

# REPUBLIC OF HAITI

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This report was prepared after researching publicly accessible information currently available to the Interuniversity Institute for Research and Development (INURED) and is partially based on interviews conducted with human rights activists, law enforcement officials, legal scholars, civil society leaders, journalists and social scientists, among others within the given time constraints.

This report is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status, asylum, or other form of international protection.

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Non-English language information is summarized in English. Original language quotations are provided for reference.

To protect confidentiality and anonymity, and in accordance with INURED's Human Subject Protection policy and its Institutional Review Board, names of interviewees are replaced by a unique identifier; their titles or the agency or institution with which they are affiliated are not mentioned. For a list of country experts consulted, focus groups conducted, and themes explored in the interviews, please see Annexes A-C in this report.

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## List of Abbreviations

AFARKAP	Asosyasyon Fanm Revòlte Okap
CEDH	Centre Oecuménique des Droits Humains
CIES-UNIBE	Centro de Investigaciones y Estudios Sociales-La Universidad Iberoamericana
CNDDR	Commission Nationale de Désarmement, de Démantèlement et de Réinsertion
CRC	United Nations Committee on the Rights of the Child
DCPJ	Direction Centrale de la Police Judiciaire
DINEPA	Direction Nationale de l’Eau Potable et de l’Assainissement
EU	European Union
FACSDIS	Femmes en Action Contre la Discrimination Sexuelle
Fad’H	Forces Armées d’Haïti
GARR	Groupe d’Appui aux Rapatriés et Réfugiés
GDP	Gross Domestic Product
GoH	Government of Haiti
IACHR	Inter-American Commission on Human Rights
IBSER	Institut du Bien-Être Social et de Recherche
IHSI	Institut Haïtien de Statistiques et d’Informatique
INURED	Interuniversity Institute for Research and Development
IOM	International Organization for Migration
LAC	Latin American and Caribbean
LBGTI	Lesbian, Bisexual, Gay, Transgender, and Intersex
MINUJUSTH	United Nations Mission for Justice Support in Haiti
MINUSTAH	United Nations Stabilization Mission in Haiti
MSM	Men Who Have Sex with Men
MSPP	Ministre de la Santé Publique et de Population
NGO	Non-Governmental Organization
OCHA	United Nations Office of the Coordination of Humanitarian Affairs
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights
OPC	Office de la Protection du Citoyen
PNH	Police Nationale d’Haïti
SGBV	Sexual & Gender Based Violence

SOGI	Sexual Orientation & Gender Identity
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNPOL	United Nations Police
UNSC	United Nations Security Council
USAID	United States Agency for International Development
VACS	Violence Against Children Study
WHO	World Health Organization
WSW	Women Who Have Sex with Women

# I. Introduction

## 1. Background and Context

The Republic of Haiti gained its independence as a result of the only successful slave revolution in history. The roots of contemporary Haiti's political, economic and social turmoil trace back to its history as the most profitable plantation society with more than one million slaves, the fight for freedom and the establishment of an independent, and globally isolated, Black republic. With an estimated 100 slaves per master or foreman, authority in pre-revolutionary Saint-Domingue (the island's colonial name) was often asserted arbitrarily, through extreme physical violence (Dayan, 1995; Dubois, 2004). The cultural legacy of (often extreme) violence persists even today (Edouard, 2013; Fatton, 2007; Hurbon, 1987; Marcelin, 2012, 2015; Marcelin & Willman, 2017; Willman & Marcelin, 2010). In the revolution's aftermath, Haitian leaders established a militarized State in order to protect the nation's sovereignty. As the external threat subsided – with the abolishment of the slave trade and slavery and subsequent recognition of the republic by the world's powers – the Haitian State, fundamentally shaped by its militaristic origins, would evolve taking new forms that, by design, would stifle the establishment of democratic institutions as well as civic participation. Today, the atavistic assertion of personal dominance through the arbitrary exercise of power—whether through physical exactions or other forms of violence—remains an integral part of Haitian societal and political dynamics at many levels, from the family to the State. As Gilles (2008) noted, even where control has already been effectively assured through coercion, as a practical matter, this particular pathology shapes what Fatton (2002, 2007) rightly called “authoritarian habitus” that feeds a “political habitus of violence” (Marcelin, 2012: 256) not only at the institutional level but also at a personal level as an act of self-assertion, in any given social context.

Another great challenge faced by the newly founded republic's leadership was how to rebuild a post-colony devastated by more than a decade (1791-1803) of war. The founding fathers of Haiti would implement an economic strategy that prioritized agricultural production as it was responsible for making Saint-Domingue the most profitable colony in the Americas (Debien, 1962; Mintz, 1974; Moreau de Saint-Méry, 1958). While the founding fathers of Haiti were clear that the agricultural sector was critical for the development of their economy, for the masses (consisting mostly of former slaves), this strategy was seen as a “forced” return to plantations, the very symbol of their oppression and subjugation; a return to the slave system that they had fought so hard to escape. The establishment of a militaristic State and the forced return of the masses to work the land, paradoxically, resulted in what Fick (1990) referred to as an “unbridgeable gap” between the State and its organization, on the one hand, and the Nation and its configuration, on the other (see also Marcelin, 2012; Trouillot, 1990).

Among all the countries in the Americas, Haiti is often presented as an outlier due to its high levels of poverty, corruption and fragility (World Bank, 2015). Haiti's 2016 human development index ranks it 163<sup>rd</sup> amongst 182 countries (United Nations Development Programme [UNDP], 2017), while the country ranks 159<sup>th</sup> out of 176 countries in terms of corruption (Transparency International, 2017) with a Failed States Index of 11 out of 178 countries (Fund for Peace, 2017). While these indicators are often used to demonstrate Haiti's exceptionality within the region, what all too often remains unexamined are the underlying societal and historical dynamics that have made—and continue to make—Haiti what it is today: an extreme case of social fragility (Alexander *et al.*, 2013). This background paper aims to examine the overarching themes that run through Haitian history and have shaped its present, exposing its citizens as well as their descendants to various forms of abuse both within and beyond its geopolitical borders.

## 2. Historical Social Divisions in the Haitian Context

The notion of citizenship within a modern nation-state requires acknowledgement of a shared national identity and that there are “common goods” that must be made available to all citizens. In Haiti, these critical features have been mediated by the unbridgeable gap between a predatory State controlled by opposing factions of the elite and a fragmented nation trapped by many layers of sociocultural hierarchy and situations of vulnerability (Dupuy, 1997; Fatton, 2002; Fick, 1990; Willman & Marcelin, 2010; Trouillot, 1990). In Haiti, these divisions do not take form around divergent ethnic identities but different classes that define their core identities without reference to either the nation or the State, and in stark opposition to each other. These competing identities are closely tied to issues of social and economic status, both as determinants and outcomes—they lie at the very heart of the tensions and conflicts that continue to undermine social cohesion and produce and reproduce societal fragility in Haiti (Alexandre, Willman, Aslam, Rebosio, & Balasuria, 2013). These divisions find their roots in the colonial period but have been fomented in the post-independence period and beyond.

Following independence through the early 20th centuries, the extreme violence of the colonial and revolutionary periods retreated from society at-large as the vast majority of the newly free population sought refuge and security away from the State and large plantations. The formerly enslaved populations engaged in self-removal from urban centers and provincial towns—which were mired by contentious, and often violent, battles for power and wealth—to the rural hinterlands of the country, where they would settle as small-scale farmers (Moral, 1978; Lundahl, 1979). Over the next century through the first American occupation (1915-1934), the country had 26 official heads of state of which 18 were violently overthrown. Haiti's chronic political instability would provide the rationale for U.S. occupation in July



1915, following the death of its sitting president at the hands of an angry mob (Gaillard, 1984; Heintl & Heintl, 1978).

The occupation not only brought an imposed stability to Haitian national politics through the U.S. Marine Corps' use of latent violence, it exacerbated local color politics by "hand selecting" four successive mulatto presidents who would serve out their full terms of office during the occupation period. Yet both the mulatto president who came to power following U.S. withdrawal of troops and the Black reformists who followed him were overthrown by a military junta. Ironically, the still predominantly Black military establishment (known as the *Forces Armées d'Haiti* or Fad'H), having putatively been "modernized" during the occupation, had apparently not yet learned to restrain itself from direct involvement in Haitian politics and dominated the latter part of the 23-year interregnum that separated the withdrawal of the US from the advent of Duvalierism in 1957, albeit using the newly introduced model of latent violence rather than the application of actual military force to impose their will. As political upheaval remained a constant in urban centers and provincial towns from the occupation period onward, the Haitian peasantry, the majority of the populace, took cover in more rural areas of the island cementing the social divide through a type of "cultural *marronage*" [strategy of avoidance]. Haiti's divided population is etched in the country's landscape and rooted firmly in basic economics, distinguishing the Catholic, French-speaking powerful minority elite from the vodoun practicing, Creole-speaking masses known as the *moun an deyò* [people from the countryside]. For over 200 years, from the nation's founding until 1991, Haitian birth certificates reinforced these distinctions: those born in cities were officially designated a *citadin* (city-dweller/urbanite), whereas those born in the countryside had the official designation of *paysan* (peasant).

## II. Political Issues: Recent History and Current Political Context

### 1. Haiti's Recent History: Social, Economic & Political Context from the fall of the Duvalier Regime through the Present Day

The Republic of Haiti occupies over 27,000 square miles of the western portion of the island of Hispaniola which it shares with the Dominican Republic (Institut Haïtien de Statistiques et d'Informatique [IHSI], 2015; United States Agency for International Development [USAID], n.d.; World Bank, 2015). Its population is estimated at just under 11 million almost equally divided among male and female (IHSI, 2015). The Haitian population is quite young with 35% below the age of 15 (IHSI, 2003). Over-centralization of services has led to high concentrations of people (52%) residing in urban centers (IHSI, 2015). This is particularly evident in the Ouest department, which includes the greater Port-au-

Prince metropolitan region, where 37% of the population was estimated to reside during the most recently conducted census in the early 2000s (IHSI, 2003). The average Haitian household consists of 4.4 inhabitants, a slight reduction from 4.7 inhabitants reported in 2000 (*Ministère de la Santé Publique et de la Population* [MSPP], 2013).

Between 1971 and 2013, Gross Domestic Product (GDP) annual growth was lackluster, averaging 1.2%, compared with other nations in the Latin American and Caribbean (LAC) region at 3.5% (World Bank, 2015). According to the most recent government figures, less than half (47.7%) of the adult population is engaged in an economic activity that qualifies as employment (IHSI, 2010). While the World Bank (2015) reports a 3% increase in employment in the labor economy between 2007 and 2015 in administration and within non-governmental organizations (NGOs), it is quite reasonable to surmise that these opportunities were the result of the 2010 earthquake, and possibly other disaster-related, relief and reconstruction aid and not attributable to the expansion of the labor economy per se. In the aftermath of the 2010 earthquake, the country became known as “the NGO Republic of Haiti” denoting the fact that international aid has often exceeded Haiti’s national budget: “Between 2005 and 2009, aid in Haiti ranged from approximately 113 to 130 percent of the total revenue available to the government. After the earthquake, the flow of relief and recovery aid significantly exceeded—by more than a factor of four—the government’s internal revenue” (Klarreich & Polman, 2012). Since 2010, Haiti has had no shortage of political crises and disasters. Between 2012 and 2016, Haiti had a protracted election season which included presidential rule by decree and transitional governments, all resulting from delayed and contested elections. As one of the nations most vulnerable to disasters (World Bank, 2015), between 2004 and 2016 more than 235,000 Haitian lives have been lost and 5.5 million affected by one of nine major hurricanes, the 2010 earthquake or the cholera epidemic (Marcelin & Cela, 2017). However, as stated above, international intervention during times of crisis offer opportunities for employment.

In Haiti, job creation, particularly through entrepreneurship, has been a challenge as there is limited access to financial services. Only 27% of adults hold a bank account, fewer have access to credit and loans while 80% of loans are made to only 10% of individual borrowers (World Bank, 2015), rendering it difficult to establish or expand small and medium enterprise in the country. This factor provides some insight into labor market constriction and the challenge of creating job opportunities in Haiti, undermining foundational democratic and human rights institutions.

In addition to the limited number of jobs available and lack of financial services, the overall low levels of engagement in the labor economy are attributed to several factors. For example, youth comprise over a third of the population, and Haitian youth pursue formal study until the age of 30—at which point employment rates rise to 70%. In addition, men are 1.35 times more likely to be engaged in the labor economy than their female counterparts (IHSI, 2010). Data from the same study suggest that

unemployment rates peak among Haitian youth in their 20's, particularly among those in urban areas, declining steadily until age 40 where unemployment rates begin to drop below 10% (IHSI, 2010; World Bank, 2015).

The Haitian State collects fewer taxes than its neighbors in the LAC region resulting in a system that burdens consumers, irrespective of their income levels, by collecting disproportionate levels of indirect taxes (World Bank, 2015). By 2012, the poverty and extreme poverty headcounts were 59% and 24%, respectively (*ibid*). According to the same World Bank report, these rates were even higher before 2012. The State remains under-resourced and dependent on foreign assistance to function as well as to provide basic services to the Haitian people including, but not limited to health, education and social protection (*ibid*). Public spending in these areas accounts for only 5% of GDP (*ibid*); this low rate has had negative implications for the country's economic, social and political development.

Government expenditure in the education sector is 1.07% (USAID, n.d.). Between 80% and 90% of primary school students attend private institutions of varying cost and quality further demonstrating the State's absence in the provision of basic education to its citizens (World Bank, 2015). Less than half (48.2%) of students will complete primary school (USAID, n.d.). Among Haitians ages 6 or older, 25% of females and 19% of males have no formal schooling (MSPP, 2013). The adult literacy rate among Haitians ages 15 or older remains low at 60.7% (USAID, n.d.), while some estimates are even lower at approximately 50% (Human Rights Watch, 2017).

Health in the Haitian context, as in any nation, is impacted by public investments and structural factors as much as by individual circumstance. Public expenditure on health is slightly higher than that on education at 1.56% of GDP, with almost one-third (32.7%) of overall health expenditures coming from external resources (USAID, n.d.). Historically, water and sanitation coverage in Haiti has been low when compared with other nations in the region (Gelting et al., 2013). Only 8.5% of Haitian households have access to tap water provided through the public utility company, *Direction Nationale de l'Eau Potable et de l'Assainissement* (DINEPA; IHSI, 2003). Further, tap water is not potable, leaving most Haitian households, including those directly connected through the DINEPA, dependent on other sources for drinking water. Those without access to DINEPA services, and who have the means, pay private water companies to deliver water to their homes and purchase bottled water for drinking, while the vast majority, particularly in rural areas, depend on natural sources such as rivers and streams that may be detrimental to their health. According to the World Health Organization (WHO, 2015), in 2013 access rates to improved water sources and sanitation facilities were 60% and 30%, respectively. Further, limited infrastructure (and education) has left almost 1 in 5 (19%) Haitians practicing open defecation (USAID, n.d.). The implications of limited and poor infrastructure on the health of Haitians are only exacerbated by the recurrence of disasters, such as the 2010 earthquake, the 2010 cholera outbreak and a number of

hurricanes, which often cause damage to or can result in the contamination of water systems and sources rendering the population vulnerable to diseases (DINEPA, 2017; Government of Haiti [GoH], 2010; Marcelin, Cela & Schultz, 2016).

Low public investments, poor infrastructure and a struggling economy have left Haiti with less than optimal health statistics. A study conducted by the Ministry of Health (2012) found that 82% of participants identified at least one major obstacle to accessing healthcare, principally money and distance to service providers. There are approximately 0.35 physicians, and even fewer nurses and midwives (0.11), per 1,000 people (USAID, n.d.). Some improvements have been made over the course of the past decade. During the 5-years preceding 2012, 90% of women had received prenatal care from a health professional (e.g., physician, nurse, nurse-midwife or nurse auxiliary), yet only 36% of women were giving birth in a medical facility. This figure, nevertheless, represented an increase of 13 percentage points since 2000 (MSPP, 2013). The latter results were positively correlated with those who lived in urban areas and/or had higher levels of education (*ibid*). The infant mortality rate in Haiti is 52.2 and the mortality rate for a child under age 5 is 69 per 1,000 live births while only 60% of children ages 12-23 months have been immunized (USAID, n.d.). According to the Haitian Ministry of Health, 22% of infants aged 0 to 59 months suffer from chronic malnutrition, 8% of which are severe cases (MSPP, 2013). Life expectancy at birth is 64 years, though slightly higher for women than men (USAID, n.d.). What the above evidence shows is that in Haiti, the failure of the State to invest in its citizens and provide basic public services has had severe consequences for millions of Haitians, particularly those living in poverty.

