



Health and Human Rights in Prisons Project

Institute for Justice & Democracy in Haiti,
Bureau des Avocats Internationaux
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I. Executive Summary

The *Health and Human Rights in Prisons Project* (HHRPP) provides legal and medical relief for individuals suffering from some of the worst prison conditions in the world, while advancing systemic reform of Haiti's criminal justice and prison systems. HHRPP also develops a replicable model of collaboration between legal and healthcare workers applicable to poor and transitional countries worldwide.

HHRPP brings BAI and IJDH together with three healthcare organizations: Haiti-based *Zanmi Lasante* (ZL), Boston-based Partners In Health (PIH) and the Harvard School of Public Health's Francois-Xavier Bagnaud Center for Health and Human Rights (FXB Center). HHRPP combines these organizations' extensive experience in law and health care, in both delivery of services and advocacy, in Haiti and other poor countries. HHRPP collaborates informally with Haitian officials, including local prison, medical and legal officials, and with other organizations working on prison issues in Haiti, such as the Red Cross.



IJDH and BAI have partnered with the New Media Advocacy Project (N-Map) to produce a series of advocacy videos based on HHRPP. The videos will be used in court, on the internet and in presentations to Haitian and international officials. Some will advocate on behalf of individual prisoners, while others will address systemic problems.

A. Haiti's Prisons

Haiti's prisons are among the worst detention facilities in the Americas. Most prisoners are held illegally - over 80% have not been convicted of a crime. Prisons are overcrowded. One cell measured by HHRPP contained 67 people in a 20 X 20 foot cell, or six square feet per person. That is not enough for everyone to sleep on the floor, and is five times the Red Cross' *minimum* recommended density. In HHRPP's May 2009 prison census, 40% of prisoners reported torture or other degrading treatment, especially in police holding cells. Prisoners lack access to adequate food or healthcare and untreated disease such as tuberculosis is quickly transmitted in overcrowded conditions. When released, prisoners transmit diseases to their families and communities.



There are some programs that seek to improve prison conditions in Haiti, and some that provide legal assistance to prisoners. But other than HHRPP, no program systematically challenges the systematic nature of human rights violations in Haiti's prisons.

B. Providing Individual Relief



HHRPP provides immediate legal and medical relief by systematizing the delivery of health and legal services to prisoners in three pilot prisons in Haiti. The legal team represents prisoners at no charge to secure a dismissal of unjustified charges, and pre-trial release or a speedy trial where appropriate. The medical team, made up of healthcare workers from ZL and PIH, provides basic medical care via “mobile clinics” that visit the prisons every two months, and follow-up at ZL hospitals.

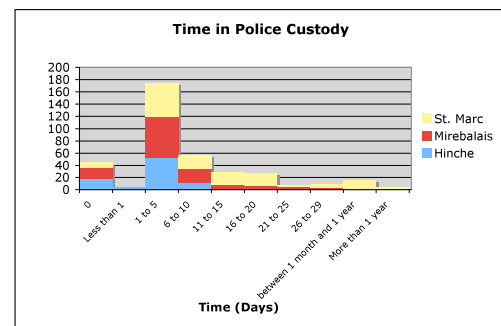
HHRPP lawyers and healthcare workers started providing direct services to prisoners in 2008. In May 2009, the program conducted its first prisoner census and medical clinics. BAI hired on-site lawyers at two of the three prisons in October 2009, which has allowed the Project to serve more prisoners and collect data from court and prison records to complement the prisoner census.

In the meantime, BAI lawyers have forced the release of several prisoners and opened files for many more.

C. Advancing Systemic Reform

HHRPP advances systematic reform of Haiti’s criminal justice and prison systems by: a) collecting information that will provide the government, international donors, human rights institutions and Haitian advocates a detailed picture of the human rights violations in Haiti’s criminal justice system and pinpoint the problem areas; b) demonstrating practical solutions to legal and medical problems; c) applying political pressure through public advocacy; and d) applying legal pressure through impact litigation.

The HHRPP Database, developed with the FXB Center, provides detailed information about legal and health problems in the prisons, including the percentage of prisoners held illegally, the prevalence of infectious diseases and torture, social information and the median times prisoners must wait for each stage of the criminal justice process. The Database also pinpoints bottlenecks and other problem areas. HHRPP has shared the census results with national officials, local prison directors and judges, all of whom requested more such information.



Over the next year, HHRPP will demonstrate cost-effective solutions that will improve prison conditions while saving the government money. Expanding pre-trial release and accelerating the dismissal of unjustified charges will immediately reduce prison costs. Effective preventative healthcare will reduce the spread of disease, both within the prison and in the larger community to which prisoners are released.

HHRPP will apply political pressure by developing a grassroots constituency within Haiti for prison and legal reform. Program participants will work with prisoners’ families and public health advocates to raise awareness of the legal, financial and public health consequences of prison overcrowding and the burdens that inhumane prison conditions impose on families.

The legal team's impact litigation strategy will select cases – similar to class action litigation in the U.S. – that can make a system-wide impact and address the root causes of violations of prisoners' rights. BAI's effort will include seeking enforcement of the 2008 decision of the Inter-American Court of Human Rights in *Yvon Neptune v. Haiti*. In that case, the Court declared that Haiti's prison conditions and pre-trial detention were themselves human rights violations, and ordered Haiti to adopt a plan for systemic improvements by June 2010. IJDH represents the plaintiff in the *Neptune* case.

II. Mission statement

IJDH and BAI fight for the human rights of Haiti's poor, in court, on the streets and wherever decisions about Haitians' rights are made. They represent the unjustly imprisoned and victims of political persecution, coordinate grassroots advocacy in Haiti and the U.S., train human rights advocates in Haiti and disseminate Haiti human rights information worldwide.

III. Organization Overview

The BAI and IJDH have 14 years of demonstrated success enforcing Haitians' human rights, in Haiti and abroad. The organizations employ four program tools: 1) *impact litigation* forces open the doors of Haitian, international and U.S. courts for precedent-setting human rights cases; 2) *documentation* provides public officials, human rights advocates and grassroots activists the reliable information they need to speak up for human rights in Haiti; 3) *transnational grassroots advocacy* promotes policy advocacy and network building that compels governments and powerful institutions in Haiti and abroad to respect Haitians' human rights; and 4) *capacity building* develops a corps of Haitian lawyers and advocates trained to fight for sustainable change in their country.

