

## CHAPTER V

### FOLLOW-UP REPORT ON THE SITUATION OF HUMAN RIGHTS IN HAITI

#### I. INTRODUCTION

1. The aim of this report is to provide joint follow-up on the recommendations made by the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the IACHR”) in its report *The Right of Women in Haiti to be Free from Violence and Discrimination* of March 10, 2009, (hereinafter, also, “the 2009 Report”), in the *Observations of the Inter-American Commission on Human Rights upon conclusion of its April 2007 visit to Haiti*, published on March 2, 2008 (hereinafter, also, “the 2008 Observations”), and in Chapter IV of the Annual Report of the Inter-American Commission on Human Rights 2009 (hereinafter, also, “Chapter IV”). The Republic of Haiti (“the State” or “Haiti”) has received particular attention from the Inter-American Commission during 2010. The IACHR notes certain signs of progress in Haiti before the devastating earthquake that hit the country on January 12, 2010. As a consequence of that unprecedented catastrophe, the existing challenges were compounded by new problems of a unique nature. Because of that, and bearing in mind the particular situation Haiti is facing, the IACHR has decided to analyze the situation of human rights in the country through joint follow-up of the 2009 Report and the 2008 Observations.

2. In its 2009 Report, the Commission analyzed the situation of discrimination and violence against women in Haiti and the legislative, institutional, and judicial response given to that problem. That report also states that although the public security situation began to improve in 2007 with the stabilization of the country’s political situation, the IACHR continued to receive information on the continued commission of physical, sexual, and psychological violence and acts of discrimination against women in Haiti. The 2009 Report therefore describes acts of violence against women as a particularly extreme and serious manifestation of the discriminatory treatment suffered by Haitian women. It also states that society’s tolerance of that discrimination perpetuates a climate of impunity and encourages the repetition of such incidents. Finally, in its 2009 Report, the IACHR notes that one of the areas of greatest concern were the shortcomings identified within the Haitian judicial system. The report therefore noted with concern that most cases of violence against women are never formally investigated, prosecuted, or punished, which creates a pattern of systematic impunity. The recommendations offered propose the design of a national state policy that would address the existing manifestations of violence and discrimination against women and the inclusion of women’s specific needs on the national agenda.

3. The 2008 Observations were published following the IACHR’s visit to Haiti on April 16 to 20, 2007. The purpose of that visit was to receive information on the human rights situation in Haiti, in particular with respect to the administration of justice, the situation of women, children, and adolescents, and other matters. The Observations highlighted the Inter-American Commission’s main areas of concern regarding long-term stability in Haiti, namely: the need to develop an exhaustive strategy to address the root causes of violent crime and the activities of organized criminals and gangs; the need to allocate resources for the long-term reform of the justice system and for measures to address deficiencies in the administration of justice; and the need to implement programs aimed at providing essential social services to meet the basic needs of the Haitian population, particularly the serious shortcomings in access to decent housing, drinking water, health, education, and employment. The recommendations to the Haitian State addressed such areas as the adoption of various measures in the field of public security, the judicial system, the prison regime, and the adoption of public policies that recognize the specific needs of women and their right to a life free of violence and discrimination.

4. In Chapter IV, the IACHR noted that the year 2009 was characterized by relative stability in Haiti and a general improvement of the security situation. Despite specifically identified advances, the IACHR expressed its concerns about the problems it had observed in previous years, including, among others, the administration of justice and impunity. In particular, the Commission stressed that the lack of an efficient judicial system, the prevalence of corruption, and the lack of significant financial and human resources all contribute to the creation of an environment of general impunity that affects the capacity of the State to guarantee the fundamental rights of its inhabitants. In this regard the Commission highlighted the importance of developing strategy and policy of long-term reform to address structural and legislative weaknesses in these areas. Finally, the Commission recommended the Republic of Haiti take steps to ensure, inter alia, that the courts are able to assume their role, in particular the duty to investigate, prosecute, and punish the persons responsible for the violations of human rights, and that the prevention and punishment of violent crimes strengthen accountability mechanisms to effectively hold offenders accountable for their crimes.

5. On November 30, 2010, the IACHR requested the Haitian State to provide information on the measures adopted to implement the recommendations contained in the 2009 Report and the 2008 Observations. Additionally, the preliminary version of this report was transmitted to the Republic of Haiti on February 11, 2011, with a request to submit its observations before March 1, 2011. At the date of the publication of this Annual Report, the Commission has not yet received a response to the requests.

6. In the following sections, the Inter-American Commission will briefly describe the main developments that took place in Haiti during 2010. Due to the emergencies that Haiti faced during 2010 and the challenges posed by the reconstruction process, the Commission will not offer a detailed analysis of the State's compliance with each recommendation; instead, it will focus on a number of particular issues to which the IACHR has been paying special attention. As described in the corresponding sections, these topics are related to various recommendations made in the 2009 Report, in the 2008 Observations, and in Chapter IV. The information used in this chapter was obtained from several different sources, including United Nations agencies, academic papers, reports by international organizations and civil society, and press reports. The IACHR hopes that the conclusions and recommendations set out in this report will assist the Haitian State and the international community in identifying appropriate, effective solutions for dealing with some of the problems in the current situation of the country.

7. Finally, the IACHR reiterates its willingness to make itself available to the Haitian authorities and the international community to cooperate, within the framework of its functions, with the initiatives being undertaken to overcome the critical situation faced by the people of this OAS member state.<sup>1</sup> The Inter-American Commission acknowledges the efforts of the Haitian government in dealing with the emergency caused by the unprecedented earthquake of January 2010. The IACHR is also aware of the essential role played by the international community through the Interim Haiti Recovery Commission and other international agencies in the implementation of international human rights obligations during the reconstruction process.

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<sup>1</sup> See, in this regard: Press Releases Nos. 4/10 and 11/10, published by the Inter-American Commission on Human Rights on January 14 and February 2, 2010. Available at: <http://www.cidh.oas.org/Comunicados/Spanish/2010/2-10sp.htm> and <http://www.cidh.oas.org/Comunicados/Spanish/2010/11-10sp.htm>.