It is within these socioeconomic and political contexts that one must consider the challenges for human rights in Haiti, particularly in relation to the most vulnerable populations: women, children, the developmentally/physically disabled, religious minorities (e.g., vodoun practitioners), persons of diverse sexual orientations and/or gender identities, and the urban and rural poor. These groups have generally been ignored in times of peace and have come under attack during times of political instability.

## 2. Politics & Political Parties in Post-Disaster Haiti

The political situation in Haiti remains unstable. A parliamentary election that was delayed after a political impasse under President Joseph Michel Martelly was held in Haiti on August 9, 2016. The second round was held on October 25, 2016, when the first round of the presidential contest would also be held; with a runoff for the latter scheduled to be held on December 27, 2016. The presidential runoff election was postponed to January 2017 as a result of Hurricane Matthew which struck the southern region of Haiti on October 4, 2016, subsequently indefinitely delaying, once again, presidential elections. However, at the parliamentary level, the bicameral chamber (the Chamber of Deputies and the Senate) was elected notwithstanding protests and accusations of corruption (Johnston, 2015). On February 7,

2016, with President Joseph Michel Martelly ineligible to immediately run for re-election and at the end of his constitutional term, an agreement between different sectors of Haitian society led to the selection of Senator Jocelerme Privert, President of the Haitian Senate and longtime politician, as Interim President of Haiti. On February 14, 2016, the parliament installed Senator Jocelerme Privert as Interim President for 120 days with a mandate to organize the presidential election in the country (MINUSTAH, 2017; U.S. Department of State, 2017).

Heavily contested by different sociopolitical factions in Haitian society, Interim President. Privert managed to remain in power until said election was realized though several months beyond his mandate. The long-delayed presidential election had been set to be held on April 24, 2016, to respect the agreement that was signed between Mr. Privert, the Haitian Parliament and the outgoing President, Mr. Martelly. April 24, 2016 came and went without any presidential elections. The Interim President's term would subsequently expire on June 14, 2016, without any progress on the presidential election process. The situation created a political deadlock with very little hope that Haiti was going to have an election under Interim President Privert. Amidst a growing political crisis and many attempts from a group of Haitian parliamentarians to unseat Mr. Privert, a decree was issued on July 2016 setting a new date for the election, October 9, 2016 (Charles, 2016; Deutsche Welle, 2016).

As Haiti dove deeper into political crisis, the socioeconomic situation deteriorated. The cost of living in urban and rural areas exceeded the financial means of the vast majority of Haitians<sup>1</sup> (Pharel, 2016). Compounding the situation was the migration crisis that erupted in June 2015 between Haiti and the Dominican Republic with thousands of Haitians and individuals of Haitian descent being deported from the Dominican Republic, forced to leave under threats of violence or migrating preemptively to Haiti in fear of future threats of violence and/or deportation. It is amid this sociopolitical and economic crisis that Hurricane Matthew hit Haiti on October 4, 2016, days before the scheduled elections. Extreme poverty disproportionately affects Haitians living in rural areas, such as those directly affected by Hurricane Matthew in the southern region of Haiti. Limited access to social safety nets renders the average Haitian vulnerable to the damage, and disruptions to daily life, caused by natural disasters (Shultz, Cela, Marcelin et. al., 2016). The impact of Hurricane Matthew on the southern region of Haiti is set to continue this trend with total estimated damages of USD \$2.1 billion (GoH, 2017).

The presidential election finally took place on November 20, 2016, while half of the country struggled to recover from the disaster (Marcelin & Cela, 2017). The newly elected president, Mr. Jovenel Moïse, officially took office on February 7, 2017. A new Prime Minister, Dr. Jack Guy Lafontant, was

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<sup>1</sup> Interview with a prominent Haitian journalist on June 18, 2017 (hereafter referred to as journalist #1).

approved by the parliament; at the time of this report's completion the government had been in place for 6 months with very little to show in terms of achievements.

In February 2017, the United Nations Security Council (UNSC) sent a Strategic Assessment mission to Haiti to identify Haiti's critical needs and make recommendations regarding the future configuration and presence of the UN mission in Haiti. On March 16, 2017, the Secretary General of the United Nations presented the "Report of the Secretary-General on the United Nations Stabilization Mission in Haiti"<sup>2</sup> to the Security Council. The report noted MINUSTAH's achievements in the following areas: political developments, security, Haitian National Police capacity building, Rule of Law and human rights and institutional support and strengthening of State authority in Haiti that are worth summarizing. According to the report, Haiti has made significant progress in the consolidation of its democracy and stability. Between the final quarter of 2016 and early 2017, previously delayed legislative as well as highly contested presidential elections were held without incident in Haiti restoring democratic order and stabilizing the political situation (UNSC, 2017, p. 1). The election and subsequent inauguration of Mr. Moïse as President on February 7, 2017 ended 1 year of interim governance rule in Haiti under the former senator from Nippes, Mr. Jocelerme Privert. In terms of security developments, the report highlighted that despite political instability and socioeconomic decline, the latter exacerbated by the cholera epidemic and Hurricane Matthew, the security situation in Haiti had not deteriorated (*ibid.*, p.3). It noted that the Haitian National Police (PNH) had taken on a greater role in law enforcement in the country, positively contributing to the security situation in Haiti. They have played a lead role in maintaining public order, effectively employing crime prevention tactics, and have provided electoral security and disaster response (*ibid.*, p. 4). In the report, the Secretary-General of the United Nations also acknowledged limited progress in Rule of Law and on the human rights front (*ibid.*, p. 6). Although the criminal law reform commission has drafted and proposed new criminal procedures and criminal codes, electoral disruptions have delayed their consideration as the Parliament has only recently been installed (*ibid.*, p. 6). As for the strengthening of State authority in Haiti, the report pointed out that MINUSTAH has been actively engaged in decentralization efforts. Working with the Ministry of Interior, MINUSTAH facilitated 70 capacity-building workshops for locally elected officials and community leaders at the municipal level with special emphasis on women leaders who now represent 37% (155 of 420) of municipal council membership in accordance with the electoral decree (*ibid.*, p. 8). The Secretary-General concluded with the following observations:

Haiti reached a major milestone on its path to stabilization, with the peaceful conclusion of the electoral process and the return to constitutional order on 7 February 2017. I commend the leadership and commitment demonstrated by the national authorities, including the Government,

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<sup>2</sup> Report of the Secretary-General on the United Nations Stabilization Mission in Haiti. [https://minustah.unmissions.org/sites/default/files/sg\\_report\\_on\\_minustah\\_-\\_final\\_-\\_english.pdf](https://minustah.unmissions.org/sites/default/files/sg_report_on_minustah_-_final_-_english.pdf), March 16, 2017.

the Provisional Electoral Council and the Haitian National Police, to finance, organize and provide security for credible and inclusive elections, notwithstanding the humanitarian impact of Hurricane Matthew. While disheartened by the low number of women elected to Parliament, I am pleased with the considerable number elected to municipal office (UNSC, 2017, pp. 12-13).

Based on these observations and the recommendations emanating from the assessment, the Security Council extended MINUSTAH's mission in Haiti until October 15, 2017. A new mission, referred to as the United Nations Mission for Justice Support in Haiti (MINUJUSTH), with a new Rule of Law mandate will replace MINUSTAH. The new mission will consist of up to seven formed police units (FPUs), or 980 FPU personnel, and 295 individual police officers during an initial 6-month period (October 16, 2017 through April 15, 2018)<sup>3</sup>.

While the UN's peacekeeping mission has, indeed, been acknowledged as a stabilizing force in Haiti, its tenure has been rife with controversy due to the cholera epidemic, for which the UN has claimed responsibility, and allegations of sexual abuse of adults and children<sup>4</sup>. In 2016, the UN issued a formal apology<sup>5</sup> acknowledging the role of its peacekeepers in bringing cholera to Haiti in 2010, which up to that point had claimed approximately 10,000 lives<sup>6</sup>. The UN launched a cholera eradication campaign, raising less than 1% (0.005% or USD \$2 million) of its USD \$400 million goal. Of note is that the UN's cholera eradication fundraising goal is on par with 1 year of the peacekeeping mission's expenses (estimated at USD \$346 million)<sup>7</sup>. The backlash against the UN, and specifically MINUSTAH and the United Nations Police (UNPOL), has been swift. On March 29, 2017, protests demanding the withdrawal of all UN forces, which were set to expire in October 2017, and calling for reparations for the victims of the cholera epidemic ensued<sup>8</sup>. To date, those demands have fallen upon deaf ears as they have been largely ignored by both the UN and the Moïse government.

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<sup>3</sup> Security Council Grants Final Mandate Extension for United Nations Stabilization Mission in Haiti, Unanimously Adopting Resolution 2350 (2017). <https://www.un.org/press/en/2017/sc12794.doc.htm>, April 13, 2017.

<sup>4</sup> Statistics: Allegations by Category of Personnel Per Mission (Sexual Exploitation and Abuse), United Nations Conduct and Discipline Unit. <https://cdu.unlb.org/Statistics/OverviewofStatistics.aspx>. Last updated as of July 31, 2017.

<sup>5</sup> The Secretary-General Ban Ki-moon read a statement that said, "The United Nations deeply regret the loss of life and suffering caused by the cholera outbreak in Haiti. On behalf of the United Nations, I want to say very clearly we apologize to the Haitian people. We simply did not do enough with regard to the cholera outbreak and its spread in Haiti. We are profoundly sorry for our role." <https://nyti.ms/2lbV9ff>, December 1, 2016.

<sup>6</sup> U.N. Apologizes for Role in Haiti's 2010 Cholera Outbreak, <https://www.nytimes.com/2016/12/01/world/americas/united-nations-apology-haiti-cholera.html?mcubz=3>, December 1, 2016. UN apologizes for Haiti cholera spread in plan to eradicate disease, <http://www.cnn.com/2016/12/01/health/haiti-cholera-un-apology/index.html>, December 1, 2016. Secretary-General Apologizes for United Nations Role in Haiti Cholera Epidemic, Urges International Funding of New Response to Disease, United Nations Press release. <https://www.un.org/press/en/2016/sgsm18323.doc.htm>, December 1, 2016.

<sup>7</sup> P.N. Pham, N. Gibbons and P. Vinck. 2017. The United Nations Material Assistance to Survivors of Cholera in Haiti: Consulting Survivors and Rebuilding Trust. Harvard Humanitarian Initiative.

<sup>8</sup> *Des organisations sociales crient au scandale*, <http://www.lenational.org/organisations-sociales-crient-scandale/>, Le National, April 23, 2017.

Politicians, observers and many public figures in Haiti have expressed ambivalence about MINUSTAH's achievements while remaining perplexed as to what this mission will be able to accomplish during its 6-month tenure and how efficient it will be<sup>9</sup>.

### III. Justice, Rule of Law and Human Rights

#### 1. The Situation of Human Rights

Historically, the Haitian citizenry has risen up to challenge oppression and the violation of their human rights. This is evident from the decades-long fight for independence, the revolt against U.S. Occupation at the turn of the 20<sup>th</sup> century by both intellectuals in the cities and guerilla warfare engaged by the peasantry under the leadership of Charlemagne Péralte, and the wave of religious and peasant movements taking hold in the 1970's that would eventually lead to the downfall of the Duvalier regime in 1986. However, the influence of the international community—particularly donors—has facilitated the engagement of local organizations in the fight for and in defense of citizens' rights in everyday Haitian life (Fortin, 2016). The human rights field in Haiti has evolved into a differentiated sector that includes civil rights, women's rights, migrant rights, children's rights, environmental rights, disability rights, housing rights and sexual orientation and gender identity (SOGI) rights, among others (*ibid*). These observations were also echoed by human rights practitioners and organizational representatives during interviews<sup>10</sup>.

Major human rights organizations are largely concentrated in the greater Port-au-Prince metropolitan area, not only making them inaccessible to many Haitians but often rendering them insensitive to the various rights violations experienced by Haitians in semi-urban and rural parts of the country (Fortin, 2016). Conversely, women's rights organizations have a longer history and can be found throughout the country despite the persistence of patriarchal beliefs that women are inferior to men. These

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<sup>9</sup> *Haiti. Toujours la MINUSTAH... Et nous !* <http://lenouvelliste.com/article/170370/haiti-toujours-la-minustah-et-nous>, April 21, 2017, Le Nouvelliste ; The same article reproduced in Le National <http://www.lenational.org/haiti-toujours-minustah/>, April 23, 2017. *De la Minustah à la Minujusth: c'est la même force d'occupation, pour Eric Jean Baptiste.* <http://lenouvelliste.com/article/170287/de-la-minustah-a-la-minujusth-cest-la-meme-force-doccupation-pour-eric-jean-baptiste>, April 20, 2017, Le Nouvelliste. *La MINUSTAH ferme ses 10 bureaux régionaux dans le pays,* <http://lenouvelliste.com/article/172251/la-minustah-ferme-ses-10-bureaux-regionaux-dans-le-pays>, June 16, 2017, Le Nouvelliste. *De la MINUSTAH à la MINUJUSTH sans dédommager les parents des victimes,* <http://lenouvelliste.com/article/172582/de-la-minustah-a-la-minujusth-sans-dedommager-les-parents-des-victimes>, June 26, 2017, Le Nouvelliste.

<sup>10</sup> Interview with leader of a prominent human rights organization in Haiti on June 10, 2017 (hereafter referred to as human rights leader #1). Interview with representative of a prominent SOGI organization in Haiti on June 10, 2017 (hereafter referred to as SOGI rights leader #1). Interview with a prominent human rights activist on June 12, 2017 (hereafter referred to as human rights leader #2). Interview with leader of a prominent human rights organization in Haiti on June 12, 2017 (hereafter referred to as human rights leader #3).



organizations provide a range of services with that focus on issues of violence, particularly sexual violence (for more, see Gender Based Violence section below). However, they lack shelters to house victims (Fortin, 2016), forcing many to return home to the alleged assailant.

On the other hand, many human rights leaders interviewed expressed alarm over the multiplicity of human rights organizations, many of which began to emerge after the fall of the Aristide government. One leader of a prominent human rights organization<sup>11</sup> echoed the concerns of many local human rights leaders who suggest that the unintended consequence of international donor involvement in establishing a strong civil society in Haiti has been to increase the number of actors and entities engaged in human rights advocacy in Haiti. However, this human rights activist argues that the quality of their work is a cause for concern. International funding for human rights causes has led to a proliferation of organizations with limited training who often compete with other organizations with similar missions and objectives. For some, establishing human rights organizations has become a way to make a living instead of a profession, while for others it is a political means to an economic end. This particular concern was expressed by all human rights advocates interviewed for this report.

Two prominent human rights activists highlighted, during separate interviews, the situation of human rights leaders on the Haiti and Dominican Republic border<sup>12</sup>. While the plight of the situation of Haitian descendants in the Dominican Republic has received much international attention, much less attention has been paid to the threats faced by human rights activists in localities along the border (Investigative Report of Human Rights Organizations, 2016). According to the *Groupe d'Appui aux Rapatriés et Réfugiés* (GARR), life-threatening menaces are omnipresent in the daily lives of their workers along the borders. The threats experienced by these human rights activists are rooted in the last 4 decades, well before the recent denationalization of Haitians and their descendants in the Dominican Republic, particularly for members of the Jeannot Succès network which operates on the border (L.H. Marcelin, 2017).

As an example of the occurrence of human rights violations outside of major cities, the international press as well as Amnesty International have brought to light the cases of David Boniface and Juder Ysemé, human rights activists in the small town of Les Irois in the southern region of Haiti. According to Amnesty International, “human rights defenders David Boniface and Juder Ysemé fear for their lives following the sudden death of their colleague, Nissage Martyr, one day after service of a lawsuit filed by the three men in the US for grave human rights violations against Jean Morose Viliena, the former mayor of their hometown in Haiti. The men have reported repeated death threats and attacks

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<sup>11</sup> Interview with human rights leader #1 on June 10, 2017.

