrial detention, often without being informed of charges against them. 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. Bail was available at the discretion of the investigative judge. Bail hearings are not automatic, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds such as a need for medical attention.

Since so many persons were in pretrial detention and had yet to be charged, a number of them could be characterized as political detainees.

On July 21, police with a warrant arrested Father Gerard Jean-Juste, a well-known Catholic priest and pro-Aristide activist. The police originally took the priest into protective custody after he nearly caused a riot when he attempted to attend the funeral of journalist Jacques Roche. The police later decided to question him about possible involvement in Roche's death. He appeared before a judge on July 22 and was remanded to the National Penitentiary while a judge investigated his case. In August Father Jean-Juste was transferred to a prison annex where he could be monitored medically. Father Jean-Juste's case proceeded within the time limits of the law, and on October 19, a judge formally charged him with orchestrating the kidnapping and killing of Jacques Roche. Doctors diagnosed Father Jean-Juste with leukemia in late December. The investigative judge completed his investigation of the case but had not released his report due to a judicial strike. Due to Father Jean-Juste's declining health, however, the IGOH was exploring the possibility of releasing him for medical treatment abroad at year's end.

Annette Auguste "So Anne", a self-proclaimed pro-Lavalas community organizer, arrested in May 2004 and charged with being the architect of the 2003 attack on state university students, remained in prison at year's end.

Prolonged pretrial detention remained a serious problem; 96 percent of detainees and prisoners at the National Penitentiary had not been formally sentenced by a judge.

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. Years of extensive corruption and governmental neglect left the poorly organized judicial system largely moribund. Judges assigned to politically sensitive cases complained about interference from the executive branch. Then Minister of Justice Bernard Gousse made minimal efforts at reforming the justice system, such as relieving corrupt judges of their caseloads. In May the IGOH replaced Gousse with Justice Minister Henri Dorleans, who enacted tough judicial reform measures, particularly on pretrial detention. The new minister introduced system-wide changes aimed at strengthening the system's capacity. Although some immediate improvements were made, such as special judicial sessions to adjudicate the cases of detainees held in prolonged pretrial detention, the system remained weak and had limited capacity at year's end.

Systemic problems--including underfunding and a shortage of adequately trained and qualified justices of the peace, judges, and prosecutors--created a huge backlog of criminal cases, with many detainees waiting months or in pretrial detention for a court date (see section 1.d.). For persons acquitted or who had charges dismissed, there was no legal redress for their prolonged pretrial detention.

In December the IGOH issued a presidential decree involuntarily retiring five judges from the Supreme Court. The action resulted from the interim government's outrage over two Supreme Court decisions affirming Haitian-American Dumas Simeus' right to appear on the presidential ballot (see section 3).

In most regions judges lacked the basic resources and professional competence. The qualifying year-long course at the magistrates' school requires no previous legal training. Judges increasingly conducted legal proceedings exclusively in Creole rather than French, but language remained a significant barrier to full access to the judicial system (see section 5). The UN Development Program (UNDP), supported by the government, provided additional training for many segments of the judicial system, including new judges and attorneys.

On April 25, former Port-au-Prince police chief Jackson Joanis appealed his conviction for his role in the murder of Father Jean-Marie Vincent in 1994. On June 10, the appeals court overturned Joanis' conviction for lack of sufficient evidence against him and set him free.

Former paramilitary leader Louis-Jodel Chamblain was released from prison on August 11. Chamblain appealed his 2000 conviction in absentia for the 1994 Raboteau massacre, and the appeals court overturned it in late May, citing irregularities within the original trial. Although he remained in prison to face additional charges related to a 1993 incident in Cite Soleil, on June 7, his lawyers filed a writ of habeas corpus asserting that he was being held without due process, and the court ordered his release on July 26.

The release of Chamblain and Joanis, despite their alleged roles in other human rights violations, called into question the IGOH's commitment to respect the rule of law and to strengthen democratic institutions in the country.

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.

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 abridged widely 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 are present or they waive this right; this right also was abridged in practice. Most accused persons could not afford legal counsel for interrogation or trial, and the law does not require that the government provide legal representation. Despite the efforts of local human rights groups and the international community to provide free legal aid, many interrogations occurred without presence of counsel. However, some defendants had access to counsel during trials. While the constitution provides defendants with a presumption of innocence and the right to be present at trial, to confront witnesses against them, and to present witnesses and evidence in their own behalf, in practice corrupt and uneducated judges frequently denied defendants these rights.