## II. MAIN DEVELOPMENTS IN HAITI DURING 2010

### – Human and economic consequences of the earthquake

8. The 7 Mw earthquake that hit Haiti on January 12, 2010, affected 3.5 million people – a third of the population. Ninety percent of the city of Léogâne, located at the quake's epicenter 25 kilometers from Port-au-Prince, was destroyed. The earthquake was followed by more than 50 aftershocks and, according to figures provided by the Haitian State, it killed 222,570 people, injured a further 300,572, and left some 2.3 million homeless.<sup>2</sup> It is estimated that in December 2010, there were still more than a thousand internally displaced persons camps (hereinafter, also, "IDP camps" or "camps") in Haiti, the vast majority of them located in Port-au-Prince, housing some 1.4 million people. The earthquake's impact on the human rights situation will be addressed in the following sections of this chapter. In addition, it is estimated that the economic losses total some US\$ 7.8 billion, equal to 120% of Haiti's 2009 gross domestic product (GDP). According to the Haitian State, 60% of the government, administrative, and economic infrastructure was destroyed, including Parliament, the Palace of Justice, and several other courts.<sup>3</sup>

### – Reconstruction process

9. In response to the grave humanitarian crisis, the State developed an Action Plan for the Reconstruction and Development of Haiti. It estimated that the country will need US\$ 3.9 billion over the coming 18 months and US\$ 11.5 billion for long-term reconstruction. The United Nations and the United States of America, working in cooperation with the Haitian government and with the support of Brazil, Canada, the European Union, France, and Spain, organized an international donors' conference called "Towards a New Future for Haiti," which was held on March 31, 2010, at United Nations Headquarters in New York. The goal of the conference was to mobilize the international community in securing financial commitments that would enable the foundations for long-term reconstruction to be set. At the end of the conference, pledges for donations totaling US\$ 5.3 billion over the following 18 months were obtained.<sup>4</sup> As for the amounts effectively disbursed for reconstruction activities, according to information as of November 2010, the 24 main donors had handed over 42.3% of the total promised for 2010.<sup>5</sup> In addition, as of December 2010, the promised total of long-term donations was in excess of US\$ 10 billion.<sup>6</sup>

10. As a part of the reconstruction process, by means of a presidential decree dated April 21, 2010, the Interim Haiti Recovery Commission (the "IHRC" or "the Interim Commission") was established. Made up of Haitian officials and members of the international community, and jointly chaired by Prime Minister of Haiti Jean-Max Bellerive and former U.S. President Bill Clinton, the Interim Commission's mandate is to run for 18 months. The members without voting rights include a representative of the Organization of American States. The Interim Commission's mission is to coordinate and supervise the reconstruction effort. For this, it must define the strategy, coordinate and implement the development plans, and manage the funds contributed by the

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<sup>2</sup> Office of the United Nations Special Envoy for Haiti. Information available at: [http://www.haitispecialenvoy.org/key\\_statistics/](http://www.haitispecialenvoy.org/key_statistics/).

<sup>3</sup> Office of the United Nations Special Envoy for Haiti. Information available at: [http://www.haitispecialenvoy.org/key\\_statistics/](http://www.haitispecialenvoy.org/key_statistics/).

<sup>4</sup> For further information, see: <http://www.haiticonference.org/story.html>.

<sup>5</sup> Information published by the Office of the United Nations Special Envoy for Haiti, available at: [http://haitispecialenvoy.org/press/press\\_releases/new-analysis-shows-42-3-percent-donor-disbursement-rate-for-haiti-recovery](http://haitispecialenvoy.org/press/press_releases/new-analysis-shows-42-3-percent-donor-disbursement-rate-for-haiti-recovery).

<sup>6</sup> For up-to-date information, see: <http://www.cirh.ht/sites/ihrc/en/pledges/Pages/default.aspx>.

different donors.<sup>7</sup> Once its mandate comes to an end on October 21, 2011, the Interim Commission's functions will be handed over to the Haitian Development Agency, made up exclusively of Haitian officials, which will continue with the long-term execution of planning and support for Haiti's reconstruction and development.

11. Finally, it should be noted that international cooperation in Haiti is organized according to the sectoral group approach or cluster model.<sup>8</sup> In accordance with that model, it has been structured into several clusters specializing in different areas, including nutrition, education, camps, water, sanitation, and hygiene. In addition, subclusters have been created within some of these.

– **Elections**

12. The parliamentary elections planned for February 28 and March 3, 2010, to elect a third of the Senate and to replace the Chamber of Deputies, respectively, were suspended and rescheduled for November 28, 2010; on that date, the legislative election was held alongside the presidential ballot. As of the date of this report's drafting, the second round in the presidential vote will take place on January 16, 2011, and the new government will take office on February 7, 2011. The Provisional Electoral Council (CEP for its acronym in French), whose nine members represent different sectors of Haitian society, is the body responsible for organizing the elections. In addition, the Universal Civil Identity Program of the Americas, a project carried out by the OAS in Haiti, was intended to implement a digital civil registry system to address situations caused by the collapse of government offices and the loss of ID papers during the earthquake.

13. The OAS and CARICOM deployed a Joint Electoral Observation Mission (JEOM) on August 3, 2010, in which more than 175 observers participated in the country's ten departments.<sup>9</sup> The plan is for the Mission to remain in Haiti until the final results of the election are announced. In his statement given on December 1, 2010, regarding his visit to Haiti during the election, OAS Assistant Secretary General Albert R. Ramdin acknowledged the fraud accusations made by some of the presidential candidates and their requests for the election to be annulled. He emphasized that the laws and electoral procedures provided for in Haitian legislation for investigating those accusations and objections must be followed in a serious and urgent fashion. The Assistant Secretary General also called on the candidates to work for peace and stability in the second round of Haiti's electoral process.<sup>10</sup> Similarly, the Secretary General of the OAS, José Miguel Insulza, spoke out in favor of validating the elections.<sup>11</sup>

14. The CEP met with the presidential candidates on December 3, 2010, on which occasion it acknowledged the organizational failures and incidents of vandalism and violence that had marred election day. The CEP also promised to implement the corrective steps necessary for

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<sup>7</sup> For further information, see: <http://www.cirh.ht/sites/ihrc/en/Pages/default.aspx>.

<sup>8</sup> According to the Norwegian Refugee Council (<http://www.nrc.no/arch/img/9444938.pdf>), that management model arose from a study of the humanitarian system requested by the United Nations Secretary-General on account of weaknesses in the humanitarian response to situations of displacement in the camp management area in different countries. Based on the recommendations in that report (*Humanitarian Response Review*), published in 2005, the Inter-Agency Standing Committee – the main international body for humanitarian coordination – adopted a series of measures to increase predictability and accountability in the humanitarian response to situations of internal displacement. One of those initiatives was the sectoral group or cluster approach, wherein an overall leader is appointed for each sectoral group or area of humanitarian work that needs predictable leadership and a more solid framework for cooperation.

<sup>9</sup> For further information, see: <http://www.oas.org/es/sap/deco/moe/haiti2010/default.asp>.