<sup>12</sup> Interview with human rights leader #3 on June 12, 2017. Interview with human rights leader #2 on June 12, 2017.

from the former mayor since 2007, and must be provided adequate protection”<sup>13</sup>. Amnesty International launched an “urgent action” campaign to bring to public attention the threats suffered by these human right activists. The former mayor, Jean Morose Viliena, now lives in Malden, Massachusetts (US) where he is being sued before a Boston federal court, on the basis of the Torture Victim Protection Act, for various human rights abuses during his tenure as Mayor between 2007 and 2009. The civil lawsuit filed by the Center for Justice & Accountability on behalf of these three individuals accuses him of murder, torture and burning the homes of his political opponents<sup>14</sup>. On March 24, 2017, one of the three plaintiffs, Mr. Martyr, died under suspicious circumstances in Les Irois (Robles, 2017). The U.S. law firm representing the plaintiffs has urged Haitian authorities to investigate Mr. Martyr’s death. Of note is that the former mayor, Mr. Viliena, fled to the US in 2009 when an investigation into the events was initiated in Haiti. He was indicted in absentia on murder charges in 2010 (Malone, 2017; Robles, 2017).

The case discussed above clearly illustrates that while gruesome attacks and murders of human right activists may be on the decline in Haiti, conflicts and threats rooted in previous authoritarian governments are still carried out and combine with current political corruption to undermine human rights and foster insecurity for Haitian citizens. As journalist #1<sup>15</sup> noted, the legacies of violence derived by various forms of authoritarianism in rural and urban Haiti tend to be overshadowed by contemporary efforts of human rights organizations to help Haitian institutions commit to Rule of Law and justice.

## 2. The Situation of Journalists and Political Activists

According to Reporters Without Borders, there were no reports of journalist, citizen journalist or media assistant fatalities in Haiti in 2016 or 2017. Based on the World Press Freedom Index, Haiti has a press freedom score of 26.36, immediately following Italy, ranking 53 out of 180 countries<sup>16</sup>. Freedom House<sup>17</sup> assigns Haiti a Freedom Rating of 5 out of 7. Interviews with human rights activists, journalists and political activists revealed that there is a fundamentally shared belief that the situation of civil liberties has profoundly changed in Haiti as a result of the country’s history of dictatorship and the current authoritarian ethos that permeates all levels of Haitian society. They highlighted the danger of

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<sup>13</sup> UA: 87/17 Index: AMR 36/6045/2017 Haiti Date: 12 April 2017:  
[file:///C:/Users/LH/Downloads/AMR3660452017ENGLISH%20\(1\).pdf](file:///C:/Users/LH/Downloads/AMR3660452017ENGLISH%20(1).pdf).

<sup>14</sup> Boston Globe March 23, 2017: <https://www.bostonglobe.com/metro/2017/03/23/group-sues-former-haitian-mayor-boston-federal-court-over-human-rights-claims/otOMzBQKbc3ZzHT17lkOWK/story.html>; Le Nouvelliste March 27, 2017: <http://lenouvelliste.com/article/169534/un-ancien-maire-haitien-poursuivi-pour-meurtre-aux-etats-unis>; also reported in The Floridian, Apr. 1, 2017, among others:  
[http://lefloridian.com/actualites\\_images/LF384.pdf](http://lefloridian.com/actualites_images/LF384.pdf).

<sup>15</sup> Interview with journalist #1 on August 11, 2017.

<sup>16</sup> Reporters Without Borders (*Reporteurs sans frontières*) <https://rsf.org/en/ranking>, 2017.

<sup>17</sup> Freedom House: <https://freedomhouse.org/report/freedom-world/2017/haiti>, 2017.

overlooking the persistence and legacy of violence and authoritarianism and the limits imposed on civil liberties<sup>18</sup>.

Despite ongoing sociopolitical crises in Haiti, issues pertaining to the freedom of the press have seemingly subsided with the installment of the Moïse government. There have been no reports of overt or covert press persecution. In an interview with two prominent international human rights representatives, they suggest that while professional journalists in Haiti are currently experiencing a decline in persecution, the failure to regulate the profession is perceived by many as a serious threat to freedom of the press in the country<sup>19</sup>. This observation is also shared by notable Haitian journalists. According to journalist #3<sup>20</sup>, the new generation of Haitian journalists do not understand how far Haiti has come in terms of press freedom. During a 2-hour interview, he insisted that due to lack of training, control of the media by private interests, absence of role models and limited guidance in the media sector, many young journalists are engaged in “*voye monte* [anything goes]” reporting, where defamation goes unpunished and individual lives can be destroyed by false allegations and condemnations. As the two prominent human rights representatives as well as more seasoned Haitian journalists and human rights practitioners have reported, there are no regulatory measures, guidelines, standards or principles to hold journalists accountable and guard against libel or inaccuracies in reporting in Haiti. This has undermined journalism as a profession in the country and is beginning to contribute to a backlash against those who practice it. In fact, interviews with journalists and human rights observers revealed that the combination of freedom in reporting and absence of libel lawsuit measures has, in many ways, compromised the integrity of journalism in Haiti as some reporters engage in what many believe amounts to defamation rather than factual reporting.

According to journalist #3, some members of the press have become a vehicle for accusations, which, in turn, can endanger lives. Journalist #3 pointed out that this can be particularly dangerous in a country where members of society occasionally take the law into their own hands with impunity. As a recent example, a radio interview was conducted with a street vendor whose brother was allegedly murdered by the private security guards of a local official’s wife. The event occurred in broad daylight and in the presence of several bystanders in Pétion-Ville, one of Haiti’s more affluent cities<sup>21</sup>. A journalist from a

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<sup>18</sup> Interview with journalist #1 on June 18, 2017. Interview with a prominent human rights activist on June 7, 2017 (hereafter referred to as human rights leader #4). Interview with a prominent Haitian journalist on June 27, 2017 (hereafter referred to as journalist #2). Interview with human rights leader #1 on June 10, 2017; Interview with human rights leader #2 on June 12, 2017.

<sup>19</sup> Interview with two prominent international human rights representatives on June 27, 2017 (hereafter referred to international human rights representatives #1 and #2).

<sup>20</sup> Interview with a prominent Haitian journalist on June 15, 2017 (hereafter referred to as journalist #3).

<sup>21</sup> *Un marchand de rue tué à Pétion-Ville*, July 13, 2017: <http://www.loophaiti.com/content/flash-un-marchand-de-rue-tue-petion-ville>. See also <https://berthoalain.com/2017/07/14/commerce-informel-affrontements-a-petion-ville->

popular radio station deemed the alleged assailant guilty and, by extension, his boss who is assumed to have given the security guard the order to shoot the victim. The journalist then proceeded to accuse the local official, whose wife is at the center of the investigation, of illegally removing the body from the crime scene. As the journalist interviewed the victim's brother, there was no presumption of innocence as he made his own judgements- some based on the interviewee's statements and others based on inferences the journalist drew during the interview. At the time of this writing, the investigation of the incident remains ongoing and no one has been charged with the murder of the street vendor's brother, illustrating the concerns raised by several journalists and human rights advocates about the need to establish and enforce a code of ethics and professional standards within the journalism profession.

Conversely, a number of draft legislations are being considered by the Haitian parliament, one of them is the *Projet de loi sur la diffamation* [Defamation bill]. According to the journalists interviewed for this report, regulatory measures for the journalism profession in Haiti are necessary in such an environment; however, the way such measures have been framed in these bills, with virtually no participation of the associations of journalists, may paradoxically lead to the endangerment of the freedom of the press<sup>22</sup>. According to one civil society organization leader, and as previously mentioned in this report, the institutional weaknesses that cripple the journalism sector combine with generalized corruption in society and the absence of a vibrant civil society in Haiti to create a complex situation that feeds authoritarianism in its many forms and arbitrary practices against journalists from political and economic powers<sup>23</sup>.

Of greater concern for the interviewees mentioned above, however, is that in the absence of regulatory measures and an effective judicial system, quality investigative reporting may put journalists at risk, in particular when their reporting challenges special (and often powerful) interests, as protections for journalists are lacking. In other words, when big interests, public or private, are challenged, the lives of journalists and their families may be threatened. The most recent example shocked the entire journalism sector as well as human rights and civic organizations in Haiti. On August 2, 2017, a radio reporter, Jean Nazaire Jeanty, a correspondent from a private radio station, Radio Caribbean FM, in the city of Les Cayes (in the southern region of Haiti) reported on the smell of trash and marine algae at the popular beach Gelée and questioned whether the city's most notable beach festival, Fête Gelée, should be held given the odor released by the algae. Jean Gabriel Fortuné, a former politician with an extensive career

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[13-juillet-2017/](http://lenouvelliste.com/article/173380/manifestation-de-marchands-a-petion-ville) and Le Nouvelliste July 14, 2017-07-14: <http://lenouvelliste.com/article/173380/manifestation-de-marchands-a-petion-ville>.

<sup>22</sup> Interviews with journalist #1 on June 18, 2017 and August 11, 2017; Interviews with journalist #3 on June 15, 2017 and August 11, 2017; Interviews with journalist #2 on June 27, 2017 and August 11, 2017.

<sup>23</sup> Interview with the leader of a prominent civil society organization on August 11, 2017 (hereafter referred to as civil society organization leader #1).

and political connections to both the Martelly and Moïse administrations, has since issued death threats to Jeanty. He said that “in any serious country, the Secret Service, without receiving instructions, would already have killed him.”<sup>24</sup> During a Radio Kiskeya interview with journalist Kettia Jean-Pierre, Fortuné doubled down on his threat, alleging that Jeanty had been paid to undermine the festival and stating that, “He deserves to die.” He proceeded to cite scripture from the Bible, Romans 6:23 (“For the wages of sin is death,” King James version), equating Jeanty’s actions with a “sin” deserving of death<sup>25</sup>. In response, during an interview with *Le Nouvelliste*, Jeanty explained that he considered Fortuné’s words as a death threat and had filed a complaint with the Les Cayes prosecutor’s office as well as initiated a lawsuit against the former Deputy and Senator for defamation<sup>26</sup>. He has also called upon the Minister of Interior, who is also in charge of “*Collectivités Territoriales*” which includes municipalities, to look into the threats made by Mr. Fortuné.

### 3. Lynching

Lynching and Haitian State failure to respond to lynching have been central to human rights concerns in Haiti<sup>27</sup>. According to the Office of the High Commissioner for Human Rights (OHCHR/MINUSTAH) report, between July 2015 and December 2016, 168 lynching cases involving 198 persons were reported, including 10 women, yet local law enforcement officials have systematically failed to investigate these

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<sup>24</sup> Haiti Libre, Unanimous condemnation of death threats by Mayor Fortuné: <https://www.haitilibre.com/en/news-21761-haiti-politics-unanimous-condemnation-of-death-threats-by-mayor-fortune.html>, August 9, 2017.

Presidential ally, Mayor of Les Cayes calls for death of journalist, <http://sentinel.ht/2017/08/09/presidential-ally-mayor-les-cayes-calls-death-journalist>, Haiti Sentinel, August 9, 2017.

Gabriel Fortuné : « *Dans tout pays sérieux, les services secrets, sans recevoir d’instructions, tueraient ce journaliste* », *Le Nouvelliste*, <http://www.lenouvelliste.com/article/174503/gabriel-fortune-dans-tout-pays-serieux-les-services-secrets-sans-recevoir-dinstructions-tueraient-ce-journaliste>, August 8, 2017.

<sup>25</sup> According to journalist #1, the case unveils the arrogance of power and ignorance that threatens the very possibility of a democratic space in Haitian society. Journalist #2 echoed the protest of the *Association des journalistes haïtiens* [Haitian Journalists Association] saying that “such death threats are unimaginable in any democratic society”. Of note is that threats from individuals who occupy powerful offices or are well-connected with political power is very common in Haiti. Former President Michel Joseph Martelly, for example, has targeted many journalists; one of them was the award-winning journalist Liliane Pierre-Paul from Radio Télé Kiskeya who is also a female human rights activist. See *The Guardian*, Haiti’s president releases sexually suggestive song targeting journalist, <https://www.theguardian.com/world/2016/feb/02/haiti-president-michel-martelly-song-targets-journalist-activist-sweet-micky-bal-bannann-nan>, February 2, 2016.

<sup>26</sup> Haiti Libre, Unanimous condemnation of death threats by Mayor Fortuné, <https://www.haitilibre.com/en/news-21761-haiti-politics-unanimous-condemnation-of-death-threats-by-mayor-fortune.html>, August 9, 2017.

Presidential Ally, Mayor of Les Cayes Calls for Death of Journalist, <http://sentinel.ht/2017/08/09/presidential-ally-mayor-les-cayes-calls-death-journalist>, Haiti Sentinel, August 9, 2017

Gabriel Fortuné : « *Dans tout pays sérieux, les services secrets, sans recevoir d’instructions, tueraient ce journaliste* », *Le Nouvelliste*, <http://www.lenouvelliste.com/article/174503/gabriel-fortune-dans-tout-pays-serieux-les-services-secrets-sans-recevoir-dinstructions-tueraient-ce-journaliste>, August 8, 2017.

<sup>27</sup> This section is based on the review of cases and a comprehensive OHCHR review of lynching cases and State response in Haiti: MINUSTAH, *Bay tèt yo jistis Taking justice into one’s own hands or the reign of impunity in Haiti*, [http://www.ohchr.org/Documents/Countries/HT/170117Rapport\\_Se\\_faire\\_justice\\_soimeme\\_FR.pdf](http://www.ohchr.org/Documents/Countries/HT/170117Rapport_Se_faire_justice_soimeme_FR.pdf), January, 2017.

cases. In Haiti, slightly over 1 in 10 murder cases (or 11%) are the result of lynching, with cases in the department of the Ouest outpacing all other departments by a ratio of 4:1 between 2009 and 2015 (*Nations Unies*, 2017, p.15). In the Ouest department, three-quarters of all cases of lynching are reported in densely populated urban areas such as Carrefour, Croix-des-Bouquets, Delmas, Fort-National and Port-au-Prince (*ibid.*, 2017, p.16).

Based on data collected by MINUSTAH between 2009 and 2015, of 786 known incidents (involving 910 victims) the primary reasons for lynching, according to police, included theft, homicide and witchcraft, respectively, with women disproportionately victimized for the latter. Seventy-three percent of these victims were killed (*Nations Unies*, 2017, p. 17). This year, at least 52 such cases were identified by the MINUSTAH Joint Operations Center. All of these cases were related to witchcraft, sorcery and theft and correspond to the profiles included in the OHCHR/MINUSTAH 2017 report.

The State's inaction, as it relates to lynching, suggests that it is reluctant, at best, to intervene in such cases or, at worst, tolerant of such practices. However, the failure to protect citizens from such practices or punish those who have perpetrated such acts demonstrates the State's failure to protect its citizens and their right to life. (*Nations Unies*, 2017, p. 24)

According to a local university professor<sup>28</sup>, access to justice and Rule of Law is at the core of the problem, and “in the absence of an equitable justice system and Rule of Law, lynching has become and will continue to be a chronic problem.” As the OHCHR/MINUSTAH report shows, the public's estrangement from law enforcement and judiciary systems further complicates the situation in Haiti (*Nations Unies*, 2017, p. 24). Further, during a workshop conducted by INURED on Mapping Justice and Rule of Law, participants, which included officials from the justice and law enforcement sectors in Haiti, emphasized that Haitians' distrust of formal systems of justice leads to low expectations of them (INURED, 2012). Further, when officials attempt to administer justice, the public's inexperience with these systems renders vigilante justice the preferred, and most expeditious, manner in which to right a perceived wrong (*Nations Unies*, 2017, p. 24). With access to justice systems limited to non-existent for the average Haitian—due to its administration in French, exorbitant and arbitrary fees, lack of accountability and impunity—vigilante and mob justice as well as sorcery become common alternatives to law enforcement and judicial systems.

The university professor (social scientist #1) also insisted on the sociocultural dimensions of the lynching phenomenon. According to him, accusations of sorcery, witchcraft and theft are drivers of lynching. He suggests that Haiti has been facing many challenges— some of them unknown to the populace in urban and rural areas. For example, with the sudden, and inexplicable, emergence of cholera

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<sup>28</sup>Telephone interview with a social scientist university professor on August 12, 2017 (hereafter referred to as social scientist #1).