The organizations' successes include spearheading the Raboteau Massacre trial, considered Haiti's best complex litigation ever, and one of the most important human rights cases ever in the Americas, and *Yvon Neptune v. Haiti*, the only Haiti case ever decided by the Inter-American Court of Human Rights. The New York Times called the BAI's Mario Joseph "Haiti's most prominent human rights lawyer." Attorney Joseph has won several human rights awards.

The BAI was established by Haiti's constitutional government in 1995 as an independent office that could apply pressure on the justice system to enhance court access for the majority of Haitians who are poor. From 1995 until 2004, the BAI focused on high-profile human rights cases. The BAI pioneered a "victim-centered approach," that empowered victims of human rights violations to advocate for themselves, in court, on the streets, and in the media.

During this period the BAI worked closely with a broad array of collaborators, including special judges, police officers and prosecutors assigned to its cases, Ministry of Justice officials, members of the UN Human Rights Mission in Haiti, and Haitian human rights and advocacy groups. The BAI aggressively integrated international law into its cases, and convinced judges and prosecutors to do the same. For the first time, Haitian judges incorporated international instruments such as the International Covenant of Civil and Political Rights and the American Convention on Human Rights directly into their decisions.

The BAI's most successful case during this period was the trial in 2000 of the Raboteau massacre, a military/paramilitary attack on a pro-democracy neighborhood in April 1994. The trial convicted 53

defendants, including the top military and paramilitary leaders of Haiti's 1991-1994 military dictatorship. It is considered Haiti's best complex litigation ever, and demonstrated that the Haitian justice system could deliver high-quality justice in difficult cases. Adama Dieng, the UN Human Rights Commission's Independent Expert on Haiti called the Raboteau trial "a landmark in the fight against impunity." The Raboteau victims' fight for justice is the subject of the award-winning documentary, *Pote Mak Sonje (The One Who Bears the Scar Remembers): The Raboteau Trial*.

The BAI, and later IJDH, brought the Raboteau victims' fight for justice to the U.S. They provided U.S. immigration authorities the legal analysis and documentation necessary to obtain the deportation of three members of the military high command who had fled to the U.S., including the highest-ranked officer ever deported from the U.S. on human rights grounds. The BAI and IJDH helped the Center for Justice & Accountability pursue civil claims from the Raboteau massacre in U.S. courts, which led to the delivery of over \$430,000 in damages to the victims in June, 2008.

Haiti's February 2004 coup d'état ushered in a new dictatorship, which made BAI's work advancing complex cases in Haitian courts impossible. The organization quickly switched gears to represent dozens of the hundreds of political opponents imprisoned by the new regime. The BAI also produced human rights reports and helped other organizations, including human rights groups, lawyers groups and law schools, produce their own reports.

IJDH was founded in March 2004, to: 1) pursue the BAI's cases in U.S. and international courts; 2) bring IJDH's fight for justice to the U.S. by disseminating information and supporting grassroots advocacy; and 3) provide financial support for the BAI, which no longer received Haitian government support. IJDH's Director, Brian Concannon, co-managed the BAI from 1995-2004. The organizations work closely together on all their cases. Neither organization has received financial support from any government or political party since February 2004.

BAI and IJDH's most prominent cases over the next three years were political prisoner cases, especially the cases of activist priest Rev. Gerard Jean-Juste and former Prime Minister Yvon Neptune. The organizations combined courtroom work with public advocacy, and helped generate support for justice from members of the U.S. Congress, human rights groups like Amnesty International and Human Rights First, and thousands of activists in countries all over the world. None of the BAI's political prisoner clients were ever convicted. Most were released without a trial; those who were tried were acquitted.

Starting in 2005, IJDH and BAI filed petitions before the Inter-American Commission on Human Rights. One of these cases, *Yvon Neptune v. Haiti*, became the only Haiti case ever decided by the Inter-American Court of Human Rights. In June, 2008, the Court issued a decision finding that the current and former Haitian governments had violated eleven provisions of the American Convention on Human Rights in its persecution of Mr. Neptune. The Court went beyond the individual case to declare that Haiti's pre-trial detention system and prison conditions were themselves human rights violations, and ordered the Haitian government to adopt a remedial plan by June 2010.

Democracy was restored to Haiti in 2006, and since then the BAI and IJDH have made their own democratic transition. As the political prisoner caseload decreases, the organizations have returned to making the justice system work for poor people. The primary focus of this work has been in the

prisons, where most prisoners are poor, and almost all suffer from violations of their civil and social human rights.

The BAI has always invested some of its resources in training Haitian lawyers to create a group of qualified and motivated advocates for the human rights of poor people. BAI lawyers have gone on to high-level positions as judges, prosecutors, and top Ministry of Justice officials.

IV. Rationale for Funding Request

A. Haiti's Prisons

Haiti's prisons are among the worst detention facilities in the Americas. They dramatically illustrate the constellation of systematic violations of civil, political, economic and social human rights that plague Haiti's poor. The Inter-American Court on Human Rights recently declared the prison conditions "inhuman," while a U.S. Court of Appeals likened them to conditions on slave ships. Infectious and malnutrition-related diseases thrive because prisoners do not have adequate access to potable water, food, healthcare, shelter or exercise. Cells are so overcrowded that many prisoners must take turns to sleep on the floor.

Over 80% of Haiti's prisoners have not been convicted of a crime, and most are held in violation of their legal and constitutional rights. Prisoners spend months, even years waiting for their day in court: the average wait for trial for detainees in the HHRPP survey was 16 months, with one prisoner still waiting after nine years. The long wait in crowded, unsanitary conditions often converts pre-trial detention into a sentence of death by infectious disease or malnutrition. In HHRPP's May 2009 prisoner survey, 40% of prisoners reported torture or other abusive treatment.