The Code of Criminal Procedure does not assign clear responsibility to investigate 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. Autopsies were conducted rarely, and autopsy reports seldom were issued. The law provides for two criminal court sessions (*assises*) per year in each of the 15 first instance jurisdictions for all major crimes requiring a jury trial; each session generally lasts for two weeks. Criminal *assises* in Port-au-Prince have met once a year since 1998.

Citizens deported to the country after completing prison sentences in foreign countries were detained until a family member agreed to take custody of them and their prison release order was processed, although there is no provision for such detention in the law. This generally took one to two months but lasted as long as four months in unusual instances.

Political Prisoners

Former Prime Minister Yvon Neptune and a former minister of interior remained in jail at year's end. A judge formally charged Neptune, Joclerme Privert, and 28 former Aristide government officials and Lavalas supporters with orchestrating and carrying out the February 2004 attacks in La Syrie, St. Marc.

In September Amnesty International categorized Father Gerard Jean-Juste as a political prisoner (see section 1.d.).

Other Lavalas partisans still behind bars were implicated in criminal or human rights abuses, but their cases remained mired in the judicial system where they awaited final determination.

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

Although the law prohibits such practices, police and other security force elements routinely conducted searches without warrants.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

Much of the violence and unrest in the country stemmed from the armed rebellion that forced out President Aristide in February 2004. Common criminality and armed attacks against civilians continued to create fear and panic among the population. The number of kidnappings for ransom increased significantly and occurred at every strata of society. Pro-Lavalas partisans were implicated in violence and numerous killings in Port-au-Prince, including of police officers. At year's end a stronger police presence in the countryside and MINUSTAH and IGOH cooperation assisted in extending governmental authority outside of Port-au-Prince in the pre-election season.

Since September 2004 hundreds of people were reportedly killed in a surge of political violence that followed a series of demonstrations organized by pro-Aristide partisans in Port-au-Prince. The campaign, subsequently known as "Operation Baghdad," included kidnapping, decapitation, and burning of police officers and civilians, indiscriminate shooting at bystanders such as taxi drivers, students, parents, and small merchants, and the destruction and incineration of public and private property. The violence prevented the normal functioning of schools, public markets, the seaport, and the justice system in Port-au-Prince for several weeks in the fall of 2004. Many of the killings were believed to have been carried out by pro-Lavalas armed gangs and by some members of the HNP. In response to the violence, the HNP conducted sweeps of heavily pro-Aristide areas of Port-au-Prince in search of the perpetrators. Many arrests were conducted without warrants, and suspects were held in prolonged detention without seeing a judge (see section 1.d.). While this level of violence waned somewhat early in the year, there was a reemergence during the kidnapping sprees of May and throughout the summer, and it spiked again

in November and December, becoming a broader type of criminality committed by gangs with no specific political characteristic.

On March 20, MINUSTAH military and CIVPOL forces raided the police station in Petit-Goave and ejected the ex-FAd'H soldiers who had occupied the station since July 2004. One Sri Lankan peacekeeper was killed, 2 former military members died, 12 were injured, and another 25 were detained and transported back to Port-au-Prince.

Unknown attackers shot and killed a police officer assigned to the security detail of former Justice Minister Bernard Gousse on March 22 at the minister's residence.

On March 28, armed assailants shot and killed two police officers, including Inspector Emmanuel Milien, and a driver assigned to the director general of the National Port Authority.

In Cite Soleil on March 30, rivals of gang leader Robinson "Labanye" Thomas tortured and killed him, reportedly under orders from opposing gang leader "Dread Wilme."

On April 14, a soldier from the Philippine MINUSTAH contingent was shot and killed at a checkpoint near Cite Soleil.

In a separate incident on the same day, ex-FAd'H forces led by Ravix Remissainthe ran a MINUSTAH checkpoint in Terre-Rouge in the Central Plateau, killing a Nepali peacekeeper.

On April 28, armed individuals kidnapped professor, brother of the education minister, and presidential candidate Dr. Jean Henold Buteau from his classroom at the State University. His captors released him after payment of an unspecified ransom.