(an illness not known in Haiti prior to 2010), allegations of witchcraft ensued as casualties were attributed to sorcery<sup>29</sup>. Many voodoo priests and poor individuals became the victims of mob justice; they were beaten and burned to death in public. This would only be mitigated over time as public health officials, through cholera prevention and intervention programs, explained how the illness was contracted and what steps should be taken to mitigate it. As fewer people succumbed to the illness and more victims were “cured,” the belief that the illness was the result of black magic subsided. However, in remote areas of Haiti where lack of health services and poor infrastructure often make infection a death sentence, these beliefs persist.

According to the OHCHR/MINUSTAH report, the State has been reluctant to act on cases regarding police use of force, specifically the use of firearms, and those related to lynching (for more information see Abuse of Power by Haitian National Police section of this report). In addition, when these cases are pursued, victims’ rights are often violated (*Nations Unies*, 2017, p. 7). The State’s failure to investigate murder cases constitutes a failure to protect the right to life of Haiti’s citizens (*ibid.*, 2017, p. 9).

#### 4. The Right to Assemble and Organize

The Haitian Constitution guarantees the right to assemble as a group and organize. Political parties are free to legally register to take part in elections; however, incumbent parties often wield more influence than newly formed ones. The right to create and organize unions is protected under Haitian law. However, in practice unions have been largely ineffective with workers facing backlash and harassment for organizing. In March 2016, employees at several public hospitals in Port-au-Prince and Cap-Haïtien organized strikes to protest working conditions. These strikes have persisted in many hospitals and continued at the time of writing, with workers demanding increased compensation, more supplies and that security measures be taken to protect them from threats of violence by the family members of their patients<sup>30</sup>. As medical staff stopped reporting to work, hospitalized patients felt abandoned with some reporting that they had not consulted a physician for several weeks<sup>31</sup>. One pregnant woman seeking

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<sup>29</sup>USA Today/Associated Press: Cholera panic spurs deadly witch hunt in Haiti, [https://usatoday30.usatoday.com/news/world/2010-12-02-haiti-cholera\\_N.htm](https://usatoday30.usatoday.com/news/world/2010-12-02-haiti-cholera_N.htm), December 3, 2010. CBS News/Associated Press: About 45 Killed in Haiti for Using Voodoo. <https://www.cbsnews.com/news/about-45-killed-in-haiti-for-using-voodoo/>, December 24, 2010.

<sup>30</sup> For more information see Haiti Libre (2016): <http://www.haitilibre.com/article-17361-haiti-sante-greve-irresponsable-dans-les-hopitaux.html>, Le Nouvelliste (2017): <https://lenouvelliste.com/article/173583/hopitaux-publics-en-greve-calvaire-pour-les-femmes-enceintes>.

<sup>31</sup> Le Nouvelliste (2016): <http://lenouvelliste.com/lenouvelliste/article/157924/Les-hopitaux-publics-en-greve-les-malades-en-detresse>.

medical attention during a strikes reportedly died of severe hemorrhaging just outside of Port-au-Prince's General Hospital in May 2016<sup>32</sup>.

Grievances regarding low compensation and poor working conditions are quite common among personnel at public institutions and have become a fact of life in Haiti with frequent strikes at public schools<sup>33</sup>, universities<sup>34</sup> and hospitals among other institutions. The sections below outline the impact of such resource deficiencies on Haiti's law enforcement and judicial systems. Suffice it to mention here that according to interviewees who are themselves actors in the justice and human rights sectors<sup>35</sup>, these systems are characterized by a severe lack of resources and inefficiency that has negatively impacted their accountability to the public while rendering them vulnerable to corruption. According to these interviewees, justice is often inaccessible to the average Haitian for a number of reasons, including archaic legal codes; prison overcrowding; case backlogs; a judicial process conducted in French, which is not spoken or understood by most Haitians; the charging of arbitrary fees and/or demand for bribes and lack of accountability among law enforcement and judicial personnel due to limited pay, poor working conditions and the politicization of appointments.

## 5. Abuse of Power by the Haitian National Police

The *Police Nationale d'Haïti* [Haitian National Police; PNH], a relatively young force established in the 1990's following the dismantling of the army, remains quite small with an estimated 1.05 police officers per 1,000 inhabitants in the Ouest department in 2010 (Kolbe & Muggah, 2011), 1.41 officers per 1,000 inhabitants in the Nord-est department in 2015 (Baranyi & Sainsiné, 2016) and 0.4 officers per 1,000 inhabitants in the Nord department in 2015 (*ibid.*). As some of the security officials interviewed have pointed out, these ratios are somewhat misleading, as there are often high concentrations of officers in cities, such as Port-au-Prince and Cap Haïtien, at the expense of surrounding communal sections (*ibid.*)<sup>36</sup>. The PNH's ability, and will, to protect and serve has been complicated by the implication of its members in gang activity (Baranyi, 2011; Baranyi & Sainsiné, 2016; Beer, 2016; Kolbe & Muggah,

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<sup>32</sup> Haiti Libre (2016) <http://www.haitilibre.com/article-17361-haiti-sante-greve-irresponsable-dans-les-hopitaux.html>.

<sup>33</sup> Haiti Libre (2014) <http://www.haitilibre.com/article-11163-haiti-education-accord-avec-les-syndicats-reprises-des-cours-dans-les-ecoles-publiques.html>.

<sup>34</sup> Métropole Haiti (2015) [http://www.metropolehaiti.com/metropole/full\\_une\\_fr.php?id=25743](http://www.metropolehaiti.com/metropole/full_une_fr.php?id=25743), INURED (2010): [http://www.inured.org/uploads/2/5/2/6/25266591/the\\_challenge\\_for\\_haitian\\_higher\\_education.pdf](http://www.inured.org/uploads/2/5/2/6/25266591/the_challenge_for_haitian_higher_education.pdf).

<sup>35</sup> Interview with human rights leader #2 on June 12, 2017. Interview with human rights leader #3 on June 12, 2017. Interview with human rights leader #1 on June 10, 2017. Interview with a prominent attorney and former government official on June 13, 2017 (hereafter referred to as legal scholar #1). Interview with a prominent attorney and former government official June 20, 2017 (hereafter referred to as legal scholar #2).

<sup>36</sup> Interview with a senior law enforcement official on July 18, 2017 (hereafter referred to as senior law enforcement official #1). Interview with a high-ranking law enforcement official on July 18, 2017 (hereafter referred to as senior law enforcement official #2).



2013), police misconduct and extrajudicial killings (*Office de la Protection du Citoyen [OPC], 2012*) fostering distrust among the populace. Thus, gangs in Haiti often operate with impunity creating reluctance on the part of citizens to report crimes to the PNH (Baranyi & Sainsiné, 2016). MINUSTAH missions, deployed in 2004, aimed to build capacity within PNH and improve local justice services (Baranyi & Sainsiné, 2016; Kolbe & Muggah, 2011). While MINUSTAH has, to a certain extent, helped improve the security situation in Haiti, the 2010 earthquake took the lives of approximately 80 PNH officers and injured over 250 (Berg, 2010; Kolbe & Muggah, 2011). PNH infrastructure was severely damaged, including police stations, vehicles and equipment (Berg, 2010). These losses exacerbated an already under-resourced PNH, which has been characterized by its “lack of supplies, equipment, vehicles, human resources, etc” (Baranyi & Sainsiné, 2016, p. 8, author’s translation). The displacement of 1.9 million Haitians, many into tent camps, and the escape of over 5,000 prisoners in Port-au-Prince led to an increase in violence and insecurity such as assault, theft and rape in the greater metropolitan region (*ibid.*).

Credible accusations of extortion, excessive use of force and illegal detention based on false or unspecified charges and in other cases without a proper warrant have been made against officers of the PNH (MINUSTAH, 2017; U.S. Department of State, 2017). For example, during local protests in Arcahaïe in September 2015, PNH officers were found to have used excessive force against protesters, killing two and injuring many, illegally arresting protesters and destroying their property (MINUSTAH, 2017, p. 8). Requests were made for a formal investigation into the matter; however, the PNH stated that the 211 agents involved in the incident participated in sensitivity training in human rights and police ethics and that an investigation was not required (*ibid.*, p. 8). The human rights section of MINUSTAH conducted a 3-month study of arrest procedures in four police stations in Port-au-Prince from January 20 to March 30, 2016. Of the 677 total arrests, they found that the legality of 80% were in serious doubt due to improper warrants, insufficient documentation or arrests made based on simple denunciation (*ibid.*).

The PNH has made some efforts toward transparency with the public, including holding monthly meetings in which they report on their work to community members, and have disciplined officers who have abused their authority (MINUSTAH, 2017; U.S. Department of State, 2017). Among these efforts has been the establishment of a 24-hour hotline to report police corruption and misconduct (U.S. Department of State, 2017). In 2016, only 27 officers were recommended for dismissal, compared with 41 in 2015 (U.S. Department of State, 2017). The most commonly reported offenses included homicide, corruption and drug trafficking (U.S. Department of State, 2017).

## 6. Pretrial Detention and Prison in Haiti

Haiti's prison system is characterized by overcrowding and prisoners' rights violations (MINUSTAH, 2017; U.S. Department of State, 2017). The extent of the challenges faced by the prison system may not be fully known as files are paper-based and handwritten as a 2009 effort to modernize internal record keeping using a UNDP database have been ineffective (U.S. Department of State, 2017). According to the monthly report for June 2017 of the *Direction de l'Administration Pénitentiaire* (published on July 10, 2017), poor detention conditions are reflected in the annual mortality rate of 20.70 per 1,000 prisoners. Since January 2017, there have been 108 deaths or an average of 14 per month, and in July the prison population was reported to be 11,066 (including 376 women, 16 girls and 270 boys), a 5% increase since the beginning of the year. Of the 11,066 detained, 7,989 were awaiting trial. Women represented approximately 3% of the incarcerated population (MINUSTAH, 2017). MINUSTAH attributes the high number of people in pretrial detention to illegal arrests and extended pretrial detention (*ibid.*, p. 13). Although the law requires that pretrial detention not surpass 48 hours, over 72% of Haiti's prison population are in pretrial detention of which 48% are located in facilities in Port-au-Prince (*ibid.*, p. 8). In early 2016, all of the detainees in one Pétion-Ville police station had exceeded the pretrial detention period (*ibid.*). Higher rates of extended and unlawful pretrial detention in Port-au-Prince have also been attributed to complications associated with the provision of proof of identity, which affects minors who may be held with the adult population until their true identity can be verified (*ibid.*). In these cases, detainees have not seen a judge or consulted legal counsel within the legally prescribed timeframe of 2 days. These data suggest that addressing pretrial detention issues may alleviate other pressures in Haiti's prison system.

Haiti's prison system is characterized by its mistreatment of prisoners due to inhumane conditions, absence of basic services and lack of accountability for human rights violations committed by prison staff. These conditions are the result of underfunding and the politicization of the justice system.

According to the MINUSTAH human rights report, Haiti's national prison system exceeds capacity by 644% (MINUSTAH, 2017). Lack of funding has resulted in overcrowded prisons and detention centers, particularly in large urban centers like Port-au-Prince, Cap Haïtien, Les Cayes, Jacmel, Jérémie, Port-de-Paix, Mirebalais and Hinche (U.S. Department of State, 2017). Prison and detention center overcrowding in the provinces has forced some facilities to house adults and minors together as well as pretrial and convicted criminals, although both actions are prohibited by law. In some institutions, overcrowding in cells has forced prisoners to sleep in shifts as they lack beds, and there is no sunlight and poor ventilation. The lack of facilities has also compelled PNH to hold detainees in makeshift, unofficial detention centers. Resource constraints have also resulted in understaffing which has had serious implications for the quality of life of detainees, including limiting their exercise time as well as subjecting

them to physical and psychological abuse by PNH officers. In January 2016, a video of “two men being stripped and beaten” in a police station in Martissant was released (*ibid.*, p. 3), an investigation was underway as of October 2016.

In addition, detention conditions require serious attention. An interview with two human rights representatives revealed that<sup>37</sup> detention conditions have been documented and denounced for 5 years. According to them, in some contexts, cells contain three people per square meter, under extremely unsanitary conditions, some with no access to latrines. The interviewees describe these environments as “torturous conditions.” This observation has also been echoed by academic researchers. In a scientific seminar on June 7, 2017 (in which the authors of this report participated), Dr. Edouard Roberson and Professor Arnaud Dandoy presented the results of the first comprehensive study of the civil prison in Port-au-Prince, which was sponsored by the *Direction de l'Administration Pénitentiaire*. The principal objective of the study was to collect and analyze data that would generate a global portrait of the imprisoned population in Haiti. The study revealed that the prison population has a relatively homogenous profile at all levels of the penal chain: young men, with limited to no formal education, who are socioeconomically disadvantaged. Once involved in the penal system, certain portions of the population have difficulty coming out of it. Incarceration keeps them in economically, physically and psychologically precarious situations further hindering their eventual reinsertion into society<sup>38</sup>. Dr. Edouard concluded by stating that based on his observations and experiences in Haitian prisons, no human being should be subject to such abject conditions.

In addition to poor conditions and treatment in these facilities, there is a scarcity of services. In most facilities, those in custody lack access to drinking water. Though detainees may receive two to three meals per day, the nutritional value of these meals is limited, as it does not meet recommended daily caloric intake standards (U.S. Department of State, 2017). Further, delays in compensating food vendors and contractors disrupt food services altogether (*ibid.*). Some families provide food and clothing to detained family members; however, they may be subject to bribery by the facility’s staff in order to transfer them to the prisoner (*ibid.*).

Overcrowding, poor sanitary conditions, limited access to potable water and lack of nutrition impact the health of Haiti’s prison population. Poor hygiene and limited access to healthcare services have resulted in increased vulnerability to maladies as demonstrated by the fact that 1 in 10 prisoners suffers from “malnutrition and severe anemia”; HIV and tuberculosis rates among this population are higher than the national average and “scabies, diarrhea, and oral infections” are a common occurrence

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<sup>37</sup> Interview with international human rights representatives #1 and #2 on June 27, 2017.

<sup>38</sup> Roberson Edouard and Arnaud Dandoy, « La Prison civile de Port-au-Prince : portrait, fonctions et effets ». Presentation at the *Journée d'Etudes : Justice, Sécurité en Haïti*, Royal Oasis Hotel, Pétiion-Ville, June 7, 2017.

(*ibid.*, p. 4). Some NGOs and international organizations have stepped in to provide medical services in prisons and detention centers accounting for the reduction of some infection rates among this population.

Several entities, both national and international, have also stepped in to monitor and intervene when the rights of detainees have been violated. Among them is the Office de la Protection du Citoyen (OPC); the International Committee of the Red Cross; MINUSTAH and other human rights organizations, NGOs and civil society organizations, all entities that investigate allegations of inhumane conditions and treatment within the prisons.

## 7. Fair and Public Trial & Due Process Rights

As documented in many reports, Haiti's judicial system is characterized by the politicization of appointments and its lack of funding which, in turn, affects accountability (INURED, 2012; USAID, 2004; U.S. Department of State, 2017). Human rights professionals as well as members of the Presidential Commission for Justice Reform interviewed for this report agreed that the justice system in Haiti is characterized by shortcomings and inefficiencies, lack of independence and limited accountability, all exacerbated by inadequate resources as well as limited human capacity<sup>39</sup>. Furthermore, they acknowledge that executive and legislative branches exercise great influence on the judiciary particularly as it relates to hiring staff, appointing judges and assigning politically sensitive cases (INURED, 2012; USAID, 2004; U.S. Department of State, 2017). Stakeholders in the justice sector held similar views regarding Haiti's justice system. Although progress is being made on the Rule of Law and justice front, such as the existence of the Senate Permanent Commission on Justice, Public Security and National Defense, it is also important to consider that antiquated laws continue to be applied in a context in which emerging forms of criminality such as terrorism, cyber-crimes, corruption, crimes against humanity, genocide, organized crime, child pornography, child neglect and human trafficking render them ineffective<sup>40</sup>. Finally, there is a lack of trust between the State and its citizens which negatively affects the relationship. According to statements from the interviewees, Haitians tend to see the law as an imposition of the powerful over the weak and not as a reflection of law and order<sup>41</sup>.

Funding constraints have significantly impacted the judicial system. Judicial personnel often do not receive their salaries on time, a situation that may last several months. This also leads to delays in the

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<sup>39</sup> Interview with human rights leader #2 on June 12, 2017. Interview with human rights leader #3 on June 12, 2017. Interview with human rights leader #1 on June 10, 2017. Interview with legal scholar #1 on June 13, 2017. Interview with legal scholar #2 on June 20, 2017.