Almost all of the prisoners in Haitian jails arrive poor, and their incarceration usually leaves their families even poorer. Most prisoners are men, who are the primary wage earners of Haitian families. When primary wage earners are imprisoned, families go hungry, lose housing, suffer crop failures and separate from their social networks. Their children drop out of school. Moreover, the lack of adequate food in the prisons forces families to spend precious time and money delivering their own food to the imprisoned.



Haiti's prisons are at the center of a nationwide bribery racket within the justice system. Prosecutors, defense attorneys and judges extort money by colluding to increase pre-trial prison time and further expose the incarcerated to mistreatment and disease. There is no effective system of legal aid in Haiti. When poor defendants can pay for representation, their defense lawyers often act more as paid brokers. They negotiate bribes and pocket commissions, rather than defend their clients' rights. The bribery racket and its tragic consequences operate with impunity, because no one other than the disempowered defendants has an incentive to combat it. Attacking these injustices in Haiti's prisons in ways that strengthen the judicial and health care systems strikes at the human rights injustices affecting all of Haiti's poor.

B. HHRPP: Interconnected Solutions to Interconnected Problems

HHRPP addresses prolonged pretrial detention and inhuman prison conditions by systematizing the delivery of health and legal services to individual prisoners and advocating for broader, systemic reforms. The Project combines the transnational advocacy and coordinating capacities of U.S.-based



IJDH, PIH, and FXB, with the on-the-ground service delivery expertise of Haiti-based BAI and ZL. Together, the organizations comprehensively challenge violations of prisoners' economic, social, political and civil human rights. ZL health care workers in the prisons often hear of political and civil rights violations that the BAI can address. BAI legal workers uncover illnesses and the need for treatment while discussing prisoners' cases. Meanwhile, IJDH and PIH

bring seasoned and effective advocacy programs to bear on specific cases, political obstacles, and endemic problems, while FXB generates the data and analysis underpinning the advocacy efforts.

HHRPP reduces pre-trial detentions while improving prison conditions for those who are not released. HHRPP reduces detentions by: a) challenging the detention of prisoners held in violation of their legal rights, which forces the court system to either release them or correct the deficiencies; b) advocating for pre-trial release for people who are legally detained, where appropriate; and c) encouraging speedy trials where defendants are not released. The Project also provides legal assistance at trial in select cases.

The Project has started in three pilot prisons: Hinche and Mirebalais in the Central Plateau and St. Marc in the Artibonite Department. Those facilities were chosen because ZL has extensive experience in providing healthcare in the prisons and the surrounding areas, and because ZL and BAI have established good working relationships with local prison and justice officials.

BAI and ZL conducted a prisoner census in all three prisons in May, 2009. IJDH helped FXB create a legal-social database based on the census information. The data was analyzed using Epi-Info, a data analysis program from the U.S. Centers for Disease Control. With the help of a team of volunteer lawyers from Belgium, BAI and IJDH established a computerized system that allows HHRPP participants working in prisons to input census and case information directly into a database installed on a netbook computer. The data can be easily combined with the master database located in the U.S.



BAI has on-site lawyers in the town of Hinche and St. Marc, and is recruiting a lawyer in Mirebalais.



The on-site lawyers collect information and represent individual prisoners in local courts. The legal strategy is coordinated by Attorney Mario Joseph in the BAI's Port-au-Prince office.

ZL has provided regular healthcare through "mobile clinics," which provide out-patient treatment, pharmaceuticals and screening for tuberculosis, HIV-AIDS and other diseases. ZL healthcare workers follow up on serious cases in between the mobile clinics, and the most seriously ill prisoners are transported to ZL hospitals. ZL also provides healthcare to prison guards, and advice and material support to prison health officials.

In addition to developing the Database and the advocacy plan, BAI provides ongoing legal representation to clients at the prisons. The on-site lawyers maintain regular contact with prisoners, prison officials and medical workers to coordinate the provision of legal and medical services. These ongoing activities are coordinated during regular project meetings with members of the BAI legal team. Two additional meetings with all the Project partners will help integrate the Project's experience and knowledge: a mid-year assessment meeting in the sixth month and an advocacy-planning meeting in the ninth month.

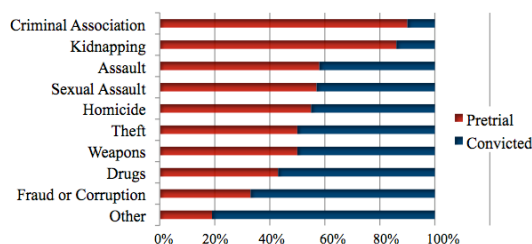
BAI Managing Attorney Mario Joseph has already begun providing training seminars to other lawyers and law students in Haiti covering legal and advocacy strategies for addressing prolonged pre-trial detentions and inhumane prison conditions. He will continue those trainings, adding the lessons and insight from HHRPP as the program develops. Project leaders meet with government officials, especially in the justice and health ministries, and with others working on justice reform to share the successes of the effort and the possibilities for replicating the Project in other prisons.

C. Project Outcomes

In its first year HHRPP will generate four complementary outcomes. First, it will create and maintain a database establishing baseline information about the prisons, identifying individual prisoners' legal and health care needs, and providing aggregate data to help shape the Project's work. Second, HHRPP will provide direct legal and healthcare services to individual prisoners. Third, the Project will prepare a litigation and advocacy plan for prison reform advocacy on a national scale. Fourth, the Project will train Haitian advocates to effectively work for prisoners' rights in the prisons, in courtrooms, on the streets and in the media.

In its second year, HHRPP will continue the work on the Database, direct service provision and capacity building, and it will also implement the litigation and advocacy plan, and conduct an evaluation of the project in order to develop an advocacy model transferable to other poor countries with pre-trial detention or prison condition problems.