On May 13, armed attackers attempted to kidnap the president of the Association of Haitian Medical Technicians Elna Eyna in the Nazon section of the capital. Eyna was shot dead on the scene when she resisted her attackers.

On May 21, armed bandits kidnapped Elto Ambroise, an officer in the HNP's specialized crowd control unit, from his home in the Bel Air section of Port-au-Prince. Ambroise's captors killed him the same day.

On May 31, unidentified assailants set fire to a police substation in Portail Saint Joseph and the neighboring *Marche Tete Boeuf* marketplace in downtown Port-au-Prince. More than 10 merchants, mostly women, died in the fire, and commercial losses were estimated in the millions of dollars.

Joint MINUSTAH/HNP operations throughout June and July resulted in the death or capture of various criminal elements in the capital. In the early morning of July 6, MINUSTAH launched an operation into the Bois Neuf area of Cite Soleil, killing gang leader "Dred Wilme" and five of his associates. Varying accounts and some human rights groups estimated that UN troops killed between 50 and 70 civilians that day. An internal UN investigation into the events confirmed that MINUSTAH soldiers killed seven people during the operation. The report also cited the possibility of other civilian casualties during the exchange of gunfire between MINUSTAH soldiers and gang members in Cite Soleil, but the investigation was unable to confirm how many persons died in the crossfire.

In the Port-au-Prince neighborhood of Bel Air on September 29, Brazilian MINUSTAH soldiers shot and killed gang leader "Den Sere." During the same operation, UN soldiers shot and injured gang leader "General Toutou," and the HNP arrested 20 other gang members. The two gang chiefs were suspected of having orchestrated most of the kidnappings and criminal activity in the capital since March.

On October 22, a corporal from the Jordanian MINUSTAH contingent was shot in the head and killed during an operation to free kidnap victims.

On October 27, Jean Dady Ostine (alias "Ti Kenley") was killed during a confrontation in Petit-Goave with MINUSTAH soldiers. Ti Kenley participated in the anti-Lavalas movement that led to departure of President Aristide in February 2004.

There were no further developments in the investigation into the October 2004 summary execution of 13 young persons in the Fort National area of Port-au-Prince, which many witnesses attributed to the HNP. Although the prime minister and chief of police categorically rejected any police involvement in the crime, authorities arrested two active-duty police officers for it in 2004.

There were no further developments and none were expected in the other killings reported in 2004.

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 generally respected these rights in practice. Print and electronic media freely criticized the government, but in practice most journalists admitted to some form of self-censorship to avoid offending sponsors or the politically influential.

There were three French-language newspapers, which had a combined circulation of less than 20 thousand readers. Some irregularly

printed papers frequently criticized IGOH policies and strongly supported the Lavalas regime. With literacy rates of 52 percent for adults and 65 percent for youth, and limited access to television, the most important medium was radio, especially stations broadcasting in Creole. The 329 radio stations carried a mix of music, news, and talk show programs that many citizens regarded as their only opportunity to speak out on a variety of political, social, and economic issues. The few stations carrying news or opinion freely broadcast a wide range of political viewpoints.

Although most radio stations and other forms of telecommunication nominally were independent, they were subject to a law designating the state as the sole owner and proprietor of the airwaves. The state leases broadcast rights to private enterprises, retaining preemption rights in the event of a national emergency, including natural disasters. The government did not exercise this right in practice.

In May the nongovernmental organization (NGO) Reporters without Borders issued a report stating that press freedoms had increased but remained fragile since the departure of former President Aristide.

On January 14, an HNP officer shot and killed journalist Abdias Jean while conducting an antigang operation in the Port-au-Prince slum of Cite de Dieu (see section 1.a.).

On February 4, assailants attacked two journalists from pro-Lavalas Radio Megastar in Port-au-Prince. They shot one in front of the station, and the HNP reportedly injured the other.

In March Frantz Altidor, news director of Radio Provinciale in the northwest town of Gonaives, reported harassment stemming from his public demand for an apology from the HNP for calling a press conference and then refusing journalists entry to the police station once they arrived. A week after his request, Altidor's home was invaded; the armed aggressors told him not to bother calling the HNP as they would not help him.

