



## Haiti

### Country Reports on Human Rights Practices - [2000](#)

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Haiti is a republic with an elected president and a bicameral legislature; although the 1987 Constitution remained in force, the failure to hold legislative elections left the country without a functioning legislature for over 3 years. The terms of office of the House of Deputies and most of the Senate expired on January 11, 1999; however, elections were not held until May 21, 2000. Parliament was not in session during that period. President Rene Preval, Prime Minister Jacques Edouard Alexis, and a cabinet governed during the year. The Provisional Electoral Council (CEP), formed in March 1999, delayed the local and parliamentary elections five times. After first-round elections were held in May, the CEP adopted a methodology that gave outright victory to candidates from the ruling Fanmi Lavalas (FL) party. Opposition parties and the international community objected to the CEP's method for tabulating votes and refused to recognize the new Parliament, which was sworn in on August 28. After CEP president Leon Manus refused to certify the results, he received death threats and subsequently fled the country. Two other CEP members also resigned in protest over the tabulation method. In a highly controversial move, President Preval replaced the three CEP members with FL loyalists on July 2. This now controversial CEP, whose mandate was expanded in August to include presidential elections, held presidential elections on November 26. Opposition parties refused to participate and the international community refused to support or certify the presidential elections because the controversy over the May 21 elections was not resolved. The opposition demanded the formation of a new CEP, resolution of the May 21 elections disputes, and security guarantees for future elections. On November 30, the CEP announced that Jean-Bertrand Aristide had won 91.5 percent of the vote in the November 26 presidential elections and proclaimed him the winner. However, controversy continued over voter turnout claims. The CEP announced a nationwide voter turnout rate of 60.5 percent. Other observers, including the opposition and local and international media, estimated voter turnout between 5 percent and 20 percent. The judiciary is theoretically independent; however, it is not independent in practice and remained largely weak and corrupt, and there were allegations that the executive branch interfered in politically sensitive cases.

In September 1994, a U.N.-sanctioned multinational force restored the country's democratically elected president. The Armed Forces of Haiti (FAd'H) subsequently were disbanded. At that time, the Government established the Haitian National Police (HNP). Despite substantive international assistance and some notable progress, the HNP remains a fledgling institution with inadequate resources. It still grapples with corruption; the presence of human rights abusers within its ranks and attrition are serious problems. Allegations of corruption, incompetence, and narcotics trafficking are leveled against members at all levels of the force, which now numbers between 3,000 and 3,500 officers for a population well in excess of 8 million. The HNP has a variety of specialized units, including a crisis response unit (SWAT), a crowd control unit (CIMO) serving Port-au-Prince and the Western department, crowd control units (UDMO's) serving each of the remaining eight departments, a presidential and security unit, a small Coast Guard unit, and a Special Investigative Unit (SIU), formed to investigate high-profile political killings. The SIU is no longer ill-equipped and inexperienced; however, it lacks a mandate from the country's political leaders. It is making progress on some cases. Some members of local government councils (CASEC's) exercise arrest authority without legal sanction. Members of the HNP and other security forces continued to commit serious human rights abuses, although less so than in 1999.

Both the mandates of the U.N. Police Mission in Haiti (MIPONUH) and of the U.N./Organization of American States (OAS) International Civilian Mission in Haiti (MICIVIH) have expired. The International Civilian Mission for Support in Haiti (MICAH) began operations in March with a limited mandate, largely dedicated to technical training. Its mandate is scheduled to expire on February 6, 2001. The departure of MICIVIH removed an objective monitor of the HNP, thereby making the compilation of human rights abuse statistics very difficult.

Haiti is an extremely poor country, with a per capita income of around \$400. This figure probably does not fully

include significant remittances from the over 1 million Haitians living abroad, as well as income from informal sector activities that constitute an estimated 70 percent of actual economic activity. The country has a market-based economy with state enterprises controlling utilities. Aside from the sale of two previously closed enterprises, the privatization of state-owned enterprises has come to a halt. A small elite controls much of the country's wealth. Accurate employment statistics are unavailable. About two-thirds of the population work in subsistence agriculture, earn less than the average income, and live in extreme poverty. A small part of the urban labor force (approximately 20,000 persons) works in the industrial and assembly sectors, with an equal number in government or service sector employment. Assembled goods, textiles, leather goods, handicrafts, and electronics are sources of limited export revenue and employment. Other important exports are mangoes and coffee. The country is heavily dependent on international assistance, especially remittances from expatriates. It imports basic foodstuffs, including rice and sugar. The economic situation worsened perceptibly during the year. Political instability, deficit financing, depreciation of the gourde, and the world fuel price increase contributed to the country's severe economic problems. Episodes of sharp gourde depreciation in September-October, combined with a fuel price increase, resulted in high costs for import-dependent business enterprises, prices for food and consumer goods remained high at year's end. The International Monetary Fund estimated the increase in inflation from 1999 in October at 18 percent.

The Government's human rights record was generally poor, and its overall effort to respect the human rights of its citizens was marred by serious abuses and shortcomings in oversight. Contrary to the previous year, there were no credible allegations of extrajudicial killing or disappearance. There were several politically motivated killings during the year. The HNP continued to beat, torture, and otherwise mistreat detainees. Methodical investigations by the HNP are rare, and impunity remains a problem. Very poor prison conditions, arbitrary arrest and detention, and prolonged pretrial detention continue to be problems. Many criminal deportees who already served full sentences overseas are put back in jail for indefinite periods of time. The judiciary remained understaffed and underfunded; judges are corrupt and untrained. Judicial dockets are clogged, and fair and expeditious trials are the exception rather than the rule. The judiciary is not independent in practice; however, the completion of the Carrefour-Feuilles and Raboteau trials were signs of improvement. Security forces carried out illegal warrantless searches. Popular organization militants and members of the HNP increased their harassment of political parties, especially the opposition, during and after the May legislative elections. Opposition candidates were arrested, beaten, shot, and sometimes killed. Some opposition party offices were burned or otherwise destroyed. Most media practice some form of self-censorship, although they are frequently critical of the Government. Violence and societal discrimination against women, and government neglect and abuse of children remain problems. Some government leaders directed their rhetoric against the mulatto segment of society. The practice of rural families sending young children to the larger cities to work as unpaid domestics (*restaveks*) is still a problem. Child labor persists. Vigilante activity, including killings, remained a common alternative to formal judicial processes.

The Government made some progress in fighting police impunity and in addressing the legacy of human rights abuse from the 1991-94 period. On September 29, the trial of former soldiers involved in the 1994 Raboteau massacre began. On November 10, the court found 16 of the 22 defendants guilty and acquitted 6. The judge sentenced 12 to life imprisonment with hard labor and 4 others to between 4 and 9 years' imprisonment. On September 11, a jury found 4 police officers, including former police chief Jean Coles Rameau, guilty for their role in the murder of 11 civilians in the Carrefour-Feuilles section of Port-au-Prince on May 28, 1999. The judge sentenced the defendants to 3 years' imprisonment each.

## RESPECT FOR HUMAN RIGHTS

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

#### a. Political and Other Extrajudicial Killing.

There were no credible reports of extrajudicial killings by members of the HNP; however, it is very difficult to obtain reliable statistics in this regard because the mandate of MICIVIH has expired. Its successor, the International Civilian Mission for Support in Haiti (MICAH), has a much more limited mission that does not include compiling statistics on human rights abuses. However, there were political killings during the year.

On January 11, a crowd chased HNP and U.N. CIVPOL officers into the Fort Liberte Commissariat after police rescued one of two thieves caught by the local populace seeking to lynch them. The second thief was beheaded. One 14-year-old was shot and subsequently died. The source of the bullet is unknown.