<sup>40</sup> For an elaborated discussion of the issue by prominent actors within the human rights and justice sectors in Haiti see *Plaidoyer pour la réforme de la justice, des pratiques de l'Etat et de la société civile*, dossier 3. Comité Coordonnateur du Forum Citoyen pour la Réforme de la Justice, CE-JILAP, OHJ, CEDHA, Port-au-Prince, April 2015.

<sup>41</sup> Interview with human rights leader #1 on June 10, 2017. Interview with SOGI rights leader #1 on June 10, 2017. Interview with human rights leader #2 on June 12, 2017. Interview with human rights leader #3 on June 12, 2017.

appointment and re-appointment of judges. As a result, judges as well as justices of the peace often hold other remunerative positions despite its prohibition in the Constitution (with the exception of teaching). The judicial system lacks the resources to convene a jury twice per year for trials as prescribed by law. Notwithstanding bribes to clerks and judges, official “fee scales” applied in an arbitrary manner by clerks to initiate criminal proceedings are still employed making access to justice uneven, particularly for those with limited economic means. This, in turn, affects accountability.

The politicization of the judiciary system and lack of funding has affected accountability leading to a serious backlog of criminal cases. Political crimes remain largely unaddressed contributing to impunity (MINUSTAH, 2017). For example, torture and murder perpetrated by the Duvalier regime or those allegedly instigated by former president Jean-Bertrand Aristide, particularly the murder of the journalist Jean Léopold Dominique, have never been prosecuted constituting severe obstacles in the fight against impunity in Haiti. Unclear criminal investigation procedures that divide investigative responsibilities between many actors, including the “police, justices of the peace, prosecutors and investigating magistrates,” exacerbate an inefficient system and contribute to the extension of pretrial detention for those in custody (U.S. Department of State, 2017, p. 10). Despite the Constitution’s presumption of innocence of all defendants, their due process rights are often violated. Suspects are interrogated without the presence of legal counsel or a trusted representative, as prescribed by law. Limited legal aid resources leave those lacking financial means without proper legal counsel. The absence of proper legal counsel is exacerbated by court proceedings conducted in French, whereas the majority of Haitians are native Creole-speakers and no interpreter services are offered forcing many to engage in judicial procedures that they do not understand. Defendants are often denied the right to attend trial, call upon or challenge witnesses, and/or present evidence in their own defense. The human rights section of MINUSTAH found that 91% of persons detained were being held illegally or arbitrarily, as the length of pretrial detention and time to see a magistrate significantly increased from 624 days in 2014 to 1,100 days in 2016 (MINUSTAH, 2017, p. 18). A December 2016 report of 3,746 detainees awaiting trial in the national penitentiary in Port-au-Prince found that 63% had been in detention for more than 2 years, this represents a 70% increase when compared with February 2014 (*ibid.*, 2017).

There are initiatives being carried out by different organs of the State to address these issues. These initiatives are supported by civil society organizations and promoted by international actors, such as MINUSTAH, UNCHR, the European Union (EU) and USAID. In 2014, the government of Haiti enacted legislation to fight against human trafficking. Subsequently, on August 12, 2015 the National Committee for the Fight against Human Trafficking was established by presidential decree. It is composed of 12 members, including seven ministry representatives, three representatives of autonomous State institutions and two representatives of human rights organizations who were invested on December

1, 2015. On January 4, 2012, the “*Groupe de Travail sur la Réforme de la Justice* [Working Group on Justice Reform],” a presidential commission, was created by the *Ministère de la Justice et de la Sécurité Publique* [Ministry of Justice and Public Security], with the objective of addressing key issues pertaining to the justice system. Its mandate was to develop a framework for justice reform in Haiti. The Presidential Commission was composed of the most reputable legal scholars of Haiti: Jean Joseph Exumé, attorney and former Minister of Justice; Jean Vandal, attorney, law professor, also former Minister of Justice; Sibylle Theard Mevs, attorney and jurist; Florence Mathieu, attorney and professor and René Magloire, criminologist, attorney and former Minister of Justice. Draft legislation for the reform of Haiti’s Criminal Procedure Code is pending following its presentation to the parliament on October 14, 2015. However, according to legal scholars #1 and #2, draft legislation aimed at revising the Penal Code and Code of Criminal Procedures has also been submitted to the Executive branch and is to be examined and voted on by parliament. While, for the first time, these codes have introduced new perspectives on some important modern judicial challenges (e.g., issues related to minority rights, SOGI rights, crimes against humanity, cyber-crimes and terrorism), according to some interviewees in the human rights and justice sectors, reforms may not be as far reaching in protecting certain rights and preventing the criminalization of certain socially disapproved behaviors<sup>42</sup>. As we shall see below, two senators, Jean Renel Sénatus and Carl Murat Cantave, have sponsored anti-SOGI legislation within the parliament to protect “traditional Haitian family values”<sup>43</sup> which will further criminalize and marginalize an already vulnerable segment of the Haitian population<sup>44</sup>.

#### IV. Gang-Related Violence

Haiti is characterized by chronic societal fragility and the continuum of vulnerabilities that undermine urban and rural communities. The permanence of acute internecine violence in the sociopolitical sphere combines with impunity and the absence of the Rule of Law to increase fragility and generate new coping strategies that perversely reproduce and endure compounding forms of violence, victimization and trauma in Haitian society. Furthermore, this combination has affected Haitian society’s

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<sup>42</sup> Interview with SOGI rights leader #1 on June 10, 2017, human rights leader #4 on June 7, 2017 and SOGI rights leader #2 on June 26, 2017.

<sup>43</sup> *AlterPresse*, Sept 27 2016: <http://www.alterpresse.org/spip.php?article20658>; *Le Nouvelliste* Sept, 26, 2016: <http://lenouvelliste.com/lenouvelliste/article/163689/Le-Festival-Massimadi-rester-a-placard>; *Towleroad*, Sept 29, 2016: <http://www.towleroad.com/2016/09/haiti-cancels-first-LGBTI-film-festival-following-death-threats-police-pressure-video/>.

<sup>44</sup> See *Le Nouvelliste*, July 2, 2013 <http://lenouvelliste.com/article/173557/quand-les-senateurs-parlent-du-mariage-pour-tous>; see also *Le National*, July 21, 2017: <http://www.lenational.org/proposition-de-loi-contrer-mariage-homosexuel/>; and *Sun Sentinel*, July 23, 2017: <http://sentinel.ht/2017/07/03/senate-vote-bill-condemning-homosexuality/>.

relationship with the State and undermines the already feeble horizontal connections within and between communities.

Gang violence related to both drug trafficking and other forms of organized crime, as well as turf battles, has been commonplace in the capital's slums and in some of the larger provincial towns for some time. It was not until these youth gangs began to be openly sanctioned by the State (Berg, 2010; Beer, 2016) and the political elite (Kolbe & Muggah, 2013) that the stage was set for the generalization of impersonal criminal violence. According to Berg (2010), "the use of informal groups has been a long-favored political strategy, fueled by widespread poverty, weak government services and deep social and economic inequities" (p. 3). From the late 1990's to 2008, with MINUSTAH being in charge of restoring security as well as forming a new police force, muggings, carjacking, ambushes, home invasions, kidnappings and other forms of criminal activity, including rape, had become sufficiently widespread to affect the everyday lives of all citizens, particularly those residing in the greater metropolitan area. Further, in the post-Duvalier era, Haiti's geographic location, porous borders and coastline made it a preferred transshipment route for narcotics trafficking between North and South America (Beer, 2016). And as foreign aid dwindled, the narco-economy would have influence on the nation's political system (*ibid.*).

### 1. The Prevalence of Gangs

According to the national police,<sup>45</sup> gang activities are most prevalent in the slums of Port-au-Prince, particularly in the neighborhood of Ti Bwa, Grand Ravine, in Martissant and Bel Air, La Saline, and Cité Soleil in Port-au-Prince. In an interview with senior law enforcement official #2, it was suggested that the factors that drive gang membership and criminal activity in Martissant are also the factors at work in Cité Soleil, Bel Air and elsewhere in Haiti: acute poverty; absence of an integrative policy targeted toward youth and collusion between political entities and criminal agents. Accordingly, he contends, during political transitions or electoral periods, gangs are co-opted by political actors to conquer territories and extend the clients of the latter by violent means.

According to a recent quantitative study conducted by *Commissaire* Jean Gardy Muscadin<sup>46</sup> of the Haitian National Police, the problem of gangs is becoming endemic in Haiti, for similar reasons as cited by senior law enforcement official #2, namely poverty, lack of youth programs and the intersection between politics and criminality. In addition, Muscadin's study highlights the proliferation of gangs as

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<sup>45</sup> Interview with senior law enforcement official #1 on July 18, 2017. Interview with senior law enforcement official #2 on July 18, 2017.

<sup>46</sup> « Phénomène de gangs et politique criminelle dans l'aire métropolitaine de Port-au-Prince de 2003 à 2014 ». Presentation by Jean Gardy Muscadin, Director of Penitentiary Administration, Haitian National Police. *Journée d'Etudes: Justice et Sécurité en Haïti*, June 7, 2017, Royal Oasis Hotel, Pétion-Ville.

resulting from weak social control and the absence of effective criminal policies in Haiti. *Commissaire* Muscadin suggested that Haiti needs to develop and implement comprehensive and multilayered strategies to integrate at-risk youths in productive activities in society. In this sense, he argues that fighting criminality as it is done now is similar to “fire-fighting measures” where “our ill-equipped gang unit at DCPJ [Direction Centrale de la Police Judiciaire] attempt[s] to extinguish the fires that emerge here and there in the city while we fail to address the root of the problem<sup>47</sup>”. Muscadin’s presentation triggers deeper reflection on this social problem that affects the daily lives of the Haitian population, the prevalence of gang activity in slums of Haiti.

## 2. Gangs in Cité Soleil

Gang activities are also registered in Raboteau, Gonaïves, Lafossette and its surrounding areas and Cap Haïtien. However, nowhere other than Cité Soleil have gangs remained consistently powerful and disruptive despite international programs sponsored by MINUSTAH<sup>48</sup>. One of the most impoverished and renowned slums, Cité Soleil mirrors the most depressing yet complex aspects of urban life in Haiti (Beer, 2016; Marcelin, 2015; Marcelin & Willman, 2017; Willman & Marcelin, 2010). Originally named Cité Simone, it was established as a “low-income government housing project area for some 50,000 factory workers” (Marcelin, 2015, p. 233). Most residents of Cité Soleil were migrants fleeing rural parts of Haiti in search of manufacturing jobs in the mid-20th century, jobs which no longer exist (Beer, 2016; Kolbe, 2013; Marcelin, 2015; Marcelin & Willman, 2017). As manufacturing jobs became scarce or disappeared altogether, poverty, the lack of viable opportunities and the absence of public services fueled a rise in criminal activity and the establishment of gangs. In some instances, gangs of Cité Soleil play a role in providing services traditionally offered by the State such as security, access to electricity, etc. These activities generate resources for gangs while expanding their sphere of influence within their neighborhoods.

During the final years of the Duvalier regime and throughout the Aristide era, Cité Soleil became a “site of resistance and political struggle where criminality and politics intersect” (Marcelin, 2015, p. 234). According to a study conducted in Cité Soleil by INURED, many youths in the community view violence and criminality as a political response to exclusion and marginalization (*ibid.*, p. 238). Readily available to be “contracted” or, given their life circumstances, manipulated by parties with economic or political interests, they are reported to engage in murder, robbery, extortion, kidnapping, narcotics and

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<sup>47</sup> « Phénomène de gangs et politique criminelle dans l’aire métropolitaine de Port-au-Prince de 2003 à 2014 ». Presentation by Jean Gardy Muscadin, Director of Penitentiary Administration, Haitian National Police. *Journée d’Etudes : Justice et Sécurité en Haïti*, June 7, 2017, Royal Oasis Hotel, Pétiion-Ville.

<sup>48</sup> Notably the program *Réduction de la Violence Communautaire* (RVC), sponsored by MINUSTAH and UNDP. For an analysis of this and similar programs in Cité Soleil see Marcelin (2011).



weapons trafficking and rape (Baranyi, 2011; Baranyi & Sainsiné, 2016; Berg, 2010; Beer, 2016; Dziedzic & Perito, 2008; Kolbe, 2013; Kolbe & Muggah 2013; Marcelin & Willman, 2017; Willman & Marcelin, 2010). Kolbe and Muggah (2013) aptly describe the relationship between Haiti's gangs and politics as well as the country's chronic instability:

What is most worrying, however, is that some of Haiti's gangs—particularly those affiliated with organized crime, paramilitary, and private security companies—are tied to the country's political elite. It is those with money and power who are most inclined to use gangs as a means of intimidating enemies and extending business interests. . . . As everyone in Haiti knows, there are specific politicians, business leaders, and wealthy landowners who serve as the gangs' chief patrons. Essential to diminishing insecurity associated with gangs, then, is a better understanding of these relationships and exposing them for all to see (p.16).

In their ethnography, Dziedzic and Perito (2008) depicted gangs as an inherently political phenomenon as powerful elites from across the political spectrum exploited gangs as instruments of political warfare, providing arms, funding and protection from arrest. This observation remains relevant as it has also been documented and reported in more recent studies (Marcelin & Willman, 2017; Willman & Marcelin, 2010;).

### 3. Neighborhood Perceptions of Gang Violence and Modus Operandi

To capture current neighborhood perceptions of violence and how gang violence intersects with citizen life, we conducted brief focus group discussions in two neighborhoods in Cité Soleil, where INURED has established institutional connections with the local population<sup>49</sup>. Many interviewees insisted that the gang phenomenon is linked to the breakdown of Haitian institutions, particularly the family and traditional community networks, lack of employment opportunities and the loss of hope. According to participants, parents seem to have abdicated their roles and responsibilities. It is often the children who now provide for their families. Interviewees reported that as children become the breadwinners of the family, disobedience increases. Some parents who do not want to see their children imprisoned, will threaten anyone who intends to have them arrested for their criminal behavior. The children fight among themselves for trivial reasons, throwing stones and bottles at one another and over the rooftops of each other's houses. They also spend time playing games such as cards or dominoes. They hang out in public spaces (called *baz* or the base).

Other participants (in 1<sup>er</sup> Cité, Avenue Soleil) say that during the past 3 months, except for a few isolated cases here and there, in Cité Soleil in which there was a death caused by a firearm and areas

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<sup>49</sup> On July 19, 2017, INURED conducted two focus groups: one with 6 participants, male and female adults, from Cité Boston and one with a group of 8 individuals, also male and female adults, from 1<sup>er</sup> Cité/Avenue Soleil. Both focus-groups were conducted at the Foyer Culturel St. Vincent de Paul at Cité Boston. Individual interviews consisted of short questions on the topic of livelihood and violence in Cité Soleil asked to six random young individuals willing to respond.

where bandits ransomed people early in the morning or in the afternoon, the principal violent activity concerned the war between rival groups who throw stones at each other. Others mentioned the evolving development of juvenile groups or bands that emulate the most notorious gangs. They operate in broad daylight and fear nothing, and some even allege that they collaborate with the local police. According to views from participants of youth/gang-induced violence, the violence is perpetrated by idle young men who engage in turf wars and gang warfare, which leads to stone throwing, house burning and shootings; holdups of businesses; robbery/attacks of passengers on buses; rapes, including gang rapes; kidnappings; sex work; elderly abuse and threats of retaliation by gang members against those who have informed the police of their activities.

According to all participants in the focus groups, the weapons the gang members use are mostly knives, machetes and small firearms such as pistols. More powerful firearms are allegedly still available and buried underground to be retrieved when needed. The disarmament of armed gangs has been a failure despite the Disarmament, Demobilization and Reintegration (DDR) programmes in 2008-2010 (Baranyi, 2011; *Commission Nationale de Désarmement, de Démantèlement et de Réinsertion* [CNDDR], 2011; Marcelin, 2011). Some gang leaders have been imprisoned, but their members continue to operate armed operations as usual. Violent episodes tend to start with a dispute between gangs of youth, which leads to rock throwing. According to respondents and focus groups, rock throwing as a tactic used by gangs has multiple purposes: it is used to escalate violence, to clear the streets of undesirable people and bystanders who might interfere with gang activities and to force the temporary abandonment of activities carried out by others in the community over which the gang wants to exert influence. The methods used by youth gangs to inflict violence and exert influence include stone throwing, bottle throwing, use of machetes and knives, home invasions, street fights, acts of cruelty and humiliation toward victims and forced recruitment into the armed groups of young men.