In response to this incident, radio stations in Gonaives held a "solidarity day" on March 14 and only broadcast news involving the attack on Altidor. That evening Fritz Hubert Zamor of Radio Provinciale conducted a radio interview with Altidor. Later that night Jocelin Joseph of Radio Provinciale was stopped and accosted; his aggressors searched his car and told him if they found any indication that he was a member of the press they would kill him and throw him in a ravine. They asserted they were seeking members of the press, including Altidor and Zamor of Radio Provinciale, Marc Andre of Radio Independence, and Honorat Marc Antoine of Radio Etincelles.

On March 27, the local governmental representative of the Artibonite region met with members of the Haut Artibonite Journalist Association, including Altidor, and informed them the HNP director general was investigating a group of 15 police officers suspected of working with gangs in Gonaives. On April 4, the authorities transferred 20 police officers to other posts.

On March 20, radio journalist Robenson Laraque of Radio Telekontak was caught in gunfire during a MINUSTAH operation to root out ex-FAD'H members in Petit-Goave (see section 1.g.). He was flown to the Dominican Republic for medical treatment but died on April 4 as a result of the injuries.

Well-known journalist and talk show host Nancy Roc left the country temporarily in May due to kidnapping threats. She previously left the country in December 2004 following public threats from rebel leader Ravix Remissainthe and private threats from a pro-Aristide source.

On July 14, police discovered the mutilated body of popular and influential journalist Jacques Roches in Port-au-Prince. Roches' death significantly affected the media community. Gang members reportedly kidnapped Roches because of his efforts to promote civil society in the country. Some arrests were made in connection with his death, including that of Father Gerard Jean-Juste, who was suspected of orchestrating Roches' killing (see section 1.d.).

The men in jail for the killings of journalists Brignol Lindor in 2001 and Jean Dominique in 2000 escaped in February 2004. Police rearrested two of those charged with Dominique's death, Dynsley Millien and Jeudi-Jean Daniel, in August of that year. Philippe Markington, the other person charged in that killing, remained at large at year's end. In March 2004, police arrested Port-au-Prince deputy mayor Harold Severe and security agent Rouspide Petion for alleged involvement in the Dominique slaying. In March a court appointed the sixth investigative judge in the Dominique case, but he later removed himself from the case in June.

There were no government restrictions on the Internet or academic freedom.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

While the law provides for freedom of assembly, and the IGOH generally respected the right of citizens to peacefully demonstrate, the HNP sometimes used force to control violent demonstrations.

On February 28, police shot and killed two people during a demonstration in Bel Air commemorating the one-year anniversary of former President Aristide's departure. There was no investigation into these killings.

During a demonstration staged by pro-Lavalas partisans near the UN headquarters on April 27, HNP officers shot and killed five demonstrators. There were conflicting reports of the events that led to the shooting by police. Local residents claimed that officers from one

of two police vehicles present on the scene shot indiscriminately into the crowd of demonstrators as they approached the UN building. Other witnesses reported that some demonstrators turned violent and vandalized cars and property in the area, provoking the police reaction. There was no official investigation into the event by year's end.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice. The Penal Code requires prior government approval for any association of more than 20 persons that seeks tax benefits and official recognition.

c. Freedom of Religion

The law 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, including anti-Semitic acts. The local Jewish community was very small.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#)

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

The law provides for these rights, and the government generally respected them in practice.

The law prohibits the involuntary exile of citizens, and there were no reports of its use. During the year former Aristide government officials often imposed internal and external exile upon themselves and their families for fear of retaliation by rebel groups or former military members (see section 1.g.).

An unknown number of undocumented migrants left the country to seek better economic opportunities. The government's National Migration Office (ONM) was responsible for assisting citizens repatriated from other countries and frequently provided small sums of money to repatriated migrants for transportation. During the year the ONM assisted in the repatriation of 1,828 Haitian citizens.

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 they feared persecution, but did not routinely grant refugee status or asylum.

Since there were no known foreign 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, and citizens exercised this right in practice through periodic elections held on the basis of universal suffrage.

The political system changed significantly following President Aristide's February 2004 resignation and departure from the country. Boniface Alexandre, president (chief justice) of the Supreme Court, assumed office as interim president in accordance with the constitution. On recommendation from the Council of Eminent Persons, who had been chosen by a tripartite commission including representatives of FL, the Democratic Platform, and the international community, the president chose Gerard Latortue as interim prime minister.