There were politically motivated killings during the year. On March 27, unknown persons killed Popular Organization (OP) member Jean Samedi in the La Saline area of Port-au-Prince. Following discovery of his body, the crowd lynched one individual suspected of involvement in the killing; five others were wounded in the confrontation. Samedi's murder led to further street violence later in the week, during which two persons were

killed and at least three others, including a police officer, were wounded. On March 28, Legitime Annis, a local opposition party coordinator, and his wife were murdered at their home in Petit-Goave. On March 29, Ferdinand Dorvil, campaign manager for an opposition Senate candidate from Grand Riviere du Nord, was dragged from his home, shot, and killed. On April 10, Merilus Deus, opposition candidate in Savanette, was murdered, and his daughter was injured. The HNP investigated these murders as politically motivated incidents.

On April 3, unknown gunmen shot popular radio host and director general of Radio Inter Jean Leopold Dominique, known for his criticism of the Government and of former coup leaders (see Section 2.a.). For weeks before the attack, Radio Inter employees had received threatening phone calls. On April 8, following Dominique's funeral, a gang of approximately 25 persons burned the office of the KID party to the ground while police watched. The HNP is treating the case as a politically motivated killing. The investigation was still open at year's end. Two arrests were made in this case; one man was released while the other, a former policeman, was still in custody at year's end. In September Jean-Senat Fleury, a respected judge known for his impartiality, was removed by the Minister of Justice from investigating the case. The grounds for his removal were unclear. In November the Minister named a new prosecutor, Claduy Gassant, who began calling witnesses, including high ranking HNP officials and FL politicians.

On May 12, Branor Simon, the campaign coordinator for a local opposition candidate in Grand'Anse department, was shot and killed. His murder credibly is believed to be politically motivated. On May 21, two election-related deaths were reported in Croix de Bouquets, a suburb of Port-au-Prince, where a candidate and policeman exchanged fire in an altercation away from a polling booth. Police were cooperating with the investigation at year's end.

On September 6, men wearing police uniforms abducted, tortured and killed Amos Jeannot, an employee of a local nongovernmental organization (NGO) called Fonkoze (see Section 4).

Two prominent killings in 1999 remain unresolved. No arrests have been made in the October 1999 killing of Jean Lamy, an unofficial advisor to the HNP and longtime political ally of President Jean-Bertrand Aristide or in the March 1999 killing of opposition Senator Yvon Toussaint.

On September 11, a court found 4 of 6 police officers guilty for their role in the summary execution of 11 civilians in the Port-au-Prince suburb of Carrefour-Feuilles on May 28, 1999. The judge sentenced each to 3 years' imprisonment.

On September 29, 22 former members of the military went on trial for taking part in the 1994 Raboteau massacre. On November 11, the jury found 16 of the defendants guilty. The judge sentenced 12 defendants to life imprisonment with hard labor and 4 others to between 4 and 9 years imprisonment.

In 1995 Claudette Gourdet Saint Albin was convicted in absentia of the September 1993 murder of Antoine Izmero. When in April the SIU attempted to arrest her, the judicial police presented a 1998 document acquitting her. There has been no further movement on the Gourdet/Izmero case.

The Government has focused its efforts on investigations into political killings that happened before the 1994 return of Jean-Bertrand Aristide, e.g. Raboteau, Cite Soleil. Little progress has been made in the investigations of political killings after 1994, with the exception of the Carrefour-Feuilles trial. Judges assigned to politically sensitive cases complained about interference by the executive branch of the Government.

There was little movement on the investigation into the 1993 massacre of residents of Cite Soleil, a Port-au-Prince slum, by members of the FAd'H and its allied paramilitary group, Revolutionary Front for the Advancement and Progress of Haiti. In November 1999, 23 arrest warrants were issued; however, soon afterwards, Minister of Justice LeBlanc terminated the employment of the judge on grounds of corruption, leaving the 4-year-old case without a judge with institutional knowledge of the case. By year's end, no arrests had been made; however, a new judge was appointed in the late summer.

Extrajudicial killings often take the form of vigilante actions. In general, such incidents occurred without official complicity, especially in rural areas where there is little or no police presence, the populace routinely resorts to vigilante actions in the absence of reliable means of legal redress. In November the Prime Minister called for the reappearance of vigilante brigades, and several began to operate. Angry mobs often kill suspected thieves, bandits, murderers, rapists, and sorcerers, usually by assault with machetes, stoning, beating, or burning. The HNP tried to prevent instances of vigilante justice in at least two cases in Port-au-Prince.

On March 30, a mob attacked and severely injured a murder suspect in Port-au-Prince who had just been

arrested by the HNP. The suspect was in police custody when he was attacked. The HNP did not provide adequate security but instead drove the suspect through downtown Port-au-Prince in the back of a pick-up truck, despite a large crowd which had formed.

In March Amnesty International (AI) released a public statement expressing concern about reports of politically motivated violent street demonstrations by individuals said to be calling for, among other demands, the resignation of the Provisional Electoral Council. On March 27 and 28, demonstrators, some of whom claimed ties to the Fanmi Lavalas party, set fire to tires at barricades around Port-au-Prince. The central market was burned. A police officer in civilian clothes was shot twice at close range. Local television broadcast a report that a 9-year-old child had been shot and killed in the protests. Local police response was sporadic and limited; at least six persons were killed and many wounded. On March 29, Constitution Day, the violence continued in and around Port-au-Prince. FL supporters threatened Espace de Concertation party marchers. An opposition party organizer Legitime Adis and his wife were shot in their Petit Goave home.

Prison administrators and international human rights observers report a high number of deaths in prison (see Section 1.c.).

#### b. Disappearance

There were no credible reports of politically motivated disappearances.

On April 27, Claudy Myrthil, the Espace de Concertation candidate for the post of Delege de Ville in the Port-au-Prince neighborhood of Martissant was abducted from his home by unknown persons and held captive for 10 days. It is not clear whether his abduction was politically motivated.

In June 1999, recent skeletal human remains were found at Titanyen (near Croix des Missions), an area that often had served as a dumping ground for bodies of victims of political killings during the Duvalier and military eras. The HNP's forensic unit removed the remains with the assistance of foreign experts. Preliminary findings link some of the remains with an April 1999 incident in which HNP officers allegedly arrested eight teenage associates of the gang leader, Hypolite Elysee, whom HNP agents killed in April. Despite the efforts of their families to find them at police stations, prisons, and the morgue the youths were not located. The HNP opened an investigation into the case in June; at year's end the investigation remained open.

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

The 1987 Constitution prohibits the use of unnecessary force or restraint, psychological pressure, or brutality by the security forces; however, members of the security forces continue to violate these provisions. Police officers used excessive--and sometimes deadly--force in making arrests or controlling demonstrations and rarely were punished for such acts. Police frequently beat suspects. Torture and other forms of abuse are pervasive.

On July 6, members of the HNP questioned, beat, and tortured a journalist and businesswoman at her home for 2 hours (see Section 2.a.).

According to an opposition political party leader, on July 12, a police commando unit led by Mayor-elect Willo Joseph and local HNP Commissioner M. Jose rounded up and beat seven Espace leaders in Maissade. They were taken to neighboring Hinche where police authorities imprisoned them. The authorities stated that they were arrested for "setting houses on fire." One of the detained persons was dragged through the streets of Maissade by a rope attached to his neck.

According to Marc-Antoine Destin, president of the Confederation of Haitian Workers (CTH), on February 22, HNP officers led by Joanna Lunday, a local judge, kicked and beat a group of about 20 CTH officials at their headquarters in Petionville. Four CTH officials were arrested (see Section 6.a.). They were not charged with any crime, and were later released. The officers and judge have not been disciplined.