As senior law enforcement official #2 mentioned in the interview reported above, among the factors that are driving the proliferation of gangs in Haiti are the disintegration of family and community institutions as well as acute poverty. These observations are echoed in Muscadin's presentation and many studies reported in this section.

## **V. Vulnerable Children in Haiti: Children in Domestic Servitude, Violence Against Children and Street Children**

As demonstrated in many studies and reports, the vulnerability of children in Haiti increases where, on the one hand, the erosion of social safety nets such as family structure and community involvement due to acute poverty increases, and, on the other hand, public institutions and regulations, or

enforcement of the latter are weak (UNICEF, 2016; Reza, Marcelin *et. al.*, 2014; Sommerfelt, 2014). This observation is also noted in our interview with a high-ranking international agency representative in Haiti (international agency representative #1)<sup>50</sup>. In Haiti, acute poverty combines with the chronic weaknesses of public institutions that lack capacity to extend their protections to the most marginalized segments of Haitian society to compound children's vulnerability to different forms of predatory practices, among them, domesticity (Fafo, 2014; Sommerfelt, 2014), homelessness (Kovats-Bernat, 2008), child labor and child trafficking (Smucker & Murray, 2004). Of note, Haitian officials have strived to adopt legislation and create institutional frameworks to address child protection (USAID, 2017; U.S. Department of State, 2017). For example, since 2011, under the leadership of its Director, Ms. Arielle Jeanty Villedrouin, the Institut du Bien-Être Social et de Recherche (IBESR) has instituted several improvements and changes, including establishing IBESR offices in each department of the country, creating a national database of vulnerable children, conducting a national census of orphanages and putting in place systems of monitoring and evaluation. She is credited with leading Haiti in the ratification of The Hague Convention of May 29, 1993 on Protection of Children and Co-operation on intercountry adoption processes, which officially took effect in 2014, and has worked with the Haitian parliament to update the legal framework on children's rights by adopting international standards. A lot, however, remains to be done in order to address the many forms of vulnerability that expose children to violence, domesticity, trafficking and homelessness. In this section, we briefly describe the persistent effects of and attempts to respond to child domesticity, children's vulnerability to various forms of violence and street children.

### 1. Children in Domestic Servitude (*Restavèk*)

Haiti's population is very young with 42% of the overall population age 17 or younger (IHESI, 2015). Sustained efforts have been made to promote the rights of children in Haiti over the past 2 decades, including the adoption of various decrees and implementation of child protection measures (United Nations Committee on the Rights of the Child [CRC], 2015). However, lack of enforcement and the failure to institutionalize such measures have yielded mixed results.

According to a government study, 86% of Haitian children reported being victims of various forms of violence (MSPP, 2013). Prevalence rates of violence against children in Haiti are high (Reza, Marcelin *et. al.*, 2014). In response, a number of child protection laws have been adopted, such as the 2001 law prohibiting corporal punishment, a 2003 law prohibiting all forms of abuse against children and a 2005 law establishing mandatory minimum sentencing of 15 years hard labor for child sexual abuse (CRC, 2015). Children living in conditions of domestic servitude, referred to as *restavèk* [literal

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<sup>50</sup> Interview with a high-ranking international agency representative in Haiti on June 29, 2017 (hereafter referred to as International agency representative #1).

translation: to stay with] in the Haitian context, are particularly vulnerable to various forms of abuse (Abrams, 2010; Kennedy, 2014; Sommerfelt, 2014).

The prevalence of child domestic workers living with and working for third parties in Haiti has been another significant area for child rights advocates. Estimates range from 18.2% of children younger than 15 years of age (MSPP, 2013) to 25% of children aged 5-17 (Sommerfelt, 2014). The Norwegian organization, Fafo, defines *restavèk* as children who are separated from their parents (living with relatives or non-relatives), have a heavy workload and are either delayed in schooling or out-of-school children (*ibid.*). According to the two studies of child servitude in Haiti conducted by Fafo, in 2001 an estimated 239,000 children were *restavèks*, almost doubling to 407,000 in 2014 despite the prohibition of such practices in 2003 (*ibid.*). The *restavèk* phenomenon that plagues Haitian society disproportionately affects Haitian girls (Abrams, 2010; Haydocy *et al.*, 2015; Sommerfelt, 2014). Children living under these circumstances often become victims of various forms of abuse. Legislation prohibiting child domestic labor enacted in the early 2000's has remained largely ignored as child fosterage is a cultural practice rooted in Haitian kinship traditions (e.g., a relative or godparent, particularly if unable to bear children of their own or with the means to provide support, may take custody of a child) that in contemporary times has become a survival strategy adopted by many Haitian families to deal with accelerated impoverishment (M. Marcelin, 2017).

As this traditional practice of child fosterage has evolved—and traditional kinship practices and hierarchies that once served as protective measures have been eroded by poverty, coupled with migration to and from Haiti, as well as the recurrence of disasters—the State has been unable to step into the role once played by kinship networks, subjecting children to exploitation (M. Marcelin, 2017). Child domestic servitude both attracts the vulnerable while potentially increasing their vulnerability. In more extreme cases, the fate of *restavèks* will either lead them to the streets, where they become street children; result in future engagement in prostitution or lead them to join the thousands of Haitian children trafficked to the Dominican Republic (Abrams, 2010).

Fafo's 2014 study found that children engaged in child fosterage arrangements with non-relatives were almost three times as likely, at 14%, than those living with one parent (4%) or a relative (5%) not to have a birth certificate (Sommerfelt, 2014). As children in this system of fosterage grow older the likelihood of abuse increases. Whereas no significant difference in school attendance was found among those age 11 and under, among children ages 12 and older those fostered to non-relatives were three to four times (4-6%) as likely as their counterparts living with at least one parent or a relative (1-2%) never to have attended school (*ibid.*). The same study also found that all children experienced delayed schooling with delays particularly correlated with age (older children), especially among those above age 10, and the most significant delays were among *restavèks* living with non-relatives (*ibid.*). Yet, there is a need for

more systematic examination of this cultural practice of child fosterage as another study using government data found that while *restavèks* fared worse than their non-*restavèks* counterparts in terms of access to school and amount of labor responsibilities, they were less likely to experience physical abuse (Haydocy *et al.*, 2015).

The *restavek* phenomenon is one variety on a continuum of alternative care arrangement practices employed in Haiti (Fafo, 2014; M. Marcelin, 2017). Poverty, resulting from limited economic opportunities, decreasing agricultural productivity levels and disasters, has compelled many families who are unable to care for their children to seek alternative care arrangements such as institutionalization, which involves sending children who still have at least one and sometimes two living parents to an orphanage, and international adoption (CRC, 2015). According to UNICEF reports, following Hurricane Matthew in October 2016 “upwards of 10% of families...were contemplating giving up their children to alternative care arrangements” (UNICEF, 2016, p. 3). However, as stated earlier, violence is prevalent among the experiences of many children in Haiti.

## 2. Violence Against Children

In 2001, legislation was passed making corporal punishment illegal (CRC, 2015); however, the practice persists both in schools and in the community, as is evidenced by the Violence Against Children Study (VACS)<sup>51</sup> results in which 21.1% of female participants and 20% of male participants reported suffering physical violence by an authority figure in the community, such as teachers and police, prior to age 18 (Reza, Marcelin *et al.*, 2014). In 2003, legislation was passed making acts of abuse committed against children illegal (CRC, 2015); however, Haitian children are victims of various forms of abuse (for more on sexual violence see the Gender Based Violence section below), particularly physical violence, even in their own homes, as 55.9% of female participants and 54.4% of male participants of VACS reported experiencing physical violence at the hands of an adult household member prior to age 18 (Reza, Marcelin, *et al.*, 2014). It must be noted that the data only represent those who reported acts of corporal punishment which they perceived as having risen to a level of physical abuse suggesting that these numbers may, in fact, be higher.

## 3. Street Children

It is estimated that there are several thousand street children in Haiti (U.S. Department of State, 2017, p. 25). Factors contributing to their circumstances include running away from home; loss of one or

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<sup>51</sup> *Violence against children in Haiti: Findings from a national survey, 2012*. Port-au-Prince, Haiti: Centers for Disease Control and Prevention, Interuniversity Institute for Research and Development. [http://www.inured.org/uploads/2/5/2/6/25266591/cdc\\_final\\_haiti\\_05\\_22\\_2014.pdf](http://www.inured.org/uploads/2/5/2/6/25266591/cdc_final_haiti_05_22_2014.pdf).

both parents, particularly in the wake of Haiti's recurrent disasters, and dismissal or flight from a situation of domestic servitude (U.S. Department of State, 2017, p. 25).

Many street children have no civil registry as is the case for many Haitians in rural and urban areas<sup>52</sup>. According to a representative from a national agency, "We should not be surprised that most of those children we consider as 'street kids' come from rural areas and urban peripheries where their parents themselves have no civil registry and, of course, no identification documents. For the State of Haiti—even less for Haitian society—these kids technically don't exist."<sup>53</sup> These children are even more vulnerable to various forms of abuse and exploitation, including prostitution, gang involvement and human trafficking<sup>54</sup>. Laws have been adopted prohibiting the corruption of youth, including the prohibition of engaging in a sexual relationship with a sex worker under the age of 21, an act that is subject to a 6-month to 3-year prison sentence. Human trafficking carries a sentence of 7 years to life imprisonment (U.S. Department of State, 2017). While there are many orphanages and residential care centers accommodating and providing various services to children, in October 2016 IBSER found that 90% of these residential care centers serving 30,000 children were not up to standard and were exposing them to forced labor and/or abuse (U.S. Department of State, 2017). The national conference of human trafficking has highlighted these layers of vulnerability as part of a predatory structure that feeds off and compounds the vulnerability of children from rural areas and poor urban settings in Haiti<sup>55</sup>.

According to law enforcement officials interviewed, street children constitute the most preyed upon population for gang recruitment and involvement in crimes<sup>56</sup>. Further, interviewees agree that the problem of street children has reached a new scale in Haiti. Due to their visible presence in wealthier neighborhoods of the Haitian capital, they are reportedly perceived as a threat to the nation's social and economic order. To address this increasing social problem, authorities employ repressive measures to address the presence of street children generally resulting in their incarceration. All of the officials interviewed note that such a response, the incarceration of children, is not without consequence for the future of these youths—particularly for their identity construction and their social reinsertion.

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<sup>52</sup> *Situation de l'Etat Civil en Haïti*, Colette Lespinasse, GARR, 2002; Interview with human rights leader #2 on June 12, 2017; Interview with human rights leader #3 on June 12, 2017.

<sup>53</sup> Interview with a senior administrator of national agency in Port-au-Prince on June 12, 2017 (hereafter referred to as national agency representative #1).

<sup>54</sup> Intervention by Dr. Ely Thélot at the First Haitian Conference on Human Trafficking, June 21, 2017, Royal Oasis Hotel.

<sup>55</sup> Intervention by Dr. Ely Thélot at the First Haitian Conference on Human Trafficking, June 21, 2017, Royal Oasis Hotel.

<sup>56</sup> Interview with senior law enforcement official #1 on July 18, 2017. Interview with senior law enforcement official #2 on July 18, 2017.

## VI. Migration and Statelessness

With approximately 11% (or 1.2 million) of Haitians estimated to be living abroad, Haiti is a net emigration country (OECD & INURED, 2017). Historically, each wave of migration has been associated with sociopolitical turmoil; the revolution in the 18<sup>th</sup> & 19<sup>th</sup> centuries, U.S. Occupation in the early 20<sup>th</sup> century and the Duvalier regime in the mid-20<sup>th</sup> century; political and economic repression, 21<sup>st</sup> century *coup d'état* against Aristide; and disasters, hurricanes and the 2010 earthquake (*ibid*). Haitians choosing to migrate within the LAC region to countries, including the Bahamas, Cuba, Curacao, St. Thomas, the Dominican Republic, Brazil and Chile, are among the most marginalized in the destination countries as they have minimal education, limited economic means and few skills (Marcelino, 2013; OECD & INURED, 2017). Low-skilled, often undocumented, migrants are extremely vulnerable in the receiving countries, as they are often subject to human and labor rights abuses. While migrant vulnerability among Haitians is not new, in recent years the case of Haitian migrants has become increasingly complex. For example, many Haitian migrants were drawn to Brazil; however, due to recent political, economic and social crises in the host country some Haitians have moved on to other destinations in South America and the Caribbean while others have embarked on dangerous overland travel, including to the Mexico-United States border often resulting in a set of other migratory challenges (Semple, 2016, 2017). And the 2013 de-nationalization of individuals of Haitian descent in the Dominican Republic has placed more than 130,000 at risk of statelessness, 76% of whom are children (Human Rights Watch, 2016; OECD & *Centro de Investigaciones y Estudios Sociales-La Universidad Iberoamericana* [CIES-UNIBE], 2017; OECD & INURED, 2017; UNICEF, 2016). Within a month of the Dominican court's decision, over 50,000 individuals of Haitian descent were deported from the Dominican Republic (Human Rights Watch, 2017).

Between June 2015 and December 2016, an estimated 160,452 individuals crossed the border from the Dominican Republic into Haiti of which 2,551 were identified by the International Organization for Migration (IOM) as unaccompanied minors (UNICEF, 2016). Reports suggest that those most vulnerable, undocumented individuals, have received no assistance from either the Dominican or Haitian governments (Human Rights Watch, 2016). The specific situation of Haitians in the Dominican Republic, and the fact that these two nations share a largely porous border, have propelled migrant rights organizations in Haiti to engage in human and labor rights advocacy work (L.H. Marcelin, 2017). The periodic large-scale deportations of Haitians from various countries throughout the Americas illustrate the erosion of the fundamental principles of human rights, particularly for poor migrants whose economic marginalization in the age of globalization compels them to circulate (Joseph, 2017; OECD & CIES-UNIBE, 2017; L.H. Marcelin, 2017).

A recent law denationalizing Haitians and Dominicans of Haitian descent living in the Dominican Republic has caught the attention of human rights organizations as many in the Dominican Republic have

reportedly faced harassment, threats of violence, forced illegal deportation and an insufficient resettlement and reintegration situation in Haiti (Amnesty International, 2016). Human rights groups have been particularly concerned about the “arbitrary deportations” of some camp residents interviewed by Amnesty International (2016), who informed that they did not receive formal deportation orders and were denied any form of due process (p. 5). Among deportees were individuals “who had applied to the regularization plan, unaccompanied children and parents of children entitled to the Dominican nationality” (ibid, p. 5).

According to two human rights activists<sup>57</sup>, living conditions for the over 2,200 residing in six makeshift camp sites close to Anse-à-Pîtres were less than ideal, as they had limited access to potable water, sanitation, healthcare and education. Despite the anticipation of deportees and returnees from the Dominican Republic in 2015 and 2016, the Haitian government was unprepared to receive them (MINUSTAH, 2017). The government’s intervention in the first few weeks included registering deportees and returnees and providing small transportation grants that would allow them to return to their community of origin in Haiti. However, as the political situation worsened those measures ceased (Amnesty International, 2016). According to IOM, by May 2016, 576 families had been relocated through a joint program supported by IOM and the United Nations Office of the Coordination of Humanitarian Affairs (OCHA) that provided a rent subsidy and travel stipend to families (Amnesty International, 2016). To date, the Haitian government has not built any shelters to receive deportees and returnees, no official reintegration program has been established and no procedures have been developed to facilitate the securing of official documentation and identification among those evicted from the Dominican Republic<sup>58</sup> (see also Amnesty International, 2016).

## **VII. Gender Discrimination, Gender Inequality and Gender Based Violence**

Haitian women represent 51% of the population (IHSI, 2015) and have reportedly been systematically marginalized politically, economically and socially. According to the OPC (2012), “women were, are and continue to be one of the most vulnerable groups in Haiti” (p. 91). Though attempts have been made to enfranchise Haitian women by integrating them into key decision-making positions through the passage of a 2012 Constitutional amendment establishing a 30% quota favoring women in elected and appointed positions (USAID, 2017), very few gains have been made in terms of women’s rights and establishing gender equality and equity in Haiti. Women’s marginalization is reinforced throughout Haitian culture and society through the country’s institutions and in everyday

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<sup>57</sup> Interview with human rights leader #2 on June 12, 2017; Interview with human rights leader #3 on June 12, 2017.