1. Database



The HHRPP Database is systematizing the Project participants' knowledge of health and medical information at the three prison sites. The Database is the Projects' primary tool for problem diagnosis and evaluation. The Database will systematize the integrate legal and health services and it will inform the Project's advocacy efforts. During Year 1, the Database and the interview questions will be refined,

and information will be collected for every prisoner in the three pilot prisons. During Year 2, the Database will be maintained and updated, but the primary focus will be on analysis of the information and generating reports. The Database will serve five primary functions:

a) *establish baselines for evaluating the Project's success*

By recording an accurate picture of prison conditions at the beginning of the period (the number and legal status of detainees, and their health condition), the Database will show where the Project makes progress, and where it does not;

b) *identify prisoners' legal and medical needs*

By tracking individual's cases as they proceed through the legal system and recording important health data, the Database will show where the legal and healthcare teams need to intervene on behalf of individual prisoners;

c) *pinpoint problem areas*

By aggregating information, the Database will highlight bottlenecks and problem areas that may not otherwise be apparent. For example, the Database demonstrates how many cases become stalled at a particular point in the criminal proceedings or before a particular judge. Comparing health needs across the prison population and between three separate prisons will allow a better understanding of the health problems in Haiti's prisons. This data, and experience treating and representing individual prisoners, will become the basis for system-wide reform advocacy. Aggregated information will also help track the Project's progress: consistent, up-to-date data will help the Project continually evaluate its strategies, and adapt the Project to the changing realities in the prison;

d) *provide Haitian officials with the data they need*

The aggregate information that helps pinpoint problem areas in the system will also point local and national officials to places where they can most efficiently intervene; and

e) *provide advocates with the data they need*

The aggregate information will also help advocates determine their priorities and inform their efforts to pressure the Haitian government and major funders regarding prison reform.



The Database has been designed by the FXB Center, with the collaboration of all Project participants, in order to adapt it to HHRPP's goals. Currently the health and the legal sections are separate, pending Institutional Review Board approval at Harvard University. The FXB Center will continue to maintain the Database, although most of the data input will be done by the on-site lawyers at each prison and the ZL healthcare team. HHRPP's mobile data entry system will allow team members on the ground to rapidly update the database, and allow team members in the U.S. to review new information within hours of its collection in Haiti.

The database currently contains information for 387 of the 559 people held in the three pilot prisons. HHRPP expects to have information on approximately 1,000 prisoners by the end of Year 1, and 1,400 to 1,700 prisoners by the end of Year 2. HHRPP will seek opportunities to expand the data by encouraging collaborators working in other prisons to collect their data in a way that can be integrated into the Database.

2. Direct Services: Legal Representation and Healthcare

Throughout the Project period, the BAI will represent pre-trial detainees in formal and informal proceedings. Representation will: a) challenge illegal detentions; b) advocate for legally-detained prisoners to be released pending trial; c) encourage speedy trials, especially where defendants are not provided pre-trial release; d) help those remaining in prison challenge substandard prison conditions; and e) advocate for the defendants when their case reaches trial.

BAI's managing lawyer, Mario Joseph, coordinates the legal representation program. Attorney Joseph visits each site about once every month, and more often as needed for court hearings and urgent cases. On-site lawyers will monitor the prisons in between Mr. Joseph's visits, update the Database and intervene on behalf of prisoners where appropriate.

Legal representation advances the Project's goals in three ways. First, it helps vindicate the rights of prisoners in individual cases. Second, by encouraging pre-trial release, prompt trials and the dismissals of illegal actions, legal representation decreases the prison population, which will decrease disease transmission and allow prison authorities to concentrate limited resources on a smaller number of prisoners. Third, challenging the system in individual cases provides important information about bottlenecks in the system and obstacles to justice.



In Year 1, BAI expects to provide at least some direct legal services to 50% of the prison population, approximately 250 people. HHRPP estimates that it will be able to remove 60-90 people from the prisons, through pre-trial release, dismissal of charges or acquittal at trial. In Year 2, BAI expects to provide direct legal services to 200 people, and remove 45-75 from prison.

Zanmi Lasante provides free healthcare to prisoners in four ways. First, it brings a fully functional mobile clinic to each prison every two months. Mobile clinics include nurses, doctors, and phlebotomy for routine blood testing. Routine medications are prescribed and distributed. Medical charts are maintained for each prisoner, allowing for comprehensive follow-up care and for statistical analysis. Further diagnostics – including x-rays – and/or more sophisticated medical therapy is administered at one of ZL's inpatient hospitals. Second, ZL has made its inpatient facilities fully available to prisoners in the case of acute illness, diagnostic dilemmas, or need for medical intervention that cannot be carried out within the prison. Third, ZL will establish the ability to perform community health work within the prisons. Finally, ZL will support under-resourced prison health workers through training, coordination, and clinical assistance. During both years, ZL expects to provide some basic medical evaluation or treatment for every prisoner in the three prisons, approximately 1,500 people.

3. Litigation and Advocacy Plan.

The litigation and advocacy plan has three components.

a) *Impact litigation strategy*

HHRPP impact litigation will include suits on behalf of classes of prisoners or symbolic cases on behalf of individual prisoners. Impact litigation seeks to enforce individual rights while simultaneously pushing for systemic reforms. For example, a series of suits might seek enforcement of the right of pre-trial detainees to be segregated from convicted prisoners. The cases would help individual prisoners obtain better conditions, but collectively they would force the government to establish procedures for separating pre-trial detainees from convicted criminals, including pre-trial release for detainees where separation in the prison is not possible.

Impact litigation cases will initially be filed in Haitian Courts, but suits will also be filed with the Inter-American Commission on Human Rights where necessary. The cases will rely on Haitian law when possible, but will introduce international law and standards to fill gaps in domestic law.

During Year 1, the Project will develop the information needed for impact litigation, develop a strategy and draft pleadings. During Year 2, the Project expects to file at least three major cases. Although the details of the cases cannot be determined until HHRPP's information is more developed, it is expected that the impact litigation cases will challenge: a) the process of making decisions on pre-trial detention (e.g. suits against the judges with the worst records of prolonged pre-trial detention); and b) substantive prison conditions (e.g. a suit against the national government or particular prison for overcrowding or other failure to adhere to minimum prison standards).

b) *Public advocacy strategy*

HHRPP will develop a public advocacy strategy designed to create a constituency for prison reform and to apply pressure for reform on the Haitian government. A public advocacy strategy is important because prison reform in Haiti, as in most countries, has little public support among the



general public. People concerned about crime focus on imprisoning more people, while ignoring those who are unfairly or illegally held. In a country such as Haiti where daily realities produce so much suffering among the general population, many citizens have little sympathy for suffering among prisoners or for the often abstract concept of prisoners' legal rights. The public advocacy strategy will develop support by educating citizens about the costs of pre-trial detention and substandard prison conditions to the prisoners and their families, to public health, to the rule of law and to the national budget. Advocacy will promote voices that the general public will find credible, including professionals such as doctors and budget experts, and sympathetic prisoners or family members.