Police mistreatment of suspects at both the time of arrest and during detention remains pervasive in all parts of the country. Beating with fists, sticks, and belts is by far the most common form of abuse. However, international organizations documented other forms of mistreatment, such as burning with cigarettes, choking, hooding, and kalot marassa (severe boxing of the ears, which can result in eardrum damage). Those who reported such abuse often had visible injuries consistent with the alleged maltreatment. There were also isolated allegations of torture by electric shock. Mistreatment also takes the form of withholding medical treatment from injured jail inmates. Police almost never are prosecuted for the abuse of detainees.

There were isolated credible allegations of excessive force on the part of the CIMO and UDMO crowd control forces.

The Government's record of disciplining police officers implicated in these offenses is mixed. More often the HNP simply fires officers caught in flagrant abuses. The Government prosecuted six HNP officers during the year, and four received a sentence of 3 years in the Carrefour-Feuilles trial (see Section 1.a.). There are some HNP officers in prison for other offenses, although no exact figures were available at year's end. More than 800 officers have been removed since 1996. The lack of an Inspector General's office within the HNP significantly contributes to a problem with discipline.

There were sporadic instances of brutality on the part of local officials exercising unauthorized law enforcement functions. Especially in rural areas, brutality is perpetrated by members and agents of CASEC's (administrative councils of communal sections), who tend to assume illegally a law enforcement role in the absence of a regular police presence.

A Committee to Judge Jean Claude Duvalier lobbied the French Government for his return to the country. Early in the year, they filed a complaint in a French court asking for his return, but the court dismissed their motion. The group was in the process of appealing this decision at year's end.

Prison conditions remained very poor. The Penitentiary Administration Management (DAP), with the support of the International Committee of the Red Cross (ICRC), struggled to improve conditions in the country's prisons. Prisoners and detainees, held in overcrowded and inadequate facilities, continued to suffer from a lack of basic hygiene, poor quality health care, and 24-hour confinement to cells in some facilities. Several prisons experienced water shortages. As of August, the country's 19 prisons held 4,219 prisoners, an increase of about 350 persons compared with 1999.

The prison system continued to experience food shortages. Prison administrators and international human rights observers report a high number of deaths in prison. No official statistics are available; however, prison administrators report that in the month of November alone, at least 10 deaths were reported--5 attributable to malnutrition, 2 or 3 to AIDS, and the remainder to other causes. International human rights observers report that the number of deaths attributable to malnutrition rose significantly at year's end. Many prisons were only able to supply one (as opposed to the required two) meals a day to inmates. Most severely affected were inmates whose diet was not supplemented by food brought by family members. Even in those prisons where two meals were supplied, the food routinely lacked the minimum nutrients established by international standards; many prisoners were malnourished.

The ICRC manages a number of humanitarian programs to improve living conditions within the prison system. It pays for prescriptions not available in the prison pharmacies. On a quarterly basis, the ICRC distributes basic hygiene supplies to the prisons, including soap, bleach, brooms, mops, paper towels, and disinfectants. The ICRC also provides funding on an as needed basis to clear the prison septic tanks and renovate prison bathrooms, showers, and water pumps. The ICRC also donates reading material, sewing machines, wood and other items to help prisoners pass the time.

The DAP is plagued by budgetary and management problems. The prison system still operates on the same budget as in 1995. Even when the administration manages to purchase enough food for all the prisoners, they experience difficulties in delivering the food to the 19 prisons. The prison administration does not have a delivery system, so it is up to the individual prison inspectors to go to the main warehouse and carry out as much food as they can fit in a taxi or local bus. The central warehouse also lacks a control mechanism to ensure that each prison is getting its fair share.

In the past, when the authorities received Haitian citizens deported from other countries for having committed crimes, they were processed in 1 week and then released. However, since March 24, criminal deportees who already have served sentences outside the country are kept in jail, with no timetable for their eventual release. Prosecutor August Brutus said that "preventive measures" are being taken to prevent the "bandits" from increasing the level of insecurity and crime in the country.

Health care services offered to inmates is improving slowly. However, most of the nurses do not receive adequate training. All receive a minimal 3-month training course before beginning work; however, of the system's 60 nurses, at most 5 have completed the 3-year course of instruction necessary to obtain full certification as registered nurses. In October 1999, a new Chief Physician was appointed. He instituted monthly meetings of all the prison healthcare professionals. Every prison has a dispensary, none have hospitals. Only the National Penitentiary has a nurse on duty 24 hours a day. The common sicknesses after malnutrition are skin problems, tuberculosis, and AIDS. In the capital, doctors are available; however this is not always the case in the provinces. The nurses do not conduct daily checkups on the physical condition of the

prisoners; the prisoners must first ask and then receive permission to visit the nurse. The dispensaries have a limited supply of medication. If the needed medication is not available through the dispensary, family members must provide it, or in cases when there are no relatives, the ICRC provides funding for the medication on a routine basis in the capital and on a quarterly basis in the provinces.

Fort National prison in Port-au-Prince is the only prison facility expressly for women and juveniles. In other prison facilities, women are housed in cells separate from the men. However, overcrowding often prevents strict separation of juveniles from adults, convicts from those in pretrial detention, or violent from nonviolent prisoners. Many prisoners were held in police holding cells, particularly in the provinces. The National Penitentiary is the only prison originally constructed for use as a prison; all other prisons are former police holding cells.

International human rights observers and prison officials admit that there are instances of abuse by prison personnel against prisoners; however, no statistics were available at year's end. Prison officials report that prisoners did not file any official complaints against prison personnel during the year. However, they also admitted that they are aware that abuse occurs because they have heard oral reports from prisoners. However, the prisoners are afraid to file an official complaint because they fear that the abuse may worsen as a result.

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

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, the security forces continued to use arbitrary arrest and detention. The Constitution stipulates that a person may be arrested only if apprehended during the commission of a crime, or if a written order by a legally competent official such as a justice of the peace or magistrate has been issued. These orders cannot be executed between 6:00 p.m. and 6:00 a.m., and the authorities must bring the detainee before a judge within 48 hours of arrest. In practice, the authorities frequently ignored these provisions. There were instances of arrests by security forces and local authorities lacking the authority to do so. In particular, arrests by mayors and members of local CASEC's occurred in underpoliced rural areas. Occasionally parents ask a judge to imprison a delinquent child.

On July 12, police beat and arrested seven leaders of the Espace de Concertation party (see Section 1.c.).

The requirement that a detainee be brought before a judge within 48 hours of his arrest was disregarded routinely in certain police jurisdictions, according to NGO's. Although the 48-hour rule is violated in all parts of the country, it is most often and flagrantly ignored in Jeremie, Cap Haitien, Petionville, and the Delmas commissariat of Port-au-Prince. Moreover, arrests sometimes are made on charges (for example, sorcery or debt) that have no basis in law. The authorities also detained some persons on unspecified charges or "pending investigation."

In 1999 the international community was increasingly troubled by the authorities' tendency to detain persons in defiance of valid orders for their release issued by judges. MICIVIH expressed "extreme concern" at these cases, and described the authorities' actions as "completely arbitrary and illegal." Prisoners with histories of opposition to the Government or affiliation with the Duvalier or de facto regimes were affected disproportionately by this practice. By August about half of those prisoners identified in 1999 had been released. By October prisoners still held despite valid release orders included Leoncefils Ceance, Esteve Conserve, Calero Vivas Fabien, Jean-Robert Lherisson, Rilande Louis, Leonard Lucas, Georges Metayer, Alexandre Paul, Jean-Michel Richardson, and Jean Enel Samedi.