<sup>10</sup> Press Release C-463/10, published by the Organization of American States on December 1, 2010. Available at: [http://www.oas.org/es/centro\\_noticias/comunicado\\_prensa.asp?sCodigo=C-463/10](http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-463/10).

<sup>11</sup> Press Release C-462/10, published by the Organization of American States on November 29, 2010. Available at: [http://www.oas.org/es/centro\\_noticias/comunicado\\_prensa.asp?sCodigo=C-462/10](http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-462/10).

the second electoral round.<sup>12</sup> Later, on December 6, 2010, the JEOM reported that it was observing the reception, processing, and verification of the results sheets (“procès-verbaux”) of the November 28 election results. It also explained that processing and verifying the results sheets would assist it in identifying and combating electoral fraud and thereby obtain results that accurately reflect the will of the people. It further noted that it would continue to monitor the following phases of the electoral process very closely, including the processing of challenges to the preliminary results. Finally, the Mission called on the candidates and political parties to exercise their right of challenge peacefully and in accordance with the Electoral Law, which provides legal remedies for those wishing to file claims regarding the results.<sup>13</sup>

– **New humanitarian crisis**

15. Following the devastating earthquake, Haiti was hit by a hurricane and an outbreak of cholera. On November 5, 2010, Hurricane Tomas passed over the west of the island, causing tropical downpours, storms, and winds of up to 130 kph. As a result, according to figures from the Haitian government, an estimated eight people died, massive flooding affected several internal displacement camps, and more than 16,000 people were voluntarily relocated. The floods also spread contagion from the cholera epidemic that had broken out in late October 2010. United Nations figures indicate that as of November 24, 2010, a total of 2,000 deaths had been reported and 70,000 cases had been diagnosed. According to the Pan American Health Organization, cases of contagion could rise to 200,000 people by February 2011. The fact that 58% of the population is without drinking water makes the situation even more critical.

16. This situation of extreme vulnerability was compounded by the violent demonstrations that began on November 15, 2010, against the United Nations Stabilization Mission in Haiti (MINUSTAH) in Cap-Haïtien, one of the cities most hardly hit by the epidemic, and that later spread to other cities including Port-au-Prince. At least two people were killed and another 16 were injured. The demonstrators blocked roads, bridges, and airports, thus hampering access to medical assistance and health services by thousands of people affected by the epidemic. Finally, in the aftermath of the announcement of the presidential election’s preliminary results, thousands of people protested the results published by the CEP and called for the annulment of the elections. According to various news reports, demonstrators burned barricades and sparred with UN peacekeepers, which led to the closing of Haiti’s international airport.

– **Response of the inter-American human rights system**

17. On January 14, 2010, the Inter-American Commission issued Press Release No. 4/10, expressing its solidarity at the crisis suffered by Haiti as a result of the earthquake and its aftermath. Then, on February 2, 2010, the IACHR published Press Release No. 11/10, in which it recalled the importance of respecting international human rights obligations in all situations, particularly nonderogable rights and the rights of the most vulnerable. The IACHR also called on the Government of Haiti and the international community to make efforts to control the actions of private security forces and to ensure that human rights were upheld at all times. Finally, the IACHR stressed the importance of focusing on family reunification efforts.

18. Because of the grave situation that emerged in the aftermath of the earthquake, the Executive Secretariat of the IACHR decided to suspend the deadline for the processing of the

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<sup>12</sup> Press Release C-467/10, published by the Organization of American States on December 6, 2010. Available at: [http://www.oas.org/es/centro\\_noticias/comunicado\\_prensa.asp?sCodigo=C-467/10](http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-467/10).

<sup>13</sup> Press Release C-467/10, published by the Organization of American States on December 6, 2010. Available at: [http://www.oas.org/es/centro\\_noticias/comunicado\\_prensa.asp?sCodigo=C-467/10](http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-467/10).

petitions and individual cases for six months. As indicated in the relevant sections in this Annual Report, the IACHR has continued to process normally the demands for precautionary measures and hold thematic hearings. In July 2010, the Executive Secretariat lifted the suspension of the above deadlines. In addition, the Inter-American Court of Human Rights resolved to suspend its processing of the case of Lysias Fleury and his family, presented on August 5, 2009, for the duration of 2010. The Inter-American Court is to make a decision on recommencing its processing of the case at its first period of sessions in 2011.<sup>14</sup> Similarly, the United Nations Human Rights Council decided to postpone its universal periodic review of Haiti, initially scheduled for May 2010, and set October 13, 2011, as the new date.<sup>15</sup>

19. Finally, as described in the following section, the Inter-American Commission addressed the human rights situation in Haiti following the earthquake through various mechanisms and approaches.

### **III. SITUATION IN THE CAMPS FOR INTERNALLY DISPLACED PERSONS**

#### **A. General situation**

20. The IACHR has received troubling information on the serious situation regarding living and security conditions at the internal displacement camps. As noted in the previous section, the earthquake left some 2.3 million people homeless; in December 2010, it was estimated that there were more than a thousand camps, most of them spontaneous, housing around 1.4 million people. According to the information received, the most basic needs of hundreds of thousands of displaced persons – particularly water, food, and health care – remain unmet.

21. According to a mission carried out by international and local nongovernmental organizations more than a month after the earthquake,<sup>16</sup> most of the survivors had not received the minimum assistance necessary to satisfy their most basic needs. The organizations noted, *inter alia*, that food distribution was sporadic and apparently arbitrary; that less than a quarter of the displaced people had some kind of closed, weatherproof shelter; that sanitation conditions were deplorable; and that there were no plans to assure the residents' self-sufficiency. In addition, the organizations saw that the humanitarian assistance was being distributed according to mechanisms designed outside the camps, without consulting the displaced people themselves.

22. Following a September 2010 visit, Walter Kaelin, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, reported that nine months after the earthquake, Haiti was still immersed in a profound humanitarian crisis affecting the human rights of its displaced population. Mr. Kaelin emphasized those people's right to return to their homes, as established by the Guiding Principles on Internal Displacement. He added, however, that in cases where that was not possible, consideration could be given to voluntary relocation or local integration, provided that means of subsistence and access to basic services were assured. During his visit, the Representative also noted that the situation of people living away from the camps was less visible but not less serious.<sup>17</sup>

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<sup>14</sup> Order of the Inter-American Court of Human Rights, dated February 1, 2010. Available at: [http://www.corteidh.or.cr/docs/asuntos/Fleury\\_01\\_02\\_10\\_fr.pdf](http://www.corteidh.or.cr/docs/asuntos/Fleury_01_02_10_fr.pdf).

<sup>15</sup> Information available at: <http://www.upr-info.org/+Haiti-s-UPR-postponed+.html>.