In April 2004 representatives of the IGOH, leaders of the Convergence Democratique, the Group of 184, and at least one branch of the "non-aligned" parties agreed on a transition accord outlining the IGOH's mandate and committing it to organize elections in 2005.

Elections and Political Participation

To implement the commitment to hold elections, the government agreed to appoint a nine-person Provisional Electoral Council (CEP), with representatives from several parties including FL. When FL refused to nominate its representative, the government appointed eight members; after several weeks, it appointed a ninth member to fill the FL slot. The CEP proceeded with its mandate but due to internal conflicts among the members and bureaucratic delays, the CEP pushed back the original October election date until February 2006. The total number of persons registered to vote was approximately 3.5 million.

There were 35 registered candidates for the presidency from across the political spectrum. Former President Jean Bertrand

Aristide's Fanmi Lavalas party formed an alliance with Marc Bazin's party--the Movement for the Installation of Democracy in Haiti--and registered him as the Lavalas presidential candidate under the umbrella of Union Pour Haiti. Former President and Lavalas member Rene Preval formed a coalition with the Escamp, Pati Louvri Barye, and Korega parties and ran for president under the banner Front de l'Espoir. Independent and prominent Haitian-American businessman Dumarsais Simeus joined the Tet Ansamn party and registered as the party's presidential pick. Questions about Simeus' citizenship status involving a possible conflict with the constitution placed his candidate eligibility into doubt. The CEP removed him from the list, but the Supreme Court overturned the CEP's decision and added his name back to the list. The IGOH formed a candidate nationality commission to investigate the citizenship of all candidates wishing to run for president, requiring candidates to resubmit their applications for review. Despite a second supreme court ruling in his favor, Simeus was left off the presidential ballot. Another dual citizen, Mobilization pour le Progres d'Haiti presidential candidate Samir Mourra, was also affected.

The monetary deposit required of female candidates for political office (if sponsored by a recognized party) is one-half that required of male candidates. Two of the IGOH's 17 cabinet ministers were women. There was one female candidate for the presidency, and a large number of female parliamentary and municipal candidates.

Government Corruption and Transparency

The NGO Transparency International noted that the country was extremely corrupt, and there was a widespread public perception of corruption in all branches of government. In November the HNP director announced that since July more than 50 police had been fired or jailed on allegations of corruption.

There was no law requiring 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 IGOH 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, the UN Independent Expert on Human Rights, the UNDP, the IACHR, MINUSTAH's Human Rights Office, and the Organization of American States' Special Mission's human rights office.

From April 18 to 22, the IACHR conducted an onsite mission in the country. Based on meetings with members of the government, judicial sector officials, police leadership, electoral council members, MINUSTAH officials, NGOs, and civil society, the delegation concluded that the lack of a comprehensive disarmament program and a severely understaffed and poorly equipped police force helped to create instability. The delegation estimated that 600 persons, including 19 police officers, had been killed in acts of violence since September 2004. The commission also said that the security situation had been exacerbated by the poorly functioning judicial system and called on authorities to increase efforts to reduce the number of people in prolonged pretrial detention. The IACHR commended the national dialogue process and urged citizens from all political parties to move beyond confrontation and toward reconciliation.

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, including the Platform of Haitian Human Rights Organizations, the National Coalition for Haitian Rights, the Lawyers' Committee for the Respect of Individual Liberties (CARLI), the Ecumenical Center of Human Rights, and the Catholic Bishops' National Commission on Justice and Peace, made frequent media appearances and published objective reports on violations. Human rights organizations continued to focus on issues that were persistent problems in the country, including prison conditions, the widespread lack of health facilities, and impunity for criminals. All reported receiving threats as a result of their work.

The Office of the Protector of Citizens (OPC), an ombudsman-like office provided for by the constitution, received complaints of abuse at all levels of government. The government did not directly impede OPC investigations but did not always respond to its requests for information. Relations between the OPC and major human rights organizations such as the Platform for Human Rights and CARLI continued to be positive. Budgetary problems limited the OPC to four employed investigators, which hindered its ability to investigate human rights abuses.

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 and domestic violence against women. In September the IGOH issued a presidential decree that categorized both rape and adultery as crimes punishable by a maximum of 10 years' imprisonment. Gang rape and premeditated, aggravated assault carried a penalty of 15 years' hard labor.