As in previous years, the dysfunctional judicial system resulted in pervasive prolonged pretrial detentions, with an estimated 80 percent of the country's prisoners awaiting trial and a third of them for more than one year (see Section 1.e.). The problem is most extreme in Port-au-Prince. A February 1999 compilation of statistics on these cases by MICIVIH showed that of 3,090 prisoners awaiting trial, 1,172 have been held for more than 1 year. Of these, 775 had been held between 1 and 2 years, 287 had been held between 2 and 3 years, and 110 had been held for more than 3 years. Sometimes the charges in these lengthy detentions are minor. Approximately 98 percent of the female and minors in prison are awaiting trial, indicating that the judicial system moves even more slowly for women and children (see Section 5).

In late 1999, Minister of Justice Leblanc announced that resolving the problem of prolonged pretrial detention was a high priority; he reorganized the Port-au-Prince prosecutor's office and attempted to implement a more

rigorous schedule for hearings for correctional and criminal affairs. The Government had made little progress at year's end, as resolution of the problem required thorough judicial reform at all levels of the penal process: police, justices of the peace, prosecutors, investigating magistrates, trial judges, and prisons (see Section 1.e.).

In Cap-Haitien, the second largest city and largest city in the North, the judicial system has improved somewhat, although serious human rights violations occur on a routine basis. The Constitution prohibits police detention in excess of 48 hours; however, lengthy delays are routine. In some cases, detainees in police holding cells have been held for more than a month. Those accused of crimes and awaiting trial face lengthy delays in reaching trial. In many cases, pretrial detainees spend years awaiting trial. Human rights organizations note that the average wait before trial has increased from 3 to 4 years. Nevertheless, they report that beatings of prisoners have decreased in Cap-Haitien and active efforts are being made to decrease the lengths of pretrial confinement.

Police in some instances attacked journalists (see Section 2.a.).

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

#### e. Denial of Fair Public Trial

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

At the lowest level of the justice system, the justices of the peace issue warrants, adjudicate minor infractions, 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. Appeals court judges hear cases referred from the first instance courts, and the Supreme Court deals with questions of procedure and constitutionality.

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

A shortage of adequately trained and qualified justices of the peace, judges and prosecutors, as well as underfunding, among other systemic problems, created a huge backlog of criminal cases, with many detainees waiting months or even years in pretrial detention for a court date. Bail is available; however, it is entirely at the discretion of the investigative judge (*juge d'instruction*). Bail hearings are not automatic. The attorney for the defendant can make an application based upon a specific need, and the judge then decides if a conditional release is warranted. This usually is done only in minor cases when there is an overwhelming humanitarian reason, such as a need for medical attention. In some regions, there are not enough judges to hear cases, and judges lack basic resources (such as office space, legal reference texts, and supplies) to perform their duties. Professional competence is sometimes lacking as well; some judges are illiterate. If an accused person ultimately is tried and found innocent, there is no redress against the Government for excessive time served in detention.

The Code of Criminal Procedure does not assign clear responsibility to investigate crimes and divides the authority for cases among police, justices of the peace, prosecutors, and investigative magistrates. Examining magistrates often receive files that are empty or are missing police reports. Autopsies are conducted only rarely, and autopsy reports are even more rare. The code provides for 2 criminal court sessions (*assizes*) per year in each of the 15 first-instance jurisdictions, each session generally lasting 2 weeks, to try all major crimes requiring a jury trial. During the year, the Port-au-Prince jurisdiction--by far the largest in terms of caseload--failed to adhere to this stipulation due to difficulties in assembling juries. The first criminal *assizes* since July

1998 occurred in Port-au-Prince in December 1999. The second was held almost 1 year later in September.

At least 3 classes of approximately 80 students have graduated from the Magistrates School. The school conducted seminars on human rights and judicial reform during the year.

There were no official reports of political prisoners.

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

The Constitution prohibits interference with privacy, family, home, or correspondence; however, police and other security force elements conducted illegal warrantless searches. In the past there were reports that the police arrested family members of wanted persons when the suspects themselves could not be found.

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

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government has in the past generally respected these rights; however, the Government's respect for the press deteriorated during the year. Print and electronic media from opposite ends of the political spectrum often criticize the Government. However, most media practice self-censorship, wary of offending sponsors or the politically influential. After the November 26 presidential elections, death threats proliferated against media figures who questioned the electoral process or outcomes. Although the threats were anonymous, the Government did nothing to counter them. Three radio stations were forced to stop temporarily news programming for brief periods in late November and December as a direct result of threats against the stations for their coverage of the elections.

There are two French-language newspapers in the country, *Le Nouvelliste* and *Le Matin*, with a combined circulation of less than 20,000 readers. Print media in Creole is limited due to regional variations and the lack of a consistent orthography; however, many newspapers include a page of news in Creole. Both daily newspapers are frequently critical of government policies.

The written press is beyond the reach of many citizens, due to language differences, illiteracy, and cost. The literacy rate is only about 20 percent, and broadcast media, especially Creole-language radio, have a preeminent importance. Although most radio stations and other forms of telecommunications are nominally independent, they are subject to a 1997 law that names the State as the sole owner and proprietor of all telecommunications media. Members of the press believe that the Government refuses to sign the Chapultepec Convention (on freedom of expression) because the Convention prohibits government monopolies of the media, which would be in direct violation of the 1977 law. The State leases the right to broadcast to private enterprises but maintains the right to repossess the airwaves as it sees fit.

Over 200 private radio stations exist, including about 40 in the capital alone. Most stations carry a mix of music, news, and talk show programs, which many citizens regard as their only opportunity to speak out on a variety of political, social, and economic issues. Uncensored foreign satellite television is available; however, its impact is limited, as most persons cannot afford access to television. Broadcast media freely express a wide range of political viewpoints.

Credible reports indicate that the Government's inability or unwillingness to provide adequate security to media outlets and prominent members of the press has contributed to an increased sentiment of vulnerability among those members of the press who criticize the Government or Fanmi Lavalas.

According to employees of Radio Metropole, on February 11, Prime Minister Alexis publicly criticized the station for its coverage of rightwing leader Claude Raymond's death while in prison; however, none of the reported items were inaccurate.

On April 3, unknown persons killed radio commentator Jean Leopold Dominique and a security guard (see Section 1.a.).

On December 15 two youths killed sports broadcaster GERAL Denoze; the motive remained unknown at year's end.

Numerous anonymous death threats have been directed at journalists by name, including the entire news staff

of Radio Vision 2000, which is known for its opposition to the Government. On April 5, Radio Vision 2000 journalists sent a signed letter to Justice Minister Camille Leblanc, in which they described "daily threats against their lives." They asked the Minister to ensure security for the radio staff and building. Following Jean Leopold Dominique's funeral on April 8, a group of at least 100 persons massed outside the station, threatening to attack it. The CIMO dispersed the crowd. A few days after Dominique's murder, Daly Valet, a Radio Vision 2000 journalist, went into hiding after receiving frequent and credible death threats. He fled the country. In June heavily armed, hooded men painted slogans on the wall of the station and threatened newsroom employees. In face of threats, Radio Galaxie suspended its news service the day after the November 26 elections. That same day Radio Vision 2000 joined Radio Galaxie in suspending its service following the receipt of threats. Radio Caraibes shut down its news service on December 23, after receiving threats to the station and personnel.

On April 4, hooded, armed men attacked the Radio Unite station in Artibonite province. They stole transmitters and destroyed much of the recording studios and electrical installations.

According to employees of Radio Echo 2000 in Petit Goave, on April 5, a group of armed men entered the station and threatened to burn the station down and kill the employees if they did not cease broadcasting. The police did not respond. In March a group of bandits beat one of the journalists, Elyse Sincere.