During Year 1, HHRPP will help build an organization of former detainees and families of former and current detainees. HHRPP will arrange for the Project's healthcare and legal workers and detainees and their families to make at least four radio and two television appearances during Year 1, and eight radio and six television appearances during Year 2.

Outside Haiti, the public advocacy strategy will include outreach to international organizations, donors to Haiti and organizations working on prison reform, as well as grassroots advocacy through action alerts. These audiences are more likely to begin with support for prisoners' rights, so the primary purpose of the outreach will be to direct their attention and resources to the specific problems that the Project pinpoints, and to demonstrate potential solutions to the problem.

IJDH and BAI have partnered with the New Media Advocacy Project (N-Map) to produce a series of advocacy videos based on HHRPP. The videos will be used in court, on the internet and in presentations to Haitian and international officials. Some will advocate on behalf of individual prisoners, while others will address systemic problems. In October, 2009, an N-Map production team visited Haiti. The team filmed HHRPP participants at work in the prisons, and conducted interviews with prisoners, relatives of prisoners, national government officials, local prison officials and judges. N-Map expects to release the first short video about HHRPP in November 2009.

c) Collaboration strategy

HHRPP leverages its efforts through collaboration with others working to improve prison conditions, especially Haitian Government officials, members of the international community, including the UN and donors to Haiti, and non-governmental human rights and legal advocacy organizations.

i) Collaboration with Haitian officials



Collaboration with officials includes both formal and informal collaboration, and with national and local officials. The BAI has honed its “carrot and stick” approach to legal advocacy during 14 years of work in Haiti. Through HHRPP, BAI supports officials who are willing to improve conditions in the prison and more justly apply the law, by providing information and legal support. HHRPP will apply pressure through litigation and public advocacy on officials who do not comply with their obligations towards prisoners in their custody. ZL/PIH has over 25 years of experience in public health epidemiology and intervention, including effective collaboration with the Haitian Ministry of Public Health and Population. In St. Marc and Hinche, ZL manages the state hospitals in conjunction with the Ministry of Health.

Prison officials, especially, have been highly receptive to HHRPP. They see the Project as an ally, because the Project reduces prison populations and illness in the prisons, which is a risk to the guards as well as the prisoners. Local and national officials appreciate the information and analysis that HHRPP provides, and sees the Project’s data as a useful tool for managing courts and prisons.

ii) Collaboration with the international community

HHRPP complements many other efforts working on the ground to address prison conditions and implement penal reform, including programs sponsored by the UN, USAID and others to reduce pre-trial detention. HHRPP helps these broader programs work by focusing on specific actors or processes within the justice system. As HHRPP is the only program that includes direct

representation of prisoners, it is able to test broader reforms on a case-by-case basis. HHRPP will maximize collaboration with other efforts through informal cooperation, consultation on both HHRPP and the other efforts, and, where appropriate, formal participation in working groups. So far, HHRPP has conducted informal consultations with the Red Cross, the UN Peacekeeping Mission in Haiti, and contractors working on USAID-funded prison projects.

iii) Collaboration with non-governmental organizations.

HHRPP collaborates with other organizations to work systematically on prison reform, by providing trainings, technical assistance, and access to the information and materials developed by the Project. In April 2009, BAI lawyer Mario Joseph travelled to the city of Jeremie to help the Catholic Law School there develop a prison program. BAI and IJDH also work with Seton Hall and Hastings Law Schools to support their prison work in Haiti.

iv) Collaboration with Special Constituencies.

HHRPP makes special efforts to outreach to prisoners and their families. Prisoners and their families are highly disempowered: they are almost always poor at the time of arrest, and become poorer every day of incarceration. The prisoners have little ability to advocate for themselves, and the social stigma combined with the demands of supporting a prisoner and feeding the family make it difficult for families to effectively advocate. HHRPP's two direct service providers, BAI and ZL, have pioneered approaches that empower their clients or patients to advocate for themselves. As the office does on most of its cases, BAI helps prisoners' families organize, on both the local and national levels, in court and out of court. HHRPP will also carry the voices of prisoners and their families directly, through quotations in reports and videos such as the N-Map project.

4. Legal Training and Capacity Building

HHRPP will provide intensive training to the BAI legal staff, especially the three on-site lawyers. Training will be completed through formal training sessions and through apprenticeship learning as the lawyers work with experienced IJDH and BAI lawyers. Formal training will be conducted by IJDH and BAI staff, and by expert consultants brought to Haiti. In October, two volunteer Belgian lawyers joined the HHRPP team for a week of prison visits, to help train Haitian lawyers on the use of technology and on interviewing techniques. The New York-based International Senior Lawyers Project (ISLP) has agreed to cooperate with HHRPP, and is currently searching for two volunteer lawyers with expertise in legal defense and prison operations.



HHRPP participants will provide cross-training in their respective disciplines. BAI provided an initial training session on criminal procedure for ZL health workers to prepare them for the May 2009 prison census. BAI and IJDH will continue such training as needed, and PIH and ZL will provide appropriate training on medical issues for BAI staff.

BAI and IJDH will provide training to other human rights organizations in Haiti, especially grassroots advocacy groups, prison advocates and law students.

Training during Year 1 will focus on HHRPP participants, especially the on-site lawyers. Two lawyers recruited by ISLP are expected to spend at least a month in Haiti during Year 1. Mario Joseph will also spend extensive time working with the on-site lawyers to develop their advocacy skills. During Year 2, the focus will shift towards training grassroots groups and collaborators.

D. Partnering to Make a Difference

ZL/PIH and BAI/IJDH share a common founding principle of providing a preferential option for the poor in their areas of expertise, as well as a common human rights-based approach. ZL/PIH's comprehensive and community-based approach to healthcare ensures that its patients receive not only medicine, but also the food, housing and other services they need to truly recover their health. Similarly, BAI/IJDH's *victim-centered approach* to lawyering goes beyond traditional legal services to help its clients and their supporters organize to advocate for their own rights in the courts, on the streets and in the media.