<sup>16</sup> *Neglect in the Encampments: Haiti's Second-Wave Humanitarian Disaster*. Available at: <http://ijdh.org/wordpress/wp-content/uploads/2010/03/Neglect-in-the-Encampments-FINAL.pdf>.

<sup>17</sup> News story published by the Office of the United Nations High Commissioner for Human Rights. Available at: <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=10467&LangID=F>.

23. During 2010, the IACHR paid particular attention to the serious situation prevailing in Haiti's internal displacement camps. As will be described below, the Inter-American Commission has addressed the topic through several of the mechanisms provided for as a part of its functions: general hearings, precautionary measures, requests for information Article 41 of the American Convention, and press releases. At the IACHR's 140th regular session, three general hearings were held on human rights in Haiti, at which reference was made to the situation in the camps.<sup>18</sup> The attending organizations set out the conclusions of their observation missions carried out in Haiti. They stated that the displaced populations were in a situation of particular vulnerability. Among the shortcomings detected at various camps, the organizations spoke of unhealthy conditions, nauseating smells, and overcrowding, which encourage the transmission of diseases. They also indicated that most of the residents had nothing more than a tarpaulin to provide shelter.

#### **B. Situation of violence against women and girls**

24. In both the 2008 Observations and the later report *The Right of Women in Haiti to be Free from Violence and Discrimination*<sup>19</sup> of March 10, 2009, the Inter-American Commission referred to and again noted its concern at the serious situation of widespread and systematic violence and discrimination affecting Haitian women and at the State's inadequate response to those problems, which served to perpetuate a climate of impunity with respect to such actions and to encourage their repetition. The state of impunity was also mentioned by the Commission in Chapter IV.

25. The IACHR stated that the phenomenon of discrimination against women in Haiti was widespread and tolerated, and was based on stereotypical perceptions of women's inferiority and subordination that maintain deep cultural roots. That situation, along with the civil, political, economic, and social consequences of those disadvantages, leave them exposed to acts of physical, sexual, and psychological abuse in the public and private arenas.

26. The Inter-American Commission stated that the situation of women and girls was of particular concern given the growing number of acts of sexual violence since early 2004, most of them carried out by armed groups or gangs. The IACHR also noted the need to adopt urgent measures to provide appropriate legal, medical, and other related services for women and girl victims, in order to ensure that their right to a life free of violence and discrimination is duly guaranteed by statute. The Inter-American Commission also issued a series of recommendations intended to improve the situation of women and girls in Haiti, including the enactment of legislation to afford them proper protection from acts of discrimination and all forms of violence in the private and public arenas, the establishment of legal services, the development of public awareness programs, and the adoption of public policies and programs intended to realign stereotypes regarding the role of women in society.

27. In its 2009 Report, the IACHR specifically stated that the problems of discrimination and violence against women in Haiti were interconnected and involved an extremely complex set of

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<sup>18</sup> On October 26, 2010, three general hearings dealing with Haiti were held: "Human Rights Situation in the Camps for Internally Displaced Persons in Haiti," participants: International Human Rights Law Clinic, American University–Washington College of Law, Institute for Justice and Democracy in Haiti, Bureau des Avocats Internationaux; "Human Rights Situation During Reconstruction in Haiti," participants: Fédération Internationale des Ligues des Droits de l'Homme, Réseau National de Défense des Droits Humains, Centre Ecuménique des Droits Humains, Comité des Avocats pour le Respect des Libertés Individuelles; and "Human Rights Situation of Children and Women in the Area of Ouanaminthe, Haiti," participants: Regroupement des Citoyens pour la Protection des Droits Humains (RECIPRODH) and Haitian State. The Haitian State was invited to the three hearings in accordance with the IACHR's Rules of Procedure; however, it only attended the third hearing. The audio record of the hearings is available at: <http://www.cidh.oas.org/prensa/publichearings/Hearings.aspx?Lang=ES&Session=120>.

<sup>19</sup> IACHR, *The Right of Women in Haiti to be Free from Violence and Discrimination*, March 10, 2009.

social, cultural, and economic factors requiring comprehensive and multidisciplinary solutions that could be delayed no longer. In addition, pursuant to its acquired human rights commitments, the Haitian State is obliged to exercise due diligence to prevent, punish, and eradicate the widespread discrimination and violence against women found in Haiti. Thus, the Inter-American Commission's recommendations proposed the design and implementation of a national state policy, with a multisectoral approach, that would address the manifestations of discrimination and violence affecting Haiti's women, during periods of both peace and political instability, in order to progress with analyzing, preventing, and responding to those problems and with incorporating the needs of women into the public agenda. It also recommended the adoption of urgent measures to educate the general public in order to eradicate sociocultural patterns that encourage the treatment of women as inferiors and perpetuate their inequality within society.

28. Since the January 2010 earthquake, the IACHR has been closely monitoring with great concern the grave situation of sexual violence against women and girls at a number of camps for internally displaced persons. In May and June 2010, a group of nongovernmental organizations carried out an observation mission to investigate a series of rapes and other forms of gender violence at the displaced persons' camps in Port-au-Prince. According to the report published after that mission,<sup>20</sup> the earthquake and the large-scale displacements led to a severe security crisis, particularly at the IDP camps, which worsened the sexual violence problem that already existed. The vast majority of the women interviewed who had suffered sexual violence at the camps reported having been raped by two or more individuals, that their assailants were almost always armed, and that the attacks took place at night.

29. Overcrowding, a lack of privacy and lighting, insecurity, and other factors make women and girls particularly vulnerable to sexual violence. Women and girls generally sleep outside, with no form of protection, lacking the assistance of relatives or friends, and they bathe in public in full view of the men. The information received by the IACHR indicates that the police do not enter the IDP camps; instead, they merely patrol the perimeters, and then only during daylight hours.<sup>21</sup>

30. In addition, there has been a lack of official response to these acts of violence, on account of either an absence of will or an inability to address the situation. Some victims stated that reporting the attacks to the police is completely useless, since they are unable to identify their assailant(s). Several women said that when they sought help, the police told them to go back to their camps and return after they had identified their attackers. Among the reported cases is one of a woman who was abducted from a camp and taken to a house, where she was beaten and raped by several men for three days before she managed to escape. In another case, a woman was stabbed and raped by a group of men in front of her small children.<sup>22</sup>

31. The information received indicates that the reporting of such incidents is hampered by limited access to justice, by the very low probability that the assailants will be detained, and by the fear of reprisals and stigmatization. Other obstacles are posed by corruption within the National

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<sup>20</sup> *Our bodies are still trembling: Haitian women's fight against rape*, July 2010. Institute for Justice & Democracy in Haiti, Bureaus des Avocats Internationaux, Madre, University of Minnesota, University of Virginia School of Law, TransAfrica forum. Available at: <http://ijdh.org/wordpress/wp-content/uploads/2010/07/Haiti-GBV-Report-Final-Compressed.pdf>.