On April 17, presidential staff employee and information officer Guy Delva organized a march "to protest attacks against freedom of the press," coercing independent media to take part or else be stigmatized as antigovernment agitators. He also pressured news directors by telephone to cease broadcasting on April 17, lest they be branded as opponents of the event. Radio news sections sent representatives to the march in small numbers to avoid open defiance, but all refused to shut down their programming on April 17.

In May unknown persons destroyed radio and television stations in Petit-Goave.

In June a private radio station, Horizon PM, issued an open nationwide alert, noting that its editor and several of its employees had received anonymous verbal threats.

In August unknown persons hurled a fragmentation grenade at the National Television Building in Port-au-Prince. No one was injured.

On August 22, agents from TeleTimoun, the television station wholly owned by the FL, entered and offered the news staff quadrupled salaries, connected cell phones, and freedom from fear of future harassment to those Telemax employees who accepted the offer. All but one person accepted. The Telemax news service, previously the country's most objective and technically advanced, subsequently was staffed with Lavalas supporters and objective reporting ceased.

Foreign journalists generally circulated without hindrance from the authorities; however, in July police questioned, beat, and tortured a dual national journalist in her home (see Section 1.c.). The journalist identified the officers from a police line-up. The police commissioner who orchestrated the event was fired on other charges not related to this incident. At year's end, the Government had not apprehended, charged, or disciplined the officers, even though the victim had identified them.

The Government respects academic freedom.

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

The Constitution provides for freedom of assembly, and the authorities generally respect this right in practice. In general, a variety of organizations were able to exercise this right without hindrance throughout the year. For example, on September 18, about 6,000 members of the Papaye Peasants' Movement marched from the central plateau town of Papaye to Hinche in an anti-Lavalas demonstration. According to observers, the police played a passive role, except at one point intervening to separate the demonstrators from pro-Lavalas supporters, and there was no confrontation.

However, in several instances police inaction allowed organized political militants to violate the right of freedom of assembly in practice, and there were numerous violent political demonstrations (see Section 1.a.).

Olivier Nadal, former president of the Haitian Chamber of Commerce, reported to the press that he and his family had received death threats, and that they had fled the country. He also had been threatened with arrest. Nadal was the organizer of a May 1999 rally of entrepreneurs, which was broken up by a band of unknown

persons while the police stood by and did not intervene.

A peaceful, well-publicized demonstration scheduled for August 29 in Cap Haitien by the opposition Convergence Group never took place. According to local press reports, the Convergence Group decided to avoid confrontation with members of the pro-Lavalas OP, who moved into the area of the Cap Haitien Cathedral chanting antiopposition slogans.

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

#### c. Freedom of Religion

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

In many respects, Roman Catholicism retains its traditional primacy among the country's religions although Protestant denominations (primarily Methodist and Baptist) have overtaken the Catholic Church in numbers of members. Voodoo, a traditional religion derived in part from West African beliefs, is practiced alongside Christianity by a large segment of the population. While there are associations of voodoo practitioners and priests, there is no organized hierarchy or established voodoo church. Accusations of sorcery, particularly in rural areas, have been known to lead to mob violence resulting in deaths. Given the prevalence of voodoo in these areas, it appears likely that voodoo practitioners are targeted in some cases.

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

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

An unknown number of undocumented migrants put to sea during the year seeking better economic opportunities in other countries. The Government operated, with international support, the National Migration Office (ONM) to assist citizens involuntarily repatriated from other countries, including the Dominican Republic and the Bahamas. That office stopped providing humanitarian services to involuntarily repatriated migrants in June, and in August it stopped meeting and processing the migrants. Although the ONM office still exists, it no longer provides any services to repatriated migrants but conducts training courses. According to the International Organization for Migration, the Dominican Republic deports approximately 500 Haitians each month across the Border. At the end of August, a mass repatriation of approximately 3,000 Haitian nationals took place. There were reliable reports of separation of families and maltreatment of Haitians by Dominican soldiers during this period, as had been the case in 1999.

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

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

The Constitution provides for regular elections for local and parliamentary offices and for the presidency. Rene Preval, who was elected in 1995 in an election regarded by the international community as free and fair, continued in office during the year. On May 21, a first round of long overdue senatorial, legislative, and municipal elections to fill vacant posts took place after repeated postponements. The CEP manipulated the results by its choice of a methodology for calculating the percentages in determining senate seats, by the faulty transmission of results, and by the arbitrary treatment of challenges which had an impact on the results of several races. A continuing standoff through the rest of the year between the Government and opposition parties led to an opposition boycott of a second round of legislative elections in July and of the November 26 elections for president and remaining Senate seats. Elections to replace President Preval took place as scheduled on November 26.

The country's constitutional crisis continued through the first half of the year. The crisis began with the flawed local and parliamentary elections of April 1997 and Prime Minister Rosny Smarth's subsequent resignation. A stalemate between the President and Parliament continued through January 11, 1999, when the terms of office of the entire 85-seat House of Deputies and of all but 9 of the 27 members of Senate expired. In March 1999, President Preval negotiated an agreement with a coalition of five small opposition parties to form a Provisional Electoral Council to organize the overdue local and parliamentary elections. After many delays, these were fixed for May 21, with a second round on July 9.

There were scattered acts of violence in the months leading up to the election, as well as several politically motivated killings during the year (see Section 1.a.). On March 11, supporters of the ruling Fanmi Lavalas' candidate for deputy in the Delmas region physically attacked Serge Auguste, an opposition candidate. On March 17, Marie Laurence Jocelyn Lassegue, an opposition candidate running for Senate, was shot and injured while campaigning. On March 20, two men shot and injured Marcel Fils, an opposition party coordinator, in downtown Port-au-Prince. On March 27, unknown persons killed progovernment Popular Organization (OP) member Jean Samedi in the La Saline area of Port-au-Prince. Samedi's murder led to further street violence later in the week, during which two persons were killed and at least three others, including a police officer, were wounded (see Section 1.a.). The HNP investigated their murders as politically motivated incidents.

Opposition leaders reported that while they participated in a proconstitution march on March 29, seven hostile FL supporters attacked them, shouting "Aristide or death", and other threats. The attackers brandished pistols and threw stones and one Molotov cocktail.

AI reported that a group of armed men attacked members of an opposition party as they handed out pamphlets in Port-au-Prince on March 29. On April 3, noted journalist Jean Leopold Dominique and one of his guards were shot and killed (see Section 1.a.). On April 4, Merilus Deus, an opposition senatorial candidate in Savanette was murdered (see Section 1.a.); the deputy candidate went into hiding. On April 6, the Grand'Anse BED legal adviser reported that several individuals forced their way into his house, dragged out his personal property and burned it. There was no sign of the HNP during this incident. On April 8, a group of pro-FL militants attacked and burned the headquarters of an opposition party. The FL denied involvement despite several credible reports that its supporters were responsible for the attack. On April 9, two regional opposition offices in Achaie and Aquin were burned and destroyed. On April 19, an opposition candidate for local office in suburban Port-au-Prince allegedly was kidnaped, but reappeared unharmed on May 3.

On May 21, about 60 percent of the country's 4 million registered voters went to the polls to select from some 29,000 candidates for 11,000 local and national posts. International and domestic observers agreed that despite some scattered irregularities (polling booth intimidation, ballot stuffing, and publication of voting results before polling booths were closed), the elections were generally free and fair. Two election-related deaths were reported in a suburb of Port-au-Prince, where a candidate and policeman exchanged fire in an altercation away from a polling booth. On May 22, the HNP arrested and charged Paul Denis, an opposition party leader and former senator, for possession of illegal weapons. He later was released amidst allegations the arrest was motivated politically.