The organizations' respective approaches are comprehensive within their sphere - economic and social rights for ZL/PIH, civil and political rights for BAI/IJDH. However, the organizations recognize that they fail to address their clients'/patients' rights in the other organizations' sphere. The prison context highlights this limitation: ZL's excellent healthcare can cure a prisoner's tuberculosis, but it cannot move the prisoner out of the crowded prison cell where he risks re-infection. BAI/IJDH's legal work can open prisoner doors, but it cannot prevent or treat clients' illnesses while their cases work their way through the system. For example, Wantales Lormejuste, a BAI political prisoner client, died of untreated tuberculosis in April 2007, a month before an order for his release was issued.

Zanmi Lasante, of course, must address the health consequences of prison detention. Many of the prisoners' health problems could be prevented or more effectively treated if prisoners' civil and political rights were properly enforced to begin with. Haiti's legal system places a heavier than needed burden on ZL's personnel and supply budgets from the sheer number of prisoners kept unnecessarily in disease-ridden prisons. Better respect for prisoners' civil rights would not only benefit individual prisoners and their families, it would also strengthen legitimate legal processes in Haiti. It would reduce the number of prisoners and their duration of exposure to health risks, while helping existing treatment to be more reliably delivered and thus more cost-effective.

The limitations of the HHRPP participants' previous approaches follow a broader perceived dichotomy between civil/political rights on one hand, and economic/social/cultural rights on the other hand. Often, interventions fail because they focus on one of the two groups of rights to the exclusion of the other. The dichotomy is reflected in human rights instruments and theories, and in the practices of governments, human rights advocates, development workers and service providers. The dichotomy is not, however, reflected in the reality of poor countries like Haiti. For most Haitians, their poverty, including illness and hunger, is inextricably linked to the lack of respect for their civil and political rights. HHRPP pioneers an interconnected solution to this interconnected suffering.

The FXB Center joined the team in 2009. The Boston-based organization brings extensive experience in collecting, maintaining and analyzing data, and in policy advocacy. FXB helped design materials for the May 2009 prisoner census, created the Database, and prepared a data report using Epi-Info, a data analysis software program from the U.S. Center for Disease Control.

Two examples from HHRPP prison visits in October, 2009 demonstrate the possibilities of the



legal-medical collaboration. In Hinche, the team found a pre-trial detainee dragging himself across the dirt of the prison courtyard with one arm. He had arrived at the prison in decent health, but had since become paralyzed, probably through a stroke. He had spent three weeks in prison paralyzed, with no medical attention, not even a wheelchair. A ZL doctor immediately wrote a report recommending release for medical treatment, which BAI's Mario Joseph brought to the local prosecutor, with a request for humanitarian release. The prosecutor granted the request, and the prisoner was released. The whole procedure took less than three hours of work, but if it were not for HHRPP, the prisoner would probably still be in the prison.

In St. Marc, the HHRPP team interviewed a woman who had killed her husband in apparent self-defense during a brutal beating. She was being held for murder, and had not received any legal or medical assistance in prison. A ZL doctor conducted an examination, which established injuries consistent with her account, including a broken cheekbone and vision loss. The BAI lawyer in St. Marc is conducting further investigations. The BAI plans to represent the woman at trial, and present a self-defense claim based on the ZL medical report. The self-defense case is a strong one, but without HHRPP much of the evidence -- the women's bruises and the fracture -- would have disappeared before trial. At best, she would have a court-appointed lawyer who would not have conducted an investigation or introduced evidence beyond her testimony.



Organizational Roles

IJDH, which provides virtually all of the financial support for the BAI, will:

- perform legal work in support of BAI, including legal research, drafting of pleadings, and designing legal strategies;
- take the lead for the legal team in preparing reports;
- obtain resources for the Project's legal component, including funds, volunteer consultants and donated material;
- administer the Project;
- take the lead for the legal team in designing and using the Database;
- engage its network of activists in the U.S. in collaboration with and support of activists in Haiti through its Half-Hour for Haiti action alerts and its contacts with the media, government, and advocacy groups; and
- lead an effort for broader public advocacy for reform in Haiti's prisons, through writing, speaking, briefings, and consultations.

BAI lawyers will provide prisoners a wide spectrum of legal representation, including:

- documentation of legal needs;
- challenges to illegal imprisonment;
- advocacy for pre-trial release;
- challenges to sub-standard prison conditions; and

- advocacy for the right to adequate health treatment through meetings with officials, courtroom challenges, and through logistical support for grassroots advocacy groups in Haiti.

ZL/PIH will provide a wide spectrum of health care services, including:

- training, medical consultation, materials and medicine to prison health workers;
- diagnoses, medical consultations and dispensing of medicines to prisoners;
- hospitalization of prisoners when necessary;
- community health work – including daily directly observed therapy – within the prisons; and
- systematically informing BAI representatives of prison corruption and abuse as revealed through its public health and medical treatment efforts.

The FXB Center will take the lead in data management and analysis, and help design policy advocacy, including:

- designing and revising prisoner census questionnaires;
- developing and maintaining the HHRPP Database;
- analyzing the Database information; and
- advising on policy advocacy and the HHRPP Advocacy Plan.

E. Challenges to Implementation

HHRPP seeks to tackle historically entrenched problems that include corruption, poverty, a lack of government resources, administrative inefficiency and human resource deficiencies. The Project, like the HHRPP participants' previous successful work, is designed to meet these challenges. Like the other successful projects, HHRPP's success is likely to be incremental, although steady.

The following contingencies that may affect the pace of HHRPP's success:

1. Prison Access

HHRPP currently enjoys good prison access and solid relationships with prison officials. If this access were to be reduced, the project's effectiveness would be reduced. Lawyers would still have the right to access their clients, but the prison officials could limit that access, and officials could prevent HHRPP from conducting surveys and medical clinics.