According to women's rights groups and human rights organizations, rape and other abuses against women were commonplace and increased, both within and outside marriage. Women's shelters and organizations reported that local armed thugs frequently raped and

harassed girls and women in slums such as Cite Soleil and Martissant. Police rarely arrested the perpetrators or investigated the incidents, and the victims sometimes suffered further harassment in retaliation. The Haitian Group for the Study of Karposi's Syndrome and Opportunistic Infections reported treating an average of 25 rape victims per month during the year, compared with 22 per month in 2004. The majority of assaults took place in Port-au-Prince. There were no government-sponsored programs for victims of violence. The Criminal Code excuses a husband who kills his wife or her partner upon catching them in an act of adultery in his home, but a wife who kills her husband under similar circumstances is not excused.

Although prostitution is illegal, it remained a problem.

The law does not specifically prohibit sexual harassment, although the Labor Code states that men and women have the same rights and obligations. Sexual harassment of female workers was a problem, especially in the assembly sector. Women reported that some employers sexually harassed female workers with impunity. Women also reported that while most assembly sector workers were women, virtually all supervisors were men.

Women did not enjoy the same social and economic status as men. In some social strata, tradition limited women's roles. A majority of peasant women remained in 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 private industry or service jobs, including government jobs, seldom were promoted to supervisory positions.

Domestic women's rights groups were small, localized, and received little publicity. Some women's rights groups became increasingly involved in political and civic voter education initiatives in the pre-election season.

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 1987 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 schools were managed by religious institutions or NGOs. The high cost of private education was an impediment for families who must pay school fees and incur costs for uniforms, books, and school supplies. Poorer families sometimes rationed education money to pay school fees only for male children. Schools were dilapidated and understaffed. 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 thousand children aged 6 to 11 were not in school (the real number was thought to be much higher). In addition nearly 75 percent of adolescents were not in school. The IGOH did not have adequate programs in place to address the educational and social reinsertion needs of the out-of-school youth population.

According to the most recent UNICEF statistics from 2004, approximately 23 percent of all children under the age of 5 were chronically malnourished.

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.

Although the law prohibits corporal punishment of children, in practice corporal punishment was accepted as a form of discipline, especially in schools.

There were reports that children were trafficked within the country and forced to work as domestic servants, called *restaveks* ("to live with" in Creole) (see sections 5, Trafficking and 6.d.).

Port-au-Prince's large population of street children included many *restaveks* 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.

In November a joint UNICEF/IACHR delegation expressed concern over grave violations of the human rights of children and adolescents being committed as part of the ongoing violence in the country. It said that children lived in fear and in extreme poverty and that the "increasingly generalized absence of the state" left them "extremely vulnerable and exposed to various forms of violence."

There were no new developments in the case of Wilfort Ferdinand "Ti Will," former member of the Cannibal Army and current member of the Reconstruction Front of the Artibonite, who shot and killed six-year-old Francesca Gabriel in Gonaives in November 2004 in crossfire during a lovers' dispute.

Trafficking in Persons

Although the law prohibits trafficking in women and children, internal trafficking of children for domestic labor remained a problem, and the country also was a source for trafficked persons to the Dominican Republic, the United States, Europe (mainly France), and Canada.

There were no penalties for trafficking in persons. The government acknowledged the problem of internal trafficking and took steps to address it. Although the HNP's Brigade for the Protection of Minors was responsible for investigating cases of child trafficking and monitoring movement of children across the border with the Dominican Republic, it was barely functional, and resource issues remained a barrier to its operational capacity. Government officials at local and national levels were trained on the legal framework for children's rights and methods of intervention to prevent and punish abuse of *restaveks* and trafficking.

Government officials assisted in international investigations of trafficking. In November the HNP, in coordination with MINUSTAH and the Dominican Consul General, conducted an operation to rescue 13 young Dominican women who had been trafficked into Haiti and forced to work in a brothel. Police arrested a Haitian suspect and repatriated all 13 girls to the Dominican Republic the following day.

Rural families continued to send young children, particularly girls, to more affluent city dwellers to serve as *restaveks* in exchange for that child's room and board. While some *restaveks* received adequate care, including an education, the Ministry of Social Affairs believed that many employers 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.