<sup>21</sup> *Our bodies are still trembling: Haitian women's fight against rape*, July 2010. Institute for Justice & Democracy in Haiti, Bureaus des Avocats Internationaux, Madre, University of Minnesota, University of Virginia School of Law, TransAfrica forum. Available at: <http://ijdh.org/wordpress/wp-content/uploads/2010/07/Haiti-GBV-Report-Final-Compressed.pdf>.

<sup>22</sup> *Our bodies are still trembling: Haitian women's fight against rape*, July 2010. Institute for Justice & Democracy in Haiti, Bureaus des Avocats Internationaux, Madre, University of Minnesota, University of Virginia School of Law, TransAfrica forum. Available at: <http://ijdh.org/wordpress/wp-content/uploads/2010/07/Haiti-GBV-Report-Final-Compressed.pdf>.

Police (cases were reported in which the police requested bribes before issuing arrest warrants or visiting the camps) and by the lack of access to legal assistance. Since before the earthquake, the reluctance of women to contact the justice system was a source of particular concern to the IACHR. In its 2009 Report, the Inter-American Commission said that this situation was due to the victims' doubting the judicial system's ability to ensure justice, together with the mistreatment they frequently suffer in attempting to access judicial remedies.

32. Similarly, following his visit to Haiti, the Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons expressed great concern at the rapes committed both on and off the camps and asked the National Police of Haiti and MINUSTAH to step up their presence in the IDP camps. The Representative also said that increased patrols were a partial solution, since the government must ensure that the police and judiciary clearly understand that eradicating impunity is a priority.<sup>23</sup> Because of the security crisis and the grave conditions of sexual violence in the camps, a battalion of 130 female police officers from Bangladesh joined MINUSTAH in May 2010 to patrol the IDP camps. However, because of the language barrier, the expected results have not been obtained.<sup>24</sup>

33. At the same time, at the general hearings held during its 140th session, the Inter-American Commission received troubling information on the lack of medical attention in the camps. In addition, even in cases where such attention is available, the assistance does not provide an appropriate response to the needs of victims of sexual violence, particularly because of the absence of specialized medical care. Similarly, the report published following an observation mission cited above<sup>25</sup> indicates that the vast majority of women and girls interviewed who had suffered sexual violence stated that they had received no medical attention following their attacks. According to the report, this was due to several factors: (i) unawareness of the availability of such services; (ii) unawareness of the fact that such services are provided free of charge; (iii) shortage of money to cover transportation costs to the locations where care is offered; and (iv) fear of reprisals or stigmatization. In addition, many of the victims who sought medical assistance only went for first aid care for injuries associated with the attacks but did not disclose the rape because of shame or because they felt uncomfortable. At the same time, not all the clinics offer prophylactic treatment or emergency contraception.

34. According to information from the International Organization for Migration (IOM),<sup>26</sup> in response to this situation of violence, the Camp Coordination and Camp Management cluster (CCCM), through its Protection Unit, launched various activities at the IDP camps. These included identifying cases of gender-related violence, accompanying victims to service providers (for example, medical or legal assistance, filing complaints with the police, referral to NGOs), and conducting case follow-up. The IOM reports that the increased personnel numbers at the camps led to an increase in the number of cases of violence against women and girls that were reported. It states that between March and May 2010, CCCM staff reported 12 cases, whereas between June and September 2010, the figure was more than three times higher. It also reports that 83% of the

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<sup>23</sup> News story published by the Office of the United Nations High Commissioner for Human Rights. Available at: <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=10467&LangID=F>.

<sup>24</sup> News story published in several media outlets. Available at: <http://www.worldpulse.com/magazine/articles/special-report-haiti-women-and-the-elections-following-africas-lead?page=0,3>.

<sup>25</sup> *Our bodies are still trembling: Haitian women's fight against rape*, July 2010. Institute for Justice & Democracy in Haiti, Bureaus des Avocats Internationaux, Madre, University of Minnesota, University of Virginia School of Law, TransAfrica forum. Available at: <http://ijdh.org/wordpress/wp-content/uploads/2010/07/Haiti-GBV-Report-Final-Compressed.pdf>.

<sup>26</sup> *IOM Haiti, Gender-Based Violence, CCCM GBV Strategy*. Available at: [http://www.iom.int/jahia/webdav/shared/shared/mainsite/published\\_docs/brochures\\_and\\_info\\_sheets/CCCM\\_GBV\\_Strategy.pdf](http://www.iom.int/jahia/webdav/shared/shared/mainsite/published_docs/brochures_and_info_sheets/CCCM_GBV_Strategy.pdf).

victims interviewed stated that they did not know where to report their attacks or where to go to obtain medical assistance.

35. The report presented by the United Nations independent expert on the situation of human rights in Haiti<sup>27</sup>, Michel Forst, states that the General Hospital in Port-au-Prince stopped issuing certificates to women who had suffered sexual violence, arguing that it was not an “essential service.” Regarding this point, the IACHR has stated on repeated occasions that the health of victims of sexual violence must occupy a priority position in legislative initiatives and in state health policies and programs.<sup>28</sup>

36. On May 3, 2010, the United Nations independent expert on the situation of human rights in Haiti informed the Human Rights Council that in the aftermath of the earthquake, women suffered other forms of violence on account of their gender.<sup>29</sup> The expert reported that women did not enjoy equal access to the distribution of food or of food coupons; some were even forced to walk for several hours; others lacked the strength to carry their bags of rice; while others had their food stolen while on the road. Some testimonies also describe an increase in cases of forced prostitution in exchange for food or coupons.

37. Given that situation, in a press release published at the close of its 140th regular session, the Inter-American Commission noted its concern regarding sexual violence against women and girls in Haiti.<sup>30</sup> In addition, in light of the seriousness of the facts set before it, and using the power granted by Article 41 of the American Convention on Human Rights, the Inter-American Commission sent the Haitian State a request for information on November 10, 2010. In its communication, the IACHR informed the State of the reports it had received regarding sexual violence against women and girls in the internal displacement camps.