<sup>58</sup> Interview with human rights leader #2 on June 12, 2017; Interview with human rights leader #3 on June 12, 2017.



family life<sup>59</sup>. As one prominent female leader reported in an interview, “to tackle women’s institutional marginalization it is not a matter of physical representation, or how many women are employed by an institution, it is a matter of structural changes and redefining the institutional parameters in which women function.”<sup>60</sup>

### 1. Structural Context of Discrimination, Inequality and Violence against Women

Though great strides have been made to decrease the gaps in educational attainment through “Education for All” initiatives, on average men still have 2 more years of education and have a 10% literacy advantage over women (World Bank, 2015). A 2010 employment study conducted by the Haitian government found that 78.6% of males and 74.9% of females ages 6 to 24 years were attending school; however, in semi-urban and rural areas, 4 percentage points separated male and female attendance rates (IHSI, 2010). Another government study found that 1 in 4 (25%) women were likely to have no formal schooling, compared to 19% of men (MSPP, 2013). Within the realm of family life, adolescent girls may legally marry at age 15, compared with age 18 for males (UNDP, 2010), which explains the higher rates of marriage during adolescence among females at 17%, compared to 2% for males (World Bank, 2015). In 2013, the United Nations Committee on the Rights of the Child (CRC), formally requested that the legal minimum age of marriage for girls be raised to the minimum age for boys (CRC, 2015). Various cultural practices deter women from pursuing formal education; financial constraints have forced many Haitian families to select which child(ren) will be formally educated, a process that has traditionally favored sons over daughters; early marriage often results in early pregnancy, with teenage pregnancy accounting for 8% of all births in Haiti (Young et al., 2010); and marriage, in general, brings with it gendered roles and responsibilities that keep Haitian women in the home performing domestic duties (IACHR, 2009). These factors prevent girls from pursuing an education or persisting to higher levels of schooling and have implications for women’s integration in the formal labor economy.

Women are 20 percentage points more likely to be unemployed as compared with their male counterparts and earn almost one-third less (World Bank, 2015). Haitian women have the highest employment rate in the region though the majority of their economic activities are in the informal sector (UNDP, 2010). As mentioned in Section V in this report (Vulnerable Children in Haiti), the *restavèk* phenomenon disproportionately affects Haitian girls over boys (Abrams, 2010; Haydocy *et al.*, 2015; Sommerfelt, 2014). Of greater concern is that girls tend to move farther distances from home than their male counterparts, in some cases from rural to urban areas, while more girls than boys from urban areas engage in domestic labor in urban settings with families with which they have no kinship ties (*ibid.*). This

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<sup>59</sup> Intervention of Faidlyne Policard at the *Journée d’Etudes : Justice et sécurité en Haïti*, Pétiyon-Ville, Royal Oasis Hotel, June 7, 2017.

<sup>60</sup> Interview with human rights leader #4 on June 7, 2017.

combination of factors increases their vulnerability to predatory practices while distancing them from traditional safeguards (*ibid.*). Thus, *restavèk* children, most of whom are girls, often become victims of various forms of abuse.

Of note is that Haitian women have remained grossly underrepresented in high-level decision-making positions, which is also reflected in the realm of politics. In 2017, in the current Parliament (*50ème Législature*) there is only one female *Sénateure* [Senator] out of 30 and three female *Députées* [Deputies] out of 117. While all political parties are encouraged to have 30% female representation for the parliamentary elections there is no quota for women in Parliament. These circumstances contribute to the vulnerability of Haitian women as they remain underrepresented in politics.

Women's vulnerability in Haiti plays out in a number of ways. Haitian women have the highest fertility rate in the region at 4.8 (UNDP, 2010) and a maternal mortality rate of 380 deaths per 100,000 live births, nearly five times the regional average (WHO, 2015). They are more likely to suffer long-term illnesses than their male counterparts, at 11.9% and 8.5%, respectively (IHSI, 2003). The prevalence of HIV/AIDS among Haitian women is 2.7% as compared with men at 1.7% (World Bank, 2015). Haitian women (and girls), particularly the poor and/or socially marginalized, suffer *quid pro quo* exchanges to obtain the necessary grades to progress in school (Cela, 2017; INURED, 2010), gain access to university (Cela, 2017; INURED, 2010), secure money or gifts (Kolbe, 2015), obtain and/or maintain employment (Kolbe, 2015; Maternowska, 2006) and secure relief aid (Marcelin & Cela, 2017). The increased vulnerability of Haitians has made transactional sex commonplace in Haitian society. The absence of policies within institutions (Cela, 2017; INURED, 2010) and failure of law enforcement (Kolbe, 2015; OPC, 2012) to protect citizens from sexual harassment and exploitation leave victims with little or no recourse.

According to Danièle Magloire, many women see contacting the police or a judge as a waste of time. It can even put their safety at risk because the police often fail to follow up on formal complaints. This indifference often emboldens the aggressor if he knows that authorities will look the other way<sup>61</sup>. Human rights leader #1 notes that rape victims often have nowhere to go. Gender based violence is condoned outright, through indifference or due to victim shame<sup>62</sup>. According to this interviewee, “we have to ask ourselves with so many victims and so little justice, how do these women deal with the trauma? What happens to their spirits? How do they go on to raise children? <sup>63</sup>” It was only in 2005 that laws criminalizing domestic violence and rape were enacted in Haiti, though the numbers of reported

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<sup>61</sup> Intervention of Danièle Magloire on « Le Développement de la PNH: Une relecture théorico-pratique » at the *Journées d'études : Justice et sécurité en Haïti*, Royal Oasis Hotel, Pétiion-Ville, June 7, 2017.

<sup>62</sup> Interview with human rights leader #1 on June 10, 2017.

<sup>63</sup> Interview with human rights leader #1 on June 10, 2017.

cases of violence are high with one in every three women (ages 15 to 49) experiencing some form of physical or sexual violence (USAID, 2017). Sexual assault against women is “widespread and deeply embedded in Haitian social life”, perpetrated by political actors on both sides of the political spectrum, paramilitary groups, gangs, drug traffickers and mercenaries during both moments of stability and crisis (Marcelin, 2015, p. 238). A 2012 Ministry of Health study found that 29% of (current and formerly) married women experienced either emotional, physical and/or sexual violence at the hands of an intimate partner (MSPP, 2013). The same study found that 43% of young women (ages 15-19) were the victims of intimate partner violence (MSSP, 2013).

A 2011-2012 household survey found that the risk of sexual assault for women residing in low-income, urban areas was 27 times higher than those residing in more affluent and less densely populated neighborhoods (Kolbe & Muggah, 2012). A 2012 Violence Against Children Study (VACS), surveyed 1,457 females and 1,459 males between the ages of 18 and 24 to examine their childhood experiences of violence. The data revealed that Haitian women are extremely vulnerable to violence with 23.1% describing their first experience of sexual intercourse being unwanted versus 11.1% of males (Reza, Marcelin, *et al.*, 2014). Over 40% of the Haitian girls in this study who experienced unwanted sex also experienced a sentinel event (unwanted sexual touching or unwanted attempted sex) approximately 2 years prior, suggesting that such events may serve as “high yield markers for subsequent abuse” (Sumner, Marcelin, *et al.*, 2015, p. 6). Slightly over one-quarter (25.7%) of female study participants reported experiencing sexual abuse before the age of 18, versus 21.2% of males, while 6.3% of females experienced forced physical sex prior to age 18, versus 1.9% of males (Reza, Marcelin, *et al.*, 2014). Yet, only 10% of female victims received any form of SGBV care and services (*ibid.*).

In a separate study conducted by PotoFi in 2011, 64% of 981 pregnant adolescent girls reported that their pregnancy was the result of a sexual assault (PotoFi, 2012). Fear and impunity, as well as lack of sensitivity toward victims of violence, has resulted in many cases going unreported or victims deciding not to pursue criminal prosecution (Amnesty International, 2014; Kolbe & Muggah, 2012; OPC, 2012). As both human rights leaders #1 and #4 stressed, for victims of domestic violence the situation is even more complicated as deeply ingrained sociocultural, and to some extent religious, beliefs regarding a wife’s duties toward her husband suggest that domestic affairs are private, and not public, matters<sup>64</sup>. And as Fortin (2016) puts it, in the minds of many, emotional, physical and sexual violence perpetrated by a spouse cannot be considered a criminal act, as domestic matters are beyond the realm of the law.

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<sup>64</sup> Intervention of Danièle Magloire, *Journée d'études: Justice et sécurité en Haïti. Le Développement de la PNH : Une relecture théorique-pratique*, Royal Oasis Hotel, Pétiion-Ville, June 7, 2017. Interview with human rights leader #1 on June 10, 2017.

While much attention has been placed on gender based violence perpetrated against Haitian women and girls, the pervasive nature of violence in Haitian society is illustrated by the following VACS results: 60.5% of females and 57.2% of males experienced physical violence prior to age 18 (Reza, Marcelin, *et al.*, 2014). Finally, VACS results indicate that more males (6.8%) than females (4.2%) engaged in *quid pro quo* sexual exchanges for money, gifts, food and/or other favors prior to age 18, which suggests a need for further examination of the pervasive nature of violence in Haitian society (Sumner, Marcelin, Cela *et al.*, 2016).

There are no laws against sexual harassment although it does occur, particularly in factories. In popular culture, such as films and folktales, the saying “*Ou chita sou travay la* [literal translation: You are sitting on the job]” is a commonly known expression which suggests that a female applicant for a post must engage in sexual relations with her superior in order to secure or maintain the position. Due to high levels of unemployment and the inefficiency of the judicial system, such cases go unreported.

Women are particularly vulnerable to sexual harassment given the low absorption capacity of the formal labor market, which disproportionately affects women (USAID, 2017). The Ministry on the Condition of Women and Women’s Rights reported that although women occupy 70% of the public sector labor force, they only hold 12% of all managerial positions. According to the Minister, efforts have been made to educate people about women’s rights and victim’s rights. The Haitian government, according to her, is trying to create a justice system that is more responsive to victims and more sensitive to the needs of sexual abuse and assault victims.<sup>65</sup> This will take time as negative attitudes toward women run deep.

Rape is illegal and punishable by a minimum of 10 years forced labor and up to 15 years if the victim was younger than 16 years of age or the perpetrator was “a person of authority” (U.S. Department of State, 2017, p. 21). Gang rape is punishable by lifelong forced labor. Despite the existence of these laws, prosecution is seldom pursued as victims are often subjected to shame and victim blaming, if not harassment. A 2013 MINUSTAH study found that only 47% of sexual assault complaints made in that year were pursued for investigation (MINUSTAH, 2017). Based on a database of records provided by the Ministry of Justice and Public Security to the Human Rights section of MINUSTAH, the average number of “reported” rapes across the country is 250 per 100,000 inhabitants, but MINUSTAH believes that the actual number is at least 10 times higher (MINUSTAH, 2017, p. 18). During investigations and court proceedings, victims are systematically asked about their virginity or the clothing they wore at the time of the assault, suggesting that they may have been complicit in the crime. Further, sentencing guidelines are often not enforced as perpetrators receive lighter sentences.

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<sup>65</sup> Minister Eunide Innocent, Ministre à la Condition Féminine et aux Droits des Femmes, Inaugural speech, March 24, 2017.

Gender inequality is commonplace and inscribed in the laws of Haiti. The following are a few examples: domestic violence is not considered a crime resulting in its common practice and its underreporting despite the efforts of human and women's rights organizations, spousal rape is not recognized as a crime as it is part of a woman's marital "duty" to have sexual intercourse with her husband and husbands cannot be prosecuted for a crime of passion that involves their wife and a partner engaging in adultery in his home. However, a wife can be prosecuted for a crime of passion (U.S. Department of State, 2017).

## 2. Sexual Orientation and Gender Identity

According to SOGI rights leader #1<sup>66</sup>, "the idea of LGBT in Haiti is relatively new; also, the idea of an LGBT community or LGBTI rights is very new." Another representative of a prominent SOGI rights organization (SOGI rights leader #2) is also aware of the challenges faced by individuals of diverse sexual orientations and/or gender identities, "Even the concept of transgender is totally alien for ordinary people in Haiti. Fear of the unknown, tradition and normative discrimination of sexual minorities make it almost an impossible task for a citizen who is not yet aware of his rights and responsibilities to stand up for himself. No wonder politicians can manipulate public opinion so easily against the LGBTI people."<sup>67</sup> These interviews echo the complex challenges faced by SOGI activists in Haiti.

## 3. History & Context of SOGI Activism in Haiti

Very few studies have been conducted on individuals of diverse sexual orientations and/or gender identities in Haiti and they have primarily focused on men who have sex with men (commonly abbreviated as MSM). Historically, this is mostly because of studies from public health scholars' and public health officials' interest in HIV/AIDS (and its associated stigma) among gay individuals in Haiti (Andrianov, 2006; De Cock, Jaffe, & Curran, 2011; Farmer, 2006). The MSM population in Haiti (as referred to by these studies) is estimated at 70,000 according to the Ministry of Health (as cited in Smith, 2017). As an organized movement, SOGI activism has only emerged in the post-disaster context beginning with one organization in 2010, rising to approximately 10 groups currently operating in different parts of the nation (Smith, 2017). Most of these groups serve gays and bisexuals; however, two groups have been established for lesbians and bisexual women: *Femmes en Action Contre la Discrimination Sexuelle* [Women in Action Against Stigma & Sexual Discrimination, FACSDIS] and *Asosiyasyon Fanm Revòlte Okap* (AFARKAP). These groups differ in terms of structure and their level of organization, focusing to varying degrees on raising awareness, organizing and mobilizing. Collaboration

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<sup>66</sup> Interview with SOGI rights leader #1 on June 10 and June 27, 2017.

<sup>67</sup> Interview with representative of a prominent SOGI rights organization in Haiti (hereafter referred to as SOGI rights leaders #2) on June 26, 2017.

with existing human and women's rights organizations in Haiti has been limited; however, SOGI organizations have received much of their support from embassies from Western countries (e.g., US, Canada, France, Germany, Switzerland and France), United Nations agencies and regional networks in the Caribbean (Smith, 2017).

In the aftermath of the earthquake, the visibility of SOGI activism in Haiti increased. In 2013, the first mass demonstration against the rights of individuals of diverse sexual orientations and/or gender identities, which was undertaken by political and religious leaders, was a sign of that increased visibility (Smith, 2017). In the same study respondents reported being the victims of rights violations more frequently than their heterosexual counterparts at 48% and 40%, respectively (as cited in Smith, 2017, p. 9). However, in Haitian law, sexual orientation is only be acknowledged through exclusion. In October 2013, as part of an effort toward adoption reform, a new law was adopted granting the right to pursue adoption to married, heterosexual couples only (Smith, 2017, p. 6).

The exclusion of those of diverse sexual orientations and/or gender identities in the judicial system is also prevalent. Of 300 cases reported to SEROvie, a SOGI rights organization, in a 6-month period in 2016, only three were brought to judicial authorities (Smith, 2017, p. 9; SEROvie communications<sup>68</sup>). Kouraj, a SOGI rights organization, reported that of 11 cases reported to them only four were forwarded to the court system (Smith, 2017, p. 9)<sup>69</sup>. For many persons with diverse sexual orientations and/or gender identities, seeking judicial recourse results in public mockery, difficulty accessing proper representation as attorneys are often reluctant to represent them in court and justice may simply be denied them (*ibid.*, p. 9). The following outlines the legal framework that affects SOGI individuals in Haiti.

#### 4. Legal Framework that Impacts the Lives of SOGI Individuals

In conformity with the Universal Declaration of Human Rights, the Haitian Constitution guarantees the right to life, health, respect of individuality as well as all civil and political rights for all Haitians 18 years and above, regardless of sex or marital status.<sup>70</sup> From a constitutional standpoint, individuals with diverse sexual orientations and/or gender identities are not and cannot be criminalized under Haitian law. However, Haitian legislators have failed to provide specific legislation to guarantee and protect the rights of individuals with diverse sexual orientations or gender identities.

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<sup>68</sup> SEROvie communications are a series of radio broadcasts formatted to educate the Haitian public. In these broadcasts, SEROvie presents public health and judicial data to inform the public.

<sup>69</sup> Interview with SOGI rights leader #2 on June 26, 2017.