While the initial voting was generally free and fair, serious irregularities in the counting of votes and the computation of winners in certain senate races compromised the election. A December report by the Organization of American States (OAS) concluded that the voting process began to deteriorate after the closing of the polls. For example, armed groups stole and burned ballot boxes in the departments of the Center, North, and Artibonite. The delivery of voting materials (ballots, ballot boxes, pens, ink, and voter registration lists) in Port-au-Prince and Cap-Haitien was chaotic and a substantial number of these materials may have been lost. The election controversy became serious with the publication of the results of the Senate races. Under the Constitution and electoral law, a candidate must receive an absolute majority of votes cast in order to be elected in the first round of voting. If no candidate receives a majority, a second-round runoff is required. The Senate results published by the CEP announced that the ruling Fanmi Lavalas party won 16 of the 17 Senate seats in the first round. These results were based on what opposition parties and independent observers termed a flawed interpretation of both the Constitution and the electoral law. Officials only counted votes cast for the top four contenders in each Senate race, yielding what both international and local observers said were false FL victories. Percentages of votes were calculated imprecisely, by using the total of votes received by the top four contenders rather than the total of votes for all candidates. There were 20 to 30 candidates for Senate in each department. CEP President Leon Manus and two other members (all representing opposition parties) refused to certify the irregular results and resigned their posts. A preliminary evaluation conducted by the OAS found that only 9 Senate seats should have been decided in the first round, while 10 should have gone to a second round. President Preval responded to the three CEP resignations by appointing replacement council members loyal to FL, who immediately certified the Senate results without addressing the controversial counting method.

The international community, local civic groups, and opposition parties called on the Government to address the controversy. The CEP ignored these protests and on July 9, held second-round races for deputies. There were no senatorial second-round contests. With an almost unanimous boycott by opposition parties and candidates, voter turnout for this round was significantly lower than in May, at reportedly only 5 percent. All international and most domestic observers refused to participate in monitoring the second round.

Domestic human rights and opposition parties continued to protest the election results. Following his resignation, CEP president Leon Manus fled the country after being threatened repeatedly. He then issued a

statement that acknowledged that the methodology used in counting votes for the Senate was flawed. On June 15 and 16, bands of pro-FL militants shut down metropolitan Port-au-Prince with barricades and tire burnings to protest international refusal to certify the results. International missions led by the OAS unsuccessfully attempted to encourage resolution of the May 21 elections dispute.

Despite local and international calls not to seat the Parliament before resolution of the election controversy, on August 28, Parliament was sworn in formally.

Violence escalated, particularly in Port-au-Prince, during the days before the November 26 elections for President and for replacements for the remaining nine Senators whose terms would expire in January 2001. While some of the violence was attributable to the political situation, for which the FL accused the opposition of responsibility and vice-versa, common crime was undoubtedly the source of many episodes; however, the violence contributed to an overall climate of intimidation.

On the evening of November 2, in Hinche heavily armed members of FL attacked a meeting being held by opposition political party leader Chavannes Jean Baptiste and injured seven persons. A few days later, the mayor of Port St. Louis fired shots into a seminar being conducted by a respected opposition politician.

Shootings and robberies became an almost daily occurrence in Port-au-Prince. On November 3, unidentified persons opened fire on an evening rush hour crowd, killed at least five, and wounded several others. That same day three bodies were found in another location. On November 4 and 5, three more bodies were found in yet another site. Also on November 4, at least one person was killed and another gravely wounded during a confrontation between rival gangs at another street intersection. Ongoing confrontation between rival gangs in the Port-au-Prince slum of Cite Soleil during the month of November resulted in numerous injuries and property damage. In general, the HNP did not respond to the confrontations.

On November 14, a group of approximately 500 pro-FL demonstrators rallied peacefully in front of a foreign Embassy to protest international pressure on former-President Aristide to bring about a negotiated solution to the political stalemate that had developed over the May 21 elections. The same day, a drive-by shooting killed one person in front of the Le Nouvelliste newspaper offices in downtown Port-au-Prince. That evening, residents panicked as unidentified persons in a pick up truck drove through several neighborhoods shooting at persons (injuring a number of them) and ordering persons off the streets.

On November 15, a clearly marked U.N. vehicle was hit in a drive-by shooting in Gonaives. No one was injured.

On November 22, nine separate explosions occurred in crowded areas of Port-au-Prince; the explosions killed two children and left many other persons injured. On November 25, marching FL members in Petit Goave staged citizen's arrests of several opposition members and detained several others. Also on November 25, an attempt was made during the evening to burn the communal electoral office (BEC) in Ganthiere. Police intervened and were able to save the electoral materials, although the building was partially destroyed.

The international community and most opposition parties refused to help or take part in the November 26 presidential elections because of the unresolved controversy surrounding the May elections. Due to the lack of international observers, the local press monitored the election process. Several radio stations were forced to close their news operations because of threats (see Section 2.a.).

The November 26 elections took place amidst heavy police security and were characterized by low turnout--accounts vary from the 5 percent to 20 percent. Aside from a pipe bomb that exploded in the Port-au-Prince suburb of Carrefour and the burning of ballots during the morning in the city of Anse d'Hainault, the elections generally passed without disturbance. With the opposition boycott, former President Jean-Bertrand Aristide faced only token opposition and was elected to a 5-year term with a reported 91.5 percent of the votes cast.

In the days following the November elections, pro and anti government violence occurred again in the department of Grand' Anse. In the cities of Anse d'Hainault, Cotetaux, and Petite Riviere de Nippes, protest and violence led to the deploying of HNP units from Port-au-Prince, and in the case of Nippes, the Coast Guard, to restore order. Throughout the rest of the country, calm generally prevailed.

There are no legal impediments to women's participation in politics or government; however, they are underrepresented, and the low status of women limits their participation. The Election Law provides that the monetary deposit required of female candidates for political office is one-half that required of male candidates, if a recognized party sponsors them. Three of the 82 deputies are women, and there are 6 women among the 27 senators.

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

Domestic and international human rights groups generally operate without government restrictions; however, threats and intimidation from unknown sources continued to increase during the year. Justice Minister Leblanc continued to seek dialog with some groups and solicited their recommendations on human rights issues such as police impunity and prosecution of police and former military suspected of committing human rights abuses. The number of groups that monitor human rights has grown, as has the scope of those groups; however, most monitoring groups are hampered by a lack of resources. Human rights organizations increasingly turn to issues that they have not addressed before, including prison conditions, the widespread lack of health facilities, and impunity for criminals.

Following the April 3 killing of Jean Leopold Dominique, members of the local human rights community, including the National Coalition for Haitian Rights (NCHR) and the Platform of Haitian Human Rights Organizations rallied in front of the Haiti Inter radio station. Self-described members of Fanmi Lavalas beat and shot at several participants. Riot police were on hand but did not protect the rally participants (see Sections 1.a. and 2.b.).

On September 6, men wearing police uniforms abducted, tortured, and killed Amos Jeannot, an employee of Fonkoze, a local NGO (see Section 1.a.). AI and local human rights organizations appealed to the HNP for a swift and thorough investigation. The investigation continued, but no arrests had been made by year's end.

There were no arrests or progress made in the investigation of the 1999 attempted murder of Pierre Esperance, NCHR country director. The HNP's investigation remains open but apparently inactive.

The difficult security climate remained unchanged. Organizations such as the NCHR, the Platform of Haitian Human Rights Organizations, the Human Rights Fund, and the Ecumenical Center for Human Rights reported receiving repeated threats, most of them anonymous.