38. In that same communication, the Inter-American Commission recommended that the State adopt the following measures: improve lighting inside the camps; guarantee the presence of female security personnel around and inside the camps, particularly in the vicinity of the bathrooms; implement measures to facilitate the filing of legal actions and to improve the efficiency of judicial investigations, including in particular training police officers in their duties in cases of violence against women; and provide free medical assistance from specialists with experience in treating victims of sexual violence. On November 23, 2010, the Executive Secretariat of the IACHR received a note from Foreign Affairs Minister Marie-Michèle Rey, dated November 16, 2010, acknowledging receipt of the Inter-American Commission’s communication. The Minister also reported that the communication had been forwarded to the competent ministries. As of the drafting of this chapter, the IACHR had not yet received a reply from the Haitian State regarding the measures adopted to implement its recommendations.

39. Similarly, on November 18, 2010, the IACHR published Press Release No. 115/10, in which it noted its concern regarding the situation prevailing in Haiti’s internal displacement

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<sup>27</sup> *Rapport de l’expert indépendant sur la situation des droits de l’homme en Haïti*, Michel Forst. General Assembly. United Nations, May 3, 2010. A/HRC/14/44 (in French only). Available at: [http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.44\\_fr.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.44_fr.pdf).

<sup>28</sup> IACHR, Report No. 21/07, Petition 161/02, Friendly Settlement, Paulina del Carmen Ramírez Jacinto (Mexico), March 9, 2007; IACHR, *Access to Maternal Health Services from a Human Rights Perspective*, June 7, 2010.

<sup>29</sup> *Rapport de l’expert indépendant sur la situation des droits de l’homme en Haïti*, Michel Forst. General Assembly. United Nations, May 3, 2010. A/HRC/14/44 (in French only). Available at: [http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.44\\_fr.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.44_fr.pdf).

<sup>30</sup> Press Release No. 109/10, published on November 5, 2010. Available at: <http://www.cidh.oas.org/Comunicados/Spanish/2010/109-10sp.htm>.

camps.<sup>31</sup> The Inter-American Commission referred to the information it had received on the situation of extreme vulnerability facing women and girls living in the camps as well as on the practice of forced evictions. The IACHR reminded Haitian State of the importance of respecting its international human rights obligations in all circumstances, particularly nonderogable rights and the rights of the most vulnerable groups.

### C. Forced evictions

40. In its 2008 Observations, the Inter-American Commission noted among its main concerns the severe restrictions on access to basic services and it underscored the need to implement programs for providing basic social services to address the essential needs of the Haitian population, including access to decent housing. One of the main consequences of the devastating January 2010 earthquake was a severe housing crisis, unprecedented in the country's recent history. Immediately after the natural disaster struck, an estimated 2.3 million people were left homeless and, ten months later, some 1.4 million people are still without a roof over their heads. In addition, the repercussions of this crisis worsened the significant levels of social inequality reported in the 2008 Observations by expanding even further the gap between the rich and the poor.

41. The IACHR has received troubling information about the existence of a growing number of forced evictions in the internal displacement camps. According to the information received,<sup>32</sup> although the State selected some plots of land for the installation of the camps, given the urgency of the situation the vast majority of displaced persons set up spontaneous camps on unoccupied public or private lands. Moreover, several months after the earthquake, most of the displaced people have been unable to return to their homes, which has fueled great tension between the residents of the unofficial camps and the owners or purported owners of the land. Since prior to the earthquake only 5% of Haiti's land area was registered,<sup>33</sup> it cannot be known for sure that people claiming to own land do in fact have rights over the parcels in question. Figures from the International Organization for Migration<sup>34</sup> point to the magnitude of the problem: 60% of the IDP camps are located on private property; 70% of the people living in the camps were in rented accommodation prior to the earthquake; and only 19% have homes that they can rebuild.

42. According to numerous sources, only weeks after the earthquake, state agents and people claiming to own the land where the camps had been set up began to remove families from the IDP camps, generally through the use of force. These evictions were carried out with no prior notification and without following the procedure established in Haitian law. According to the available information, the presumed landowners blockaded the camps in order to pressure the residents to leave, and they prevented the international cooperation agencies from supplying them

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<sup>31</sup> Press Release No. 115/10, published by the IACHR on November 18, 2010. Available at: <http://www.cidh.oas.org/Comunicados/Spanish/2010/115-10sp.htm>.

<sup>32</sup> Information provided by the participants at the general hearing on the "Human Rights Situation in the Camps for Internally Displaced Persons in Haiti," held on October 26, 2010, and from reports by international and local nongovernmental organizations published following observation missions, such as "We became garbage to them. Inaction and complicity in IDP expulsions," *International Action Ties*, August 14, 2010; available at: <http://ijdh.org/wordpress/wp-content/uploads/2010/08/IDP-Land-Report-Aug12-21.pdf>; and "Vanishing camps at gunpoint," July 14, 2010, *International Action Ties*; available at: [http://ijdh.org/wordpress/wp-content/uploads/2010/07/IAT\\_vanishing\\_camps\\_report\\_haiti.pdf](http://ijdh.org/wordpress/wp-content/uploads/2010/07/IAT_vanishing_camps_report_haiti.pdf).

<sup>33</sup> Press Release C-399/10, published by the Organization of American States on October 24, 2010. Available at: [http://www.oas.org/es/centro\\_noticias/comunicado\\_prensa.asp?sCodigo=C-399/10](http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-399/10).

<sup>34</sup> *Registration Update, February 25 – June 25, 2010*. Haiti Camp Coordination Camp Management Cluster. International Organization for Migration. Cited in: *We became garbage to them. Inaction and complicity in IDP expulsions*, *International Action Ties*, August 14, 2010. Available at: <http://ijdh.org/wordpress/wp-content/uploads/2010/08/IDP-Land-Report-Aug12-21.pdf>.

with food, drinking water, and medical assistance. The State did not offer the evicted families alternative places to live, and so thousands of people were left with no place to go to.

43. According to information published by one international nongovernmental organization,<sup>35</sup> over several nights in June 2010, a group of men armed with machetes made threats against families living at Camp Immaculée, located in the vicinity of Cité Soleil, so that they would abandon the camp. They allegedly slashed tents, stole property, and physically attacked camp residents. International observers notified the Haitian National Police and MINUSTAH about the incident. However, during the night that the observers spent at the camp, not one patrol entered the IDP camp between the hours of one and five in the morning. According to the observers, by the morning of July 12, the camp had completely disappeared. The Parc Sportif de Cité Soleil Camp, located a 15-minute walk from Camp Immaculée, was home to 500 displaced persons. After a week of constant attacks with machetes and gunfire by people from outside the camp, and threats of arson, all the residents abandoned it. By the end of May, the camp had disappeared. Two children were killed by gunfire. The same fate was suffered by more than a thousand displaced persons from Delmas 60, an area organized into 14 small camps known as "CR."