<sup>70</sup> *Haiti, Constitution de la République d'Haïti*, originally enacted in 1987, amended by the *Loi Constitutionnelle du 9 Mai 2011*, <http://www.refworld.org/docid/3ae6b5490.html> art. 17, and art. 19.

While the SOGI rights movement is becoming more visible in Haitian society because of the emergence of new civil society organizations and Haiti's visibility internationally since the earthquake, Haitian politicians, government officials and legislators are banking on religious traditions and conservative societal norms to create legal provisions that protect morals and public decency<sup>71</sup>, thereby creating selective discriminatory practices pursuant to which individuals with diverse sexual orientations and gender identities would be criminalized. Several dangerous legal paths for discrimination against SOGI individuals have been put in motion by the Haitian Parliament. The first is the *Projet de loi sur la bonne conduite* [Bill on Good Conduct] sponsored by senator Jean Renel Sénatus that has been adopted by the Senate and, now, draft law is currently at the Lower house of Parliament. The bill prohibits the issuance of a certificate of good character and morals to persons who are determined to be of sexual indecency. The definition of sexual indecency would include homosexuality (on par with procuring sex, pedophilia, child pornography, incest and polygamy). If adopted by the Chamber, this bill would initially prohibit homosexuals as defined in the text from receiving the "*Certificat de bonne conduite*" needed for job applications. Following intense debates at the Senate, homosexuality was taken off the list of sexual indecency, but an amendment states that homosexual or heterosexual acts committed in public should be considered as sexual indecency.

Another legal path currently being developed through the legislative process is the one activated by several parliamentarians led by Senator Cantave through the *Projet de loi sur l'interdiction du mariage homosexuel* (A bill that prohibits homosexual marriage) that was later renamed, "*Le renforcement des dispositions du Code Civil concernant le mariage et la protection de la famille* [Strengthening the Dispositions of the Civil Code Concerning Marriage and the Protection of the Family]" to downplay its discriminatory nature, yet, yielding the same results. The Senate ratified the bill which indirectly targets persons of diverse sexual orientations and gender identities<sup>72</sup>. Of the 14 Senators present at the time of the vote 12 voted for, one against (Patrice Dumont) and one abstained (Kédelaire Augustin)<sup>73</sup>. According to

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<sup>71</sup> *Code pénal*, as amended (1985), <http://www.refworld.org/docid/4c3440772.html>, Section IV: "*Attentats aux mœurs*".

<sup>72</sup> In an interview to *Haiti Libre*, Director of Kouraj, commented that the bill is "an attack against the LGBTI community in Haiti. This law will further divide Haitian society, reinforcing discrimination and bringing much more violence and prejudice against the LGBTI community". Haïti - FLASH : Le Sénat vote une loi contre la communauté Gay <http://www.haitilibre.com/article-21704-haiti-flash-le-senat-vote-une-loi-contre-la-communaute-gay.html>, August 03, 2017. In a telephone interview with SOGI rights leader #1 on August 14, 2017, reflecting on the impact of the bill on the everyday lives of SOGI individuals, said Haiti's Senate has been taken hostage by religious fundamentalists. There is collusion now between religion, politics and the law. We [LGBTI] are the one paying the price. The LGBTI people have been striped of their citizenship. Anything can happen to this vulnerable population—anywhere and by anyone".

<sup>73</sup> According to the Haitian newspaper *Le Matin*, the bill passed by the Senate should pass without difficulty to the Members. The LGBTI community is worried. <https://www.lematin.ch/monde/haiti-senat-interdit-mariage-gay/story/17666975>. Législation Haïti: Le Sénat Interdit le mariage gay, 3 août, 2017. This view is echoed in the following statement from the President of the Senate: "All senators are opposed to same-sex marriage, so this has

the bill, “the parties, co-parties and accomplices” of a same-sex marriage would face up to 3 years in prison and a fine of 500,000 Haitian gourdes or [USD] \$8,064”. The measure would also ban what the news agency described as “public demonstration of support” for homosexuality.

These bills have been labeled “*lois liberticides*” [liberticidal bills] by AlterPresse, an online Haitian press agency,<sup>74</sup> reportedly creating conditions for social exclusion, targeted violence and statelessness. These practices have been more systematic in the aftermath of the 2010 earthquake with the emergence of new advocacy organizations both from outside and inside of Haiti. The rise of the SOGI rights movement served as a trigger for homophobic, anti-SOGI demonstrations in Port-au-Prince<sup>75</sup>. According to SEROVie and Kouraj, the climax of the anti-SOGI movement was thought to be reached in 2016 when SOGI activists planned a festival, *Massi-Madi* [Gay and Lesbian abbreviations in Creole], which was to be co-sponsored by several SOGI and civil society organizations. However, following protests by elected officials and over a week of public debate, the festival was cancelled<sup>76</sup>. While Haiti’s nascent SOGI activism has increased its visibility over the past 7 years, efforts persist to sensitize the public to their rights as citizens of the republic. While proposals to amend the Penal Code in order to criminalize discrimination on various grounds, including sexual orientation, have been considered, the inclination to prevent any advancement in SOGI rights has persisted as two senators, Jean Renel Sénatus and Carl Murat Cantave, have sponsored anti-SOGI legislation to protect “Haitian family values”<sup>77</sup> which will further criminalize and marginalize an already vulnerable segment of the Haitian population<sup>78</sup>.

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only reflected the commitments made by senators at the time of their campaigns,” Youri Latortue, president of the Senate, told the Agence France Presse on Wednesday, reported in the same issue.

<sup>74</sup> *Droits humains: Les démarches d’interdiction du mariage homosexuel, un attentat contre la communauté Lgbt en Haïti, selon l’organisation Kouraj. Jusqu’où iront les vellétés « fascistes » des sénateurs?*

<http://www.alterpresse.org/spip.php?article21953#.WZd6MFGGOUk>, vendredi 4 août 2017.

<sup>75</sup> AlterPress, Marche homophobe à Port-au-Prince, 19 July 2013,

<http://www.alterpresse.org/spip.php?article14891#.Ueorisu9KSM>. 22 July 2013. Also, Le Nouvelliste:

<http://lenouvelliste.com/lenouvelliste/article/119355/Gracia-Delva-nest-pas-pour-le-mariage-gay-en-Haiti.html>.

<sup>76</sup> September 27, 2016; LGBTI festival canceled in Haiti amid threats to organizers

<http://www.cbsnews.com/news/massimadi-LGBTI-festival-canceled-in-haiti-amid-threats-to-organizers/>

*Ambassade des Etats-Unis: Déclaration au sujet du report du Festival MASSIMADI,*

[http://www.radiotelevisioncaraibes.com/presse/dclaration\\_au\\_sujet\\_du\\_report\\_du\\_festival\\_massimadi.html29/09/2016](http://www.radiotelevisioncaraibes.com/presse/dclaration_au_sujet_du_report_du_festival_massimadi.html29/09/2016).

AlterPresse, Sept 27 2016: <http://www.alterpresse.org/spip.php?article20658>; Le Nouvelliste Sept, 26, 2016:

<http://lenouvelliste.com/lenouvelliste/article/163689/Le-Festival-Massimadi-restera-au-placard>; Towleroad, Sept 29,

2016: <http://www.towleroad.com/2016/09/haiti-cancels-first-LGBTI-film-festival-following-death-threats-police-pressure-video/>.

<sup>77</sup> AlterPresse, Sept 27 2016: <http://www.alterpresse.org/spip.php?article20658>; Le Nouvelliste Sept, 26, 2016:

<http://lenouvelliste.com/lenouvelliste/article/163689/Le-Festival-Massimadi-restera-au-placard>; Towleroad, Sept 29,

2016: <http://www.towleroad.com/2016/09/haiti-cancels-first-LGBTI-film-festival-following-death-threats-police-pressure-video/>;

<sup>78</sup> See Le Nouvelliste, July 2, 2013 <http://lenouvelliste.com/article/173557/quand-les-senateurs-parlent-du-mariage-pour-tous>;

see also Le National, July 21, 2017: <http://www.lenational.org/proposition-de-loi-contrer-mariage-homosexuel/>;

and Sun Sentinel, July 23, 2017: <http://sentinel.ht/2017/07/03/senate-vote-bill-condemning-homosexuality/>.



According to Kouraj and SEROvie, as of the date of completion of this report, SOGI organizations and persons with diverse sexual orientation and/or gender identities are at risk of pervasive sexual violence, at risk of being criminalized by the judicial system and afraid of impunity as perpetrators of violence against SOGI individuals find implicit support from the very elected officials who should protect their constitutional rights.

## VIII. Persons with Disabilities

Dating back to Jean-Claude Duvalier's administration, slow but steady efforts have been made to enfranchise those living with various forms of disabilities in Haiti. These efforts were institutionalized in 2007, with the establishment of the Secretariat of State for the Integration of Persons with Disabilities office within the Ministry of Social Affairs under the Préval administration and the subsequent adoption of international conventions and local laws protecting persons with disabilities in and around 2012 (Baranyi & Louis, 2016). While data on the population of persons with disabilities in Haiti are scarce, it is estimated that up to 1 million Haitians (9% of the population) live with some form of disability, 20% (200,000) of whom became disabled as a result of the 2010 earthquake (*ibid.*). This is almost double the prevalence rate in the Caribbean region, which is 5.6% (Brus & Danquah, 2013). In 2012, a consortium of organizations conducted a mixed-methods study in five communes of Port-au-Prince and found that of 3,122 surveyed participants (ages 5 and over), 17.8% reported living with at least one disability while 15.9% of households reported having at least one member with a disability (*ibid.*, 2013). While the post-earthquake context created the conditions for the plight of Haitians living with disabilities to be rendered visible, resulting in the creation of new programs and initiatives, this population faces stigmatization and discrimination on a regular basis (Baranyi & Louis, 2016; Brus & Danquah, 2013). Access to basic services such as education, health and transportation remain a challenge while the participation rates of persons with disabilities in the labor market remain poor (Baranyi & Louis, 2016; Brus & Danquah, 2013). Though strides have been made to advocate for and address the needs of persons with disabilities, much work remains ahead, including establishing sound data to identify the number of individuals and households who live with a disability, raising awareness about the challenges of everyday life faced by this population, educating the public, training professionals (i.e., teachers, doctors, nurses) about how to work with special needs populations and creating opportunities for this population to take part in society as any other citizen.

## Conclusion

Haiti has a rich tradition of fighting for human rights that can be traced back to the independence movement that began in the late 18th century. However, this tradition has been linked to the oppression, violation and/or denial of rights of its people across various echelons of society. The weakness of Haitian institutions remains a challenge to defending the human rights of all the nation's people. Haiti's judicial system remains under the influence of powerful interests in the executive and legislative branches and is characterized by its inaccessibility to the Haitian poor as well as its impunity. The judicial system has been hampered in its ability to administer justice as it has been guided by an antiquated penal and criminal code, suffers from severe resource constraints while judicial appointments have been politicized, fails to punish political crimes and allows for due process to be guaranteed through purchasing power.

The majority of the Haitian National Police force is reportedly young, under-resourced, poorly equipped and insufficiently trained. Questions regarding its integrity abound with allegations of extortion, use of excessive force and arbitrary detention undermining public trust in this institution. Further, proper law enforcement cannot be carried out without a strong and independent judicial system as the two go hand-in-hand. The loss of public trust in both institutions equally reinforces their illegitimacy in the eyes of many Haitian citizens. The reported involvement of State actors in cases of corruption that have delegitimized these institutions sheds light on the gravity of the problem of the limited capacity of institutions in Haiti. The weakness, and in many cases failure, of Haitian institutions exacerbates societal fragility which stems from high levels of poverty, exposure to disasters and various forms of violence, including politically sanctioned, community-based (gang) and sexual and gender based violence.

In Haiti, individuals are defined by their level of vulnerability which is only aggravated by the absence of viable institutions to protect their rights. The fight for human rights is predicated on the existence of legitimate, functioning institutions that can shape and devise socially responsible laws and enforce them while holding the institutions entrusted with these responsibilities to account. In Haiti, the most fundamental institutions necessary for the proper functioning of society exist but often lack the human and material resources necessary to carry out their mandate. Thus, the segments of the population and groups described in this report are at risk of having their human rights violated. The report reveals the need to strengthen existing institutions so that they can play their respective roles in protecting the rights of all Haitian people.

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## Annex A: List of Anonymized Experts Interviewed

Due to the sensitive nature of these issues most experts requested to remain anonymous		
<b>Expert Code</b>	<b>Profession or Expertise Area</b>	<b>Date(s) of Interview</b>
Journalist #1	<i>Radio Journalist</i>	June 18, 2017 August 11, 2017
Journalist #2	<i>Newspaper Journalist</i>	June 27, 2017 August 11, 2017
Journalist #3	<i>Radio and Television Journalist</i>	June 15, 2017 August 11, 2017
Human rights leader #1	<i>Senior Executive, Human Rights Organization</i>	June 10, 2017
Human rights leader #2	<i>Senior Human Rights Advocate</i>	June 12, 2017
Human rights leader #3	<i>Senior Executive, Human Rights Organization</i>	June 12, 2017
Human rights leader #4	<i>Senior Human Rights Advocate</i>	June 7, 2017
SOGI rights leader #1	<i>Senior Executive, SOGI Rights Organization</i>	June 10, 2017 June 27, 2017
SOGI rights leader #2	<i>Senior Executive, SOGI Rights Organization</i>	June 26, 2017
Civil society organization leader #1	<i>Senior Executive, Civil Society Organization</i>	August 11, 2017
Social scientist #1	<i>Social Scientist, University Professor</i>	August 12, 2017
Legal scholar #1	<i>Lawyer, Public Interest &amp; Private Practice</i>	June 13, 2017
Legal scholar #2	<i>Lawyer, Public Interest &amp; Private Practice</i>	June 20, 2017
Senior law enforcement official #1	<i>Senior Law Enforcement Official, Government of Haiti</i>	July 18, 2017
Senior law enforcement official #2	<i>Senior Law Enforcement Official, National Agency</i>	July 18, 2017
International agency representative	<i>Senior Executive, International Agency</i>	June 29, 2017
International human rights representative #1	<i>Senior Human Rights Official, International Organization</i>	June 27, 2017
International human rights representative #2	<i>Senior Human Rights Official, International Organization</i>	June 27, 2017
National agency representative #1	<i>Senior Administrator, National Agency</i>	June 12, 2017

## Annex B: Focus Groups and Individual Interviews on Gang Violence in Cité Soleil

<b>Focus Group</b>	<b><i>Number of Participants</i></b>	<b>Place and Date of Focus Groups</b>
Focus group #1	<i>6 participants: 3 females and 3 males (18 years and above)</i>	Foyer Culturel Saint Vincent de Paul, Cité Soleil, July 19, 2017
Focus group #2	<i>8 participants: 3 females and 5 males (18 years old and above)</i>	Foyer Culturel Saint Vincent de Paul, Cité Soleil, July 19, 2017
<b>Brief Individual Interviews on gang violence in Cité Soleil</b>	<b><i>Number of Participants</i></b>	<b>Place and Date of Brief Individual Interviews</b>
Short questions on gang and violence in Cité Soleil	<i>6 participants: 3 females and 3 males (youth between 16 and 19 years old)</i>	Street intercepts in Cité Boston and Avenue Soleil, July 19, 2017

## Annex C: Interview Themes

<b>Annex B: THEMES</b>
<i>Below is a listing of the various human rights themes covered during interviews</i>
▪ Contemporary Haitian Politics
▪ Freedom of the Press
▪ Persecution of Political Activists
▪ Freedom of Assembly
▪ Justice, Rule of Law & Impunity
▪ Mob Justice and Lynching
▪ Community Violence (Gangs) & Criminality
▪ Criminality
▪ Children's Rights
▪ Violence against Children
▪ Child Labor/Domestic Servitude ( <i>Restavèk</i> )
▪ Street Children
▪ Gender Discrimination & Inequality
▪ Gender Based Violence
▪ Sexual Orientation and Gender Identity (SOGI) Activism
▪ SOGI Rights & Legal Frameworks
▪ SOGI Discrimination
▪ Individuals with Disabilities
▪ The Haitian National Police and the Rule of Law
▪ The Challenges of the Judicial System
▪ Judicial System Reform
▪ Pretrial Detention
▪ Due Process Rights
▪ Fair and Public Trials
▪ Prison Conditions