The results of the most recent study of trafficking across the border conducted by UNICEF in 2002 reported that between two thousand and three thousand children were trafficked to the Dominican Republic each year.

Consulates along the Dominican border monitored the movement of children across the border. The Ministry of the Interior also reinforced agents at border control points at the three international airports to watch for children who might be traveling unaccompanied or without their parents. The Ministry of Justice continued to circulate memoranda to magistrates around the country in an awareness-heightening campaign on the antitrafficking law and on child labor laws. To address some of the social aspects of the *restavek* practice, the government provided a subsidy of 70 percent for educational supplies, including books and uniforms. The government also called on employers of child domestics to release them from their duties in the afternoon to allow them the opportunity to attend school.

Persons with Disabilities

There was no discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. While the constitution provides that persons with disabilities have the means to ensure their autonomy, education, and independence, there was no legislation to implement these constitutional provisions or to mandate provision of access to buildings for persons with disabilities.

Other Societal Abuses and Discrimination

Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs sponsored by foreign donors, including a grant to a local clinic 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 International Labor Organization (ILO) Committee of Experts commented on the need for the government to recognize by law the right of public servants to organize. The law also requires that a union 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 are 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. Union membership decreased significantly, but unions remained active in the public sector.

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. However, frequent verbal abuse and intimidation of workers and organizers were problems in the assembly sector.

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, and workers (with the exception of managers, administrators, other heads of establishments, and public utility service 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." There were few public sector strikes during the year.

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.

Since early February 2004, workers complained of exploitation and mistreatment by management of the Grupo M textile company, located in the EPZ. Rounds of strikes and violence by union members, supported by Batay Ouvriye, a labor organization of peasant workers, were followed by a series of employee terminations by the company throughout that summer. In late May Grupo M and Batay Ouvriye reached a mutually acceptable agreement. Since then, both sides adhered to their sides of the bargain; Grupo M slowly rehired laid-off union workers, and Batay Ouvriye negotiated responsibly with the company management.

c. Prohibition of Forced or Compulsory Labor

Although the law prohibits forced or compulsory labor for adults and minors, the government failed to enforce this law with regard to children, who continued to be subjected to forced domestic labor as *restaveks* in urban households, sometimes under harsh conditions (see section 5).

d. Prohibition of Child Labor and Minimum Age for Employment

The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. 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. Government agencies lacked the resources to enforce relevant laws and regulations effectively. According to the NGO Haitian Coalition for the Defense of the Rights of the Child, children worked primarily as *restaveks*; however, some worked on the street as vendors or beggars, and some were involved in prostitution.

In 2003 the results of a joint governmental-NGO funded study, which covered the fiscal years 2001-02, noted that 173 thousand children (8.2 percent) between the ages of 5 and 17 years, worked as *restaveks*. Labor laws require anyone who has a child domestic in their employ to obtain a permit from the Ministry of Labor and Social Affairs' Social Welfare and Research Institute (IBESR) and to ensure the overall welfare of the child until they reach 15 years of age. Additionally the law requires that *restaveks* 15 years of age and older be paid not less than one half the amount paid to an adult servant hired to perform similar work, in addition to room and board. To avoid this obligation, employers dismissed many *restaveks* before they reached that age.

The government has not ratified and does not adhere to ILO Convention 182 on elimination of the worst forms of child labor.

Although the government designated IBESR to implement and enforce child labor laws and regulations, resources were inadequate to fund programs to investigate exploitative child labor cases throughout the country.

The IBESR coordinated efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies, to formulate and enforce child labor policies.

e. Acceptable Conditions of Work

The legal minimum daily wage, established in 1995 by the Tripartite Commission of Salaried Workers, whose six members were appointed by the president (two representatives each of labor, employers, and government), is approximately \$0.96 (36 gourdes). 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 wages of \$0.40 (15 gourdes) a day were common. Many women worked as domestic employees, where minimum wage legislation also does not apply.

The law sets the standard workday at 8 hours and the workweek at 48 hours, with 24 hours of rest on Sunday. The law was not effectively enforced, particularly for HNP officers who worked 12-hour shifts 6 days per week. There is no provision for the payment of 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 with more than 50 percent of the population unemployed, workers were not able to exercise the right to remove themselves from dangerous work situations without jeopardy to continued employment.

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