44. It should be noted that according to the information available, these evictions are taking place with the acquiescence and, in some cases, with the involvement of Haitian authorities. Officials from the Interior Ministry, the National Police of Haiti, and the municipal authorities of Port-au-Prince, Pétiion-Ville, Croix des Bouquets, and other localities are accused of direct participation in the forced eviction campaigns. According to information provided to the IACHR,<sup>36</sup> officials from those agencies, in their capacity as state agents, demolished one IDP camp with a bulldozer, denying the residents the opportunity to gather their belongings, carried out arbitrary arrests, wounded some people with rubber bullets, and, in some cases, denied them access to basic services provided by nongovernmental organizations. In addition, state agents have reportedly refused to protect displaced communities from violence at the hands of private citizens. That situation is particularly critical, given that the vast majority of IDP camps residents are members of vulnerable groups.

45. In addition, the Inter-American Commission has received troubling reports about the situation of some 30,000 displaced families living in the Canaán, Onaville, and Jerusalén sectors on the outskirts of the city of Croix des Bouquets, some 15 km from Port-au-Prince.<sup>37</sup> According to the available information, on March 22, 2010, the Haitian government issued a decree expropriating a large area of inhabited land in that area, in order to relocate a significant number of displaced families who were occupying public spaces in various parts of the country's capital. Following the enactment of the decree, thousands of families began to arrive to set up shelters in the area; in July the first temporary homes were built; and by December 2010, the number of families there was estimated to be 30,000.

46. However, after tensions arose between the owner and the displaced families, the State began to backtrack and contacted the organizations working with the displaced communities to get them to abandon their activities and withdraw from the area. Then, on August 2, 2010, the Ministry of the Economy and Finance published a notice indicating that any building or structure erected in the area without the ministry's authorization would be demolished without prior notice.

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<sup>35</sup> "Vanishing camps at gunpoint," July 14, 2010, International Action Ties; available at: [http://ijdh.org/wordpress/wp-content/uploads/2010/07/IAT\\_vanishing\\_camps\\_report\\_haiti.pdf](http://ijdh.org/wordpress/wp-content/uploads/2010/07/IAT_vanishing_camps_report_haiti.pdf).

<sup>36</sup> Hearing request filed by American University, the Bureau des Avocats Internationaux, and the Institute for Justice and Democracy in Haiti for the 140th session of the IACHR.

<sup>37</sup> The people who furnished the Inter-American Commission with this information expressly requested that their identities be kept confidential.

As a result of these actions by the State, these displaced communities are currently in a situation of great vulnerability and abandonment.

47. At the hearing held on October 26, 2010,<sup>38</sup> the IACHR received information on this practice of forced evictions gathered during an observation mission carried out by the participating organizations in conjunction with local organizations. According to the figures given at the hearing, since May 2010 some 30,000 people had reportedly been evicted from more than 200 camps and 144,000 displaced persons had received eviction threats. The attending organizations reported that the alleged landowners were accompanied by heavily armed police officers, public officials, and corrupt lower-court magistrates, and that the evictions were carried out without court orders. They noted that the evictions are made without a bailiff being present, as required by Haitian law. They also reported that during forced evictions, displaced people suffer verbal, physical, and sexual violence and that their property is destroyed. In addition, several people have reportedly received death threats from purported landowners.

48. The organizations participating in the hearing also spoke about the eviction victims' difficulties in securing access to justice, on account of the fragility and alleged corruption of the judicial system. They indicated that they had asked magistrates to conduct on-site inspections, but that it was difficult for that to take place. The participants concluded that Haiti's main problem is social exclusion. They reported that although a high proportion of the lands occupied by displaced people are public, they are being transferred to private interests, which, they claimed, points to the lack of political will to protect the neediest sectors of society.

49. On account of the humanitarian crisis created by this situation, the United Nations and the Haitian government negotiated a three-week moratorium on evictions from April 22 to May 13, 2010. However, international observers reported that the evictions continued after the moratorium ended. The Secretary-General's Representative on the Human Rights of Internally Displaced Persons also noted his concern at the growing number of forced evictions of people living on private land. In connection with this, he pointed out that property rights must be seen in conjunction with the economic and social rights of the earthquake victims. He also pointed out that the State should publicly announce that it will allow no evictions that do not comply with established procedures.<sup>39</sup>

50. In the press release published at the close of the 140th Regular Session, the Inter-American Commission noted its concern regarding the illegal forced evictions of people from the internal displacement camps and it recommended that the Haitian State place a moratorium on evictions until the new government is sworn in.<sup>40</sup> In addition, on November 15, 2010, the IACHR granted precautionary measures (MC-367-10) to protect the lives and integrity of the people living in five internal displacement camps that had been targeted by forced evictions or threats of expulsion. In that precautionary measure, the IACHR asked the Haitian State to place a moratorium on evictions until the new government took office; to ensure that people illegally evicted from the camps are relocated in places that meet minimum sanitary and security requirements; to ensure displaced people access to an effective remedy before the courts and other competent authorities; to implement effective security measures to safeguard the physical integrity of camp residents,

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<sup>38</sup> General hearing on the "Human Rights Situation in the Camps for Internally Displaced Persons in Haiti," October 26, 2010. Participants: International Human Rights Law Clinic, American University–Washington College of Law, Institute for Justice and Democracy in Haiti, Bureau des Avocats Internationaux. The audio record is available at: <http://www.cidh.oas.org/prensa/publichearings/Hearings.aspx?Lang=ES&Session=120>.

<sup>39</sup> News story published by the Office of the United Nations High Commissioner for Human Rights. Available at: <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=10467&LangID=F>.

<sup>40</sup> Press Release No. 109/10, published by the IACHR on November 5, 2010. Available at: <http://www.cidh.oas.org/Comunicados/Spanish/2010/109-10sp.htm>.

ensuring special protection for women, children, and adolescents; to provide the security forces with training on the rights of displaced people, in particular the right of freedom from forced evictions; and to ensure that the international cooperation agencies have access to the internal displacement camps. Later, in Press Release No. 115/10, published on November 18, 2010,<sup>41</sup> the Inter-American Commission noted its concern at the forced evictions of the IDP camps and reported on the actions taken by the Haitian State to comply with the requested precautionary measures (MC-367-10).

51. Finally, it should be noted that since June 2010, the Department of State Modernization and Good Governance of the OAS Secretariat of Political Affairs has been carrying out a strategic land registry and registration effort through a team working with the National Land Registry Office (ONACA), which is responsible for preparing the "Foncier Haiti" project.<sup>42</sup> This project, intended to modernize the land registry, will be implemented in two phases carried out over a period of seven years. Foncier Haiti receives technical support from overseas experts and agencies, such as Quebec's General Land Registry Directorate and National School of Public Administration. In October 2010, the project received a donation of US\$ 1.5 million from the private sector. Although the principal goal of this project is to boost the country's economic development by attracting foreign investments, it could also have an impact on the displaced population.