2. Elections

Haiti's Constitution calls for elections in the fall of 2009 for 1/3 of the Senate, all seats in the lower house and all local elected officials. It calls for more elections in the fall of 2010, for another 1/3 of the Senate and the Presidency. The election campaigns will almost certainly divert the energies of government officials, and could generate civil unrest that would make implementing some aspects of HHRPP more difficult. The elections may result in the arrival or the departure of officials who support prison reform.

The elections will have a stronger impact at the national level than the local level. Even if the elections have an adverse national impact, there will still be opportunities to work with the local prison and judicial officials.

3. Foreign Assistance

The funding of Haiti's government, especially for prison work, is heavily dependent on foreign assistance. Funders are satisfied with the current Haitian governments' ability to manage the economy and foreign assistance, and have invested in prison and judicial infrastructure projects. If confidence in the Haitian government decreases, as a result of elections or other factors, it could lead to decreased funding which could have a negative impact on the overall prison situation. Decreased foreign funding would not prevent the Project from continuing, and might open up advocacy opportunities.

4. Natural disasters

Haiti is prone to flooding from heavy rains, especially during the hurricane season. A normal amount of flooding may have a short-term impact on HHRPP (e.g. by making travel more difficult), but little or no long-term impact. If, however, Haiti experiences unusually catastrophic flooding, as in 2008, when four tropical storms hit the country in three weeks, the work could be interrupted for longer periods of time.

F. Measuring Progress

HHRPP will conduct a formal Evaluation and Case Study at the end of two years, in order to scale-up the program in Haiti and develop HHRPP as a model to be implemented in other countries suffering from similar prison conditions. During the two-period, the Project's success will be measured through regular meetings and by the Database. The Project will use qualitative and quantitative benchmarks for measuring effectiveness.

Quantitative data will be measured primarily through the HHRPP Database. The primary benchmarks for the legal work will be the percentage of prisoners held in pre-trial detention and the median length of pre-trial detention. Secondary benchmarks will include numbers of prisoners released through the Project's advocacy, numbers of prisoners represented by HHRPP, and total numbers of prisoners in the three prisons.

Qualitative benchmarks for the legal work will include: 1) the Project's development of a viable model that can be scaled up in Haiti and adapted to other countries; 2) the development of relationships with Haitian officials, including local prison and judicial officials and national officials, and their support for the Project; 3) the professional development of legal staff, especially the three on-site lawyers; and 4) the success of public advocacy efforts.

G. Opportunities for Leverage

HHRPP is designed to take advantage of a major window of opportunity to significantly impact prison conditions in Haiti. First, Haiti has enjoyed relative stability since the return of democracy in May 2006. A stable and accountable elected government makes progress in human rights possible. Second, the international community, including major donors, is currently investing in Haiti's justice and penal systems through system-wide infrastructure, training and other projects. Third, in June 2008 the Inter-American Court of Human Rights ordered Haiti to adopt a plan to improve its prisons within two years. The decision came in the case *Yvon Neptune v. Haiti*, which was brought by

IJDH, and is binding on the Haitian government. The Court found that Haiti's miserable prison conditions and abusive pre-trial detention violate international law and so ordered the Haitian government to:

adopt, in a reasonable period of time, legislative, administrative and other appropriate measures necessary to substantially ameliorate the conditions of the Haitian prisons by bringing them in line with international human rights norms. To this effect, the State must establish, within two years, a program of action and planning with a timeline of activities linked to the execution of this order.

The *Neptune* decision will advance HHRPP in two ways. First, it will put pressure on the Haitian government to improve all prison conditions. HHRPP will offer the aggregate information from the Database and its experience decreasing prison populations to help the Haitian government in this effort. Second, the opinion includes language, especially regarding prison conditions and pre-trial detention procedures that will be influential in convincing judges to release individual prisoners.

Organizations currently working on the ground increasingly recognize that the state of the penal system and prisons is now one of Haiti's most compelling human rights issues. U.S. foreign aid to the country includes major investments in Haiti's justice and penal system, including large-scale infrastructure projects such as building prisons. MINUSTAH, the UN peacekeeping mission in Haiti, has a mandate that explicitly includes addressing problems with the justice and penal systems.

In the past few months, the international community has paid an unprecedented level of attention to the need to develop Haiti's economy and government. On March 9, former President Bill Clinton visited Haiti with UN Secretary-General Ban Ki-Moon. On April 14, the Inter-American Development Bank convoked an international donors conference for Haiti in Washington. That evening, IJDH's Brian Concannon and PIH's Paul Farmer (also an IJDH Board Member) were among six guests invited to a high-level meeting at the U.S. State Department to discuss U.S. assistance to Haiti, that included Secretary of State Clinton and President Clinton. In May, President Clinton was named UN Special Envoy to Haiti. In August, Dr. Farmer was named UN Deputy Special Envoy to Haiti.

Letters of Reference



HARVARD SCHOOL OF PUBLIC HEALTH
FRANÇOIS-XAVIER BAGNOUD CENTER FOR HEALTH AND HUMAN RIGHTS

August 10, 2009

Mr. Brian Concannon
Director
Institute for Justice and Democracy in Haiti
P.O. Box 745
Joseph, Oregon 97846

RE: Haiti Health and Human Rights Prison Project

Dear Brian:

We are happy to continue participating in the Haiti Health and Human Rights Prison Project (HHRPP) and wholeheartedly welcome the opportunity to be involved in such an important project relating to reform of the Haitian justice system.

As this project would be deemed to have a high priority for the Center's policy and advocacy group, we are willing to offer the time and commitment of two research assistants, as well as 15% of the Policy Director's time for project management. We have designed the legal/social database and look forward to continuing to support the project by inputting data, modifying the database as necessary, and providing periodic analysis and reports. Please let us know if you have any comments regarding our current contributions to the project.

The FXB Center is enthusiastic about establishing this partnership with the Institute for Justice and Democracy in Haiti (IJDH) and the Bureau des Avocats Internationaux (BAI). We have admired the tireless work in human rights that both organizations have performed for individuals and communities in Haiti. We are especially pleased to be involved in such an innovative collaboration among healthcare and legal professionals, and look forward to developing a model applicable to other countries with scarce resources and overcrowded prisons. Hopefully, this is first of several future joint projects to be undertaken by our organizations.