The Office of the Protector of Citizens (OPC), an autonomous, ombudsman-like office provided for by the 1987 Constitution, was hampered by a cut in funds due to the Government's budget crisis. The OPC is one of the Government's four independent, autonomous institutions. Despite budgetary problems, the OPC conducted a number of seminars throughout the year, including over 20 seminars in schools, some in the Magistrates School, and others at the local and county levels of government. In February Dr. Louis Roy, the Director of the OPC, appointed Florence Elie to a 4-year term as Deputy Director. Dr. Roy was chosen as the Director by a commission of parliamentarians in conjunction with the President in 1995. However, his seven-year appointment only was ratified by Parliament in 1997.

The recently seated Parliament created a Justice and Human Rights Committee. The chairman of the committee said that his primary goal would be the improvement and reform of the judicial system. It is not clear whether the committee would also conduct human rights monitoring.

The mandate of MICIVIH expired on March 15. MICIVIH played a vital and successful role in monitoring the human rights situation and in promoting adherence to human rights norms by the authorities. The U. N. created a new entity, the International Civilian Mission for Support in Haiti (MICAH), after MICIVIH's mandate expired. MICAH's mandate began in March and is scheduled to expire on February 6, 2001. This new entity is much smaller in size and scope than MICIVIH. MICAH's mandate is limited to training in human rights and to conducting civic education courses. It does not conduct human rights monitoring.

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

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

##### Women

The law provides penalties for rape and domestic violence; however, the authorities do not enforce these provisions adequately. According to women's rights groups, rape and other abuse of women is common, both within and outside marriage. A 1998 study by the Haitian Center for Research and Action for the Promotion of Women documented widespread rape and violence against women. The report also found that many women do not report these forms of abuse out of fear, shame, or lack of confidence in judicial remedies. A 1999

survey by UNICEF of violence against women found that 37 percent of women reported being victims of sexual violence or reported knowing a woman who had been; another 33 percent reported being victims of other types of physical abuse. The law excuses a husband if he murders his wife or her lover upon catching them in the act of adultery in his home. A wife who kills her husband upon discovering him in the act of adultery is not excused. The National Commission of Truth and Justice, formed after the 1991-94 period of military rule, recommended several improvements to existing laws concerning rape and abuse of women, but Parliament enacted none of the proposed changes. In January U.N. Special Rapporteur for Violence against Women Radhika Coomaraswamy released a report based on her June 1999 visit to the country. She noted, among other problems, that most women prisoners share living quarters with male prisoners, exposing them to violence and sexual abuse (see Section 1.c.). In 1998 a national coalition of women's organizations met with the Ministries of Health, Population, Social Affairs and Women's Issues. Three proposed changes to the law were submitted to Parliament; by year's end, Parliament had not voted on the proposals. There are no government-sponsored programs for victims of violence.

Sexual harassment of female workers is a problem, especially in the assembly sector (see Section 6.b.).

The Ministry of Women's Affairs is charged with promoting and defending the rights of women and ensuring that they attain an equal status in society, but it has few resources at its disposal and was able to accomplish little in this regard.

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

#### Children

The Government's programs do not promote or defend children's rights. Government health care and education programs for children are inadequate. Malnutrition is a problem. The Government has a school nutrition program administered through the Office of National Development, with food provided by foreign donors. The Constitution and the law provide that primary education be free and compulsory; however, in practice access to public schools is the primary obstacle to most rural families. Even in public schools there are nominal mandatory fees associated with sending a child to school (uniform, books, etc.), and these costs are beyond the means of many rural families. One study reported that schools are dilapidated and understaffed. An estimated 90 percent of schools are private, and the costs of school fees, books, materials, and uniforms are prohibitive for most families. According to the Government, 40 percent of children never attend school, and less than 15 percent of those who do graduate from secondary school. Poorer families sometimes ration education money to pay school fees for male children only. Several international and local NGOs work on children's issues.

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called "restavek" (which means "lives with" in Creole); families of these children frequently received financial compensation (see Sections 6.a., 6.d., and 6.f.). Most local human rights groups do not report on the plight of restavek children as an abuse nor seek to improve their situation. The Ministry of Social Affairs believes that it can do little to stop this practice, regarding it as economically motivated; the Ministry assigned five monitors to oversee the welfare of restavek children. Society holds such children in little regard, and the poor state of the economy worsened their situation.

Port-au-Prince's large population of street children includes many restaveks who have been sent out of employers' homes or who are runaways. There is some anecdotal information indicating that children are involved in prostitution or being trafficked.

The Ministry of Social Affairs is aware of the problem, provides some assistance to street children. In 1998-1999 (last available data), they assisted 887 children. The Haitian Coalition for the Defense of the Rights of the Child (COHADDE) promotes children's rights by conducting awareness raising activities. According to COHADDE, children work primarily in domesticity (restavek), but some are found working on the street, and some are involved in prostitution.

#### People with Disabilities

The Constitution provides that disabled persons shall have the means to ensure their autonomy, education, and independence. However, there is no legislation to implement these constitutional provisions or to mandate provision of access to buildings for the disabled. Although they do not face overt mistreatment, given the severe poverty in which most citizens live, those with disabilities face a particularly harsh existence. Disabled beggars are a familiar sight on the streets of Port-au-Prince and other towns.

#### National/Racial/Ethnic Minorities

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

Racial distinctions tend to parallel social and economic strata. Mulattos, generally belong to the wealthiest classes of society. During the year, various political figures, including the President, used rhetoric indirectly targeting the mulatto segment of society. Mulattos historically have been targets of sporadic attack in many cases because they are perceived to be wealthy.

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

#### Section 6 Worker Rights

##### a. The Right of Association

The Constitution and the Labor Code provide for the right of association. An article of the 1987 Constitution, which supersedes the labor code, gives legal recognition to public sector employees. The law protects union activities and prohibits a closed shop. The law also requires a union, which must have a minimum of 10 members, to register with the Social Affairs Ministry within 60 days of its formation in order to obtain legal recognition. The labor code does not require prior approval before any association is established. The Labor Code stipulates that "no labor union can be formed with less than 10 individuals." Article 232 gives unions 60 days after formation to register with the Office of Personnel Management of the Ministry of Labor and Social Affairs.

Unions are independent of the Government and political parties. Nine principal labor federations represent about 5 percent of the total labor force of approximately 2,800,000 persons, including about 2 to 3 percent of labor in the industrial sector.

Teachers went on strike for several months in 1999 because they had been promised a 32 percent pay increase, later renounced by the Government. The Government denied that public school employees had a right to strike, suspended some teachers, and garnished the salaries of public school employees who participated in the strike. At year's end, 19 teachers remained suspended. In October seven teachers, members of the CNEH, were reinstated. A total of 77 teachers were given financial penalties that amounted to the number of days they were on strike multiplied by 1/30 of their gross pay.

The labor code forbids strikes by public utility service workers. Article 209 of 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." Managers, administrators, and other heads of establishments are not allowed to join labor unions and strike.

In August the Government issued rules governing the public school calendar for the 2000-01 academic year. The Ministry of National Education moved the opening date back about 3 weeks and reduced the number of holidays by 1 day, which added 1 month to the school year; teachers unions were not notified prior to the change nor given adequate opportunity to bargain prior to implementation. The unions criticized this unilateral change as an unfair labor practice and a violation of the contract they signed on June 28, 1999. In the wake of these confrontations, communication between the unions and the Government has been limited. Some unions hope to resurrect negotiations through mediators, while others expanded their lawsuit filed in 1999. While the school year started on schedule, less than 10 percent of students attended classes during the week of

September 4. Approximately 15 percent of students did not return at all.