#### **IV. OTHER TOPICS OF CONCERN**

##### **A. Children**

52. In its 2008 Observations, the IACHR said that one of the specific purposes of its visit to Haiti was to assess the situation of children and adolescents by collecting information on forms of discrimination and violence as well as on the State's response. In the Observations, the Commission noted that street children and child domestic workers (*restavek*) were among the most vulnerable groups within that segment of the population. The Inter-American Commission identified the worst forms of abuse faced by children and adolescents as including sexual abuse and rape, trafficking in minors, child prostitution, and the growing phenomenon of child abductions. An estimated 2,500 children and adolescents of both sexes were living on the streets of Port-au-Prince at the time of the visit.

53. In its Observations, the IACHR noted that homeless children and adolescents were extremely vulnerable to abuse by state agents and/or criminal gangs, particularly from 2004 to date. Because of the proliferation of weapons and of violent criminal gangs in certain areas of Port-au-Prince, many youngsters have been recruited by those groups. The adults in these criminal gangs use the children and adolescents as human shields, as bait, and as a source of labor for work of all kinds, and on occasions they force them to participate directly in the gang rapes and other crimes that the groups commit. As a result, children and adolescents are particularly exposed to acts of violence in Haiti. Similarly, in its report *The Right of Women in Haiti to be Free from Violence and Discrimination*, the Inter-American Commission indicated that according to figures from the service-provider organization Kay Famn, approximately half the country's rape victims were aged under 18. Finally, in Chapter IV the Commission expressed its concerns about the situation of *restavek* children, and the situation faced by children on the street and in detention.

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<sup>41</sup> Press Release No. 115/10, published by the IACHR on November 18, 2010. Available at: <http://www.cidh.oas.org/Comunicados/Spanish/2010/115-10sp.htm>.

<sup>42</sup> Press Release C-399/10, published by the Organization of American States on October 24, 2010. Available at: [http://www.oas.org/es/centro\\_noticias/comunicado\\_prensa.asp?sCodigo=C-399/10](http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-399/10).

54. After the January 2010 earthquake, there was an upswing in the already serious levels of vulnerability faced by children and adolescents. This group was particularly affected chiefly because almost half Haiti's population is under 18 years of age<sup>43</sup> and 40% are younger than 15.<sup>44</sup> According to figures from the United Nations,<sup>45</sup> 1.5 million under-18s were affected by the earthquake, of whom approximately 720,000 were aged between six and twelve and 500,000 were aged under five. In addition, some 300,000 children and adolescents were displaced to other departments of the country. According to the Haitian Ministry of Education, approximately 5,000 schools were affected – 23% of all schools in the country – with the vast majority of them forced to close. In Port-au-Prince, as many as 80% of the schools were affected.

55. Similarly, the United Nations independent expert on the situation of human rights in Haiti, in his report to the Human Rights Council,<sup>46</sup> stated that in spite of the good work carried out by UNICEF, in May 2010 a large number of minors were still either living alone or living with other families. He noted that this situation encourages the *restavek* phenomenon, which predates the humanitarian crisis. The independent expert also noted his particular concern at the reports of trafficking in children and adolescents on the border with the Dominican Republic. He also reported that foreign families with adoption procedures underway in Haiti have attempted to speed up the formalities, running the risk of failing to abide by the process provided for in domestic law. On this point, and given the great increase in adoption requests coming from abroad after the earthquake, the expert noted that international adoptions, under the Hague Convention on International Adoption, must be seen as a last resource, once all possibilities for adoption at the domestic level have been exhausted.

56. Finally, at the 140th regular session's general hearing on the situation in Ouanaminthe,<sup>47</sup> a northern city located on the border with the Dominican Republic, the attending organization reported that the region had a high percentage of children and adolescents not attending school (with girls accounting for 67% of the total). It informed the Commission that children and adolescents worked carrying produce to the border city of Dajabón in the Dominican Republic. Once at the border, they were exposed to a wide variety of risks, including trafficking in human lives for the purposes of sexual exploitation and organ trafficking. The organization also spoke of rapes of children and adolescents and specifically reported the case of one 11-year-old boy who had been raped by a customs officer; although the case was public knowledge, no investigation had been opened.

## **B. People with disabilities**

57. One of the vulnerable groups most affected by the natural disaster were people with disabilities. According to information from the United Nations independent expert on the situation of human rights in Haiti,<sup>48</sup> prior to the earthquake Haiti was home to 800,000 people with physical

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<sup>43</sup> UNICEF figures. Available at: [http://www.unicef.org/spanish/infobycountry/haiti\\_statistics.html#68](http://www.unicef.org/spanish/infobycountry/haiti_statistics.html#68).

<sup>44</sup> Figures from the Pan American Health Organization (PAHO). Available at: [http://www.paho.org/Spanish/DD/AIS/cp\\_332.htm](http://www.paho.org/Spanish/DD/AIS/cp_332.htm).

<sup>45</sup> Information obtained from the Office of the United Nations Special Envoy for Haiti.

<sup>46</sup> *Rapport de l'expert indépendant sur la situation des droits de l'homme en Haïti*, Michel Forst. General Assembly. United Nations, May 3, 2010. A/HRC/14/44. Available at: [http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.44\\_fr.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.44_fr.pdf).

<sup>47</sup> General hearing on the "Human Rights Situation of Children and Women in the Area of Ouanaminthe, Haiti," participants: Regroupement des Citoyens pour la Protection des Droits Humains (RECIPRODH) and Haitian State. Audio available at: <http://www.cidh.oas.org/prensa/publichearings/Hearings.aspx?Lang=ES&Session=120>.

<sup>48</sup> *Rapport de l'expert indépendant sur la situation des droits de l'homme en Haïti*, Michel Forst. General Assembly. United Nations, May 3, 2010. A/HRC/14/44. Available at: [http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.44\\_fr.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.44_fr.pdf).

disabilities, equal to 10% of the country's total population. In early February 2010, Handicap International estimated that at least a thousand prosthetic legs were needed. According to information furnished by the Haitian State, by May 2010 more than 5,000 cases of people who had been physically disabled as a result of the earthquake had been reported. In addition, the main prosthetics facility in Haiti prior to the disaster (Healing Hands for Haiti) was destroyed by the earthquake. The expert also pointed out that extreme poverty affected this vulnerable sector of the population to a much greater extent, on account of the work-related problems they face.

### **C. Economic, social, and cultural rights**