Sincerely,

Arlan Fuller
Policy Director
François-Xavier Bagnoud Center for Health and Human Rights
Harvard School of Public Health



Partners In Health

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August 6, 2009

From: Partners In Health / Zanmi Lasante
To: Institute for Justice and Democracy in Haiti / Bureau des Avocats Internationaux
Re: Health and Human Rights Prison Project

Dear Brian and Mario,

We are writing this letter of support to reiterate our commitment to continued collaboration on all aspects of the Health and Human Rights Prison Project (HHRPP). Partners In Health in Haiti – and, indeed, in every country where we work – has maintained a long-term and special commitment to the health and rights of prisoners. This collaboration allows for us a unique level of structure to improve care for prisoners in Central Haiti and in St. Marc. Our organization is grateful for the opportunity to assist in this important and innovative medical-legal collaboration.

As we have planned and discussed from the beginning of the HHRPP initiative, Partners In Health is committed to providing health care for the prisoners in Hinche, Mirebalais, and St. Marc. This will continue in the form of mobile clinics, bringing medical professionals and materials into the prisons for routine care, and by creating more robust and trusting ties between the prison officials and our full-time Zanmi Lasante clinical staff in each city for more urgent medical needs. All care will be provided without charge to the prisoners.

I am very pleased to continue in the role of medical coordinator through the completion of this multi-year project, with the cooperation and support of my colleagues at PIH, Zanmi Lasante, and The FXB Center for Health and Human Rights.

Thank you for the opportunity to serve this important population with great medical and legal needs. We all look forward to advancing this work with IJDH and BAI.

Sincerely,

Evan Lyon, MD
Staff Physician, Partners in Health.
Associate Physician, Division of Global Health Equity, Brigham and Women's Hospital.

IJDH Board Members

Brian Concannon Jr., Esq. (see below).

Dr. Paul Farmer, MD, Ph.D., founder of Partners in Health, Professor at Harvard Medical School, and Deputy UN Special Envoy to Haiti. Dr. Farmer has spent much of the past 25 years in Haiti, but his current primary residence is in Rwanda. Dr. Farmer changed the way the world treats infectious diseases among the poor by proving that top quality healthcare can be provided in resource-poor settings. Dr. Farmer brings unique and successful experience in implementing programs in Haiti and excellent relationships with Haitian health officials, the international healthcare community, and major donors to Haiti. As Deputy Special Envoy, he has a unique ability to advocate that the international community and Haitian government implement reforms suggested by HHRPP's experience. Dr. Farmer is a MacArthur Foundation "Genius Award" winner.

Laura Flynn is a self-employed author, teacher, and activist. Ms. Flynn lived in Haiti from 1994-1999, and was a co-founder of the Bay Area Haiti Action Committee. She has excellent relationships with grassroots leaders in Haiti and the U.S. Haiti advocacy community.

Ira Kurzban, Esq. is an attorney with Kurzban, Kurzban, Weinger & Tetzeli, and Adjunct Professor of Law at the University of Miami and Nova Southeastern University. He is one of the pre-eminent immigration and refugee lawyers in the U.S., and has fought Haitian refugee cases for thirty years, some of them up to the U.S. Supreme Court. Attorney Kurzban was U.S. General Counsel for the Haitian government from 1991-2004. He has excellent relations with the Haitian diaspora community in South Florida and with former and current Haitian government officials.

Bryan Stevenson, Esq. is Executive Director of the Equal Justice Initiative of Alabama and a Clinical Professor at NYU Law School. He brings 25 years' successful prison advocacy, as well as legal non-profit management experience. Attorney Stevenson is one of the most successful and well-known death penalty advocates in the U.S., and a MacArthur Foundation "Genius Award" winner.

Irwin Stotzky, Esq. is a Professor of Law and Director of the Center for the Study of Human Rights at the University of Miami. He has advised the Haitian and Argentine governments on transitional justice issues, and represented Haitian refugees in U.S. courts. Professor Stotzky has written books on transitional justice in Haiti and Latin America.

Key Management

Mario Joseph, Av., Managing Attorney, Bureau des Avocats Internationaux

Attorney Joseph has co-managed or managed the BAI since 1996, and has practiced human rights and criminal law since 1993. The *New York Times* called him “Haiti’s most respected human rights lawyer.” He spearheaded the prosecution of the *Raboteau* Massacre trial in 2000, one of the most significant human rights cases anywhere in the Western Hemisphere. He has represented dozens of jailed political prisoners, in Haitian courts and in complaints before the Inter-American Commission on Human Rights. In 2009, Attorney Joseph received the Judith Lee Stronach Human Rights Award from the Center for Justice & Accountability and the Katherine and George Alexander Human Rights Prize from the University of Santa Clara Law School. He has testified as an expert on Haitian criminal procedure before the Inter-American Court of Human Rights and in U.S. courts, and served on the Haitian government’s Law Reform Commission.

Attorney Joseph is also an educator, and a graduate of Haiti’s Teachers’ College. He has extensive experience teaching human rights and legal issues to grassroots advocacy organizations, human rights groups and victims’ organizations. He appears frequently on television and radio in Haiti to explain legal issues. Attorney Joseph speaks Haitian Creole, French and English.

Brian Concannon, Jr., Esq., Director, Institute for Justice & Democracy in Haiti

Attorney Concannon co-managed the BAI in Haiti for eight years, from 1996-2004, and worked for the United Nations Human as a Human Rights Officer in 1995-1996. He founded IJDH, and has been the Director since 2004. Attorney Concannon helped prepare the prosecution of the *Raboteau* Massacre trial in 2000, one of the most significant human rights cases anywhere in the Western Hemisphere. Attorney Concannon has represented Haitian political prisoners before the Inter-American Commission on Human Rights, and represented the plaintiff in *Yvon Neptune v. Haiti*, the only Haiti case ever tried before the Inter-American Court of Human Rights.

Attorney Concannon has received fellowships from Harvard Law School and Brandeis University and has trained international judges, U.S. asylum officers and law students across the U.S. He is a member of the Editorial Board of *Health and Human Rights, An International Journal*. He speaks and writes frequently about human rights in Haiti. Attorney Concannon speaks English, Haitian Creole and French.