On May 15, about 300 technicians of the Government-owned telephone company (TELECO) went on a 1-day work stoppage to protest management's slow response in addressing employees' concerns regarding reductions of employee health insurance and pension benefits. TELECO management paid its arrears to the insurance fund, and promised to resume its contributions to the pension fund. However, it later dismissed four technicians in apparent retaliation.

On August 7, armed temporary employees walked into the TELECO headquarters and demanded the so-called 14th month salary, which is a bonus normally paid to full-time employees to pay for school fees. Temporary employees are normally not eligible. TELECO's offices in the greater Port-au-Prince area remained closed for 2 days, and telephone service was reduced. The police took control of the TELECO building and its environs to restore order. The bonus was not paid. The protestors resumed normal activity after some were fired, and others threatened. Using this incident as a pretext, management suspended payment of the traditional 1-month bonus to full-time employees paid 1 month before the school opening date.

In August workers at several factories in the Shodecosa Industrial Zone protested the minimum wage that they received. More than 40 workers were fired, and the protest gradually ended.

On September 11, public transport unions went on strike to protest the Government's decision to raise fuel prices. They ended their strike the following day. On October 3, public transport unions called for a general strike to protest the Government's failure to open a dialog on new fuel prices. The strike was not successful; drivers and owners of public transportation vehicles did not participate.

On October 2, the union of the electric company workers conducted a one-day sit-in inside the Ministry of justice compound. The Ministry promised workers police protection from angry residents while they are on the job. The workers were satisfied and returned to work.

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

#### b. The Right to Organize and Bargain Collectively

The Labor Code protects trade union organizing activities and stipulates fines for those who interfere with this right. No fines were issued during the year. Unions generally were free to pursue their goals, although the Government made little effort to enforce the law. Union leaders assert that some employers in the private industrial sector dismiss individuals who participate in union organizing activities. The International Confederation of Free Trade Unions brought a complaint to the International Labor Organization (ILO) in September 1999, alleging that a utility company (Electricite d'Haiti) violated freedom of association in 1996 when it dismissed 30 leaders and more than 400 members of the Federation of Electricity Workers of Haiti, closed trade union offices by armed persons, and banned any meetings by trade union members in the company. Additional allegations in this case include the attempted murder of two trade union officials, and the arrests and assaults of other trade union leaders. The ILO had not received a response from the Government on these allegations by year's end, and the case remained unresolved. According to the current union (FESTRED'H) leaders, the 1996 union leaders and workers were dismissed permanently. The Government orchestrated a reorganization of the union and allowed it to function under new leadership. The workers are not fighting actively for reinstatement. Some retired, some left the country, and the rest attempted to find employment in other sectors.

Labor unions reported at least one killing, and several arrests during the year. On September 4, Elison Merzilus, a member of the Autonomous Central of Haitian Workers (CATH), was taken from his home by a group of 10 armed men. He lived in the 7th Section of the Gros-Morne Commune, in the Artibonite Department. His body was found 2 weeks later, in a ravine located in the 8th Section of the Gros-Morne Commune. Merzilus was instrumental in forming a women's organization affiliated with CATH several days before his disappearance. Around the same time, 10 other union members were informed that their names were blacklisted and spent several months in hiding.

On December 19, the authorities arrested Wilson Duverson and Rigaud St.-Juste in the commune of Anse-a-Foleur, Northwest Department. They were subjected to severe beatings and other harsh treatment. The authorities released Duverson on January 8 and released St. Juste on January 18. Both are members of the Anse-a-Foleur Workers Organization for Recovery (OTRA).

Several leaders of major Labor Confederation leaders were subjected to persistent telephone threats and were

given ultimatums to rally behind the FL.

Organized labor activity was concentrated in the Port-au-Prince area, in state enterprises, the civil service, and the assembly sector. The high unemployment rate and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts. The ILO has criticized the law for its failure to include a specific provision envisaging protection against antiunion discrimination at the time of hiring.

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

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The Labor Code prohibits forced or compulsory labor for adults and minors; however, while such labor is not known to occur among adults, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as *restaveks* in urban households under conditions that amount to slavery (see Sections 5 and 6.d.).

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

The minimum employment age in all sectors is 15 years, with the exception of domestic service, where the minimum age is 12 years of age. The Labor Code prohibits minors from working under dangerous conditions, and it prohibits minors under the age of 18 from working at night in industrial enterprises. There is also a legal provision for employment of children between the ages of 12 and 16 as "apprentices." Fierce adult competition for jobs ensures that child labor is 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 on small family farms alongside their parents, even though the high unemployment rate among adults keeps children from being employed on commercial farms in significant numbers. In these as in many other areas, government agencies lack the resources to enforce the relevant laws and regulations effectively. The Labor Code prohibits forced or compulsory labor, which applies equally to minors; however, some children are forced to work as domestic servants (see Sections 5, 6.c. and 6.f.).

Rural families continued to send young children to more affluent city dwellers to serve as unpaid domestic labor in a practice called *restavek*; families of these children frequently received financial compensation (see Sections 5 and 6.d.). A 1991 U.N. study cited this practice as an example of slavery in the 20th century. UNICEF estimated that 250,000 to 300,000 children, 85 percent of them girls, may be victims of this practice. According to a 1998 UNICEF study, the average *restavek* is between 11 and 14 years of age; however, more than 20 percent are between the ages 4 and 10, and more than 75 percent are girls. About 23 percent of these girls are raped by a host family member, and 15 percent of them become pregnant. About 77 percent of *restaveks* have never been to school. Among those who have, only 2 percent reach secondary school. The Ministry of Social Affairs believes that many employers compel the children to work long hours, provide them with little nourishment, and frequently beat and abuse them. The law requires that *restaveks* 15 years of age and older be paid "not less than one half the amount payable to hired servant" to perform similar work, in addition to room and board. To avoid this obligation, employers send many if not most *restaveks* away from the home before the children reach the age of 15.

#### e. Acceptable Conditions of Work

The legal minimum daily wage, established in June 1995 by the Tripartite Commission of Salaried Workers, whose six members are appointed by the President of the Republic, (two representatives each of labor, employers, and Government), is about \$1.52 (36 gourdes). Annually, a minimum wage worker would earn about \$473, an income above the national average but not sufficient to provide a decent standard of living for a worker and family. Some workers are paid on a piece-rate basis, and may earn more than the minimum wage. The majority of citizens work in subsistence agriculture, a sector where minimum wage legislation does not apply. Many women work as domestic employees, where minimum wage legislation also does not apply.

The Labor Code governs individual employment contracts. It sets the standard workday at 8 hours and the

workweek at 48 hours, with 24 hours of rest on Sunday. However, the officers of the HNP work 12-hour shifts 6 days per week, in apparent violation of the Labor Code. The code also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines. The assembly sector published a voluntary code of conduct in April 1999, committing signatories to a number of measures designed to raise industry standards, including payment of the minimum wage and the prohibition of child labor. Employers in the assembly sector generally pay the minimum wage or higher amount. However, the real value of the gourde has diminished, and workers are no longer satisfied with the minimum wage. Working conditions are also generally better in this sector. There are no reports of child labor in this sector. However, the Ministry of Social Affairs does not enforce work hours or health and safety regulations. There is no formal data, but unions allege that job-related injuries are prevalent in the construction industry and public works sectors. 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.

f. Trafficking in Persons

The law does not prohibit trafficking in persons, and internal trafficking of children is a problem. Rural families send young children to affluent city dwellers to serve as unpaid domestic labor; the families of such restaveks frequently receive monetary compensation (see Sections 5 and 6.d.). An estimated 300,000 children, 75 percent of them girls, may be victims of this practice.

There were no other reports of trafficking to, from, within, or through the country. However, there are anecdotal reports on the practice of families taking restaveks to Europe and the United States to continue using them as domestic servants.

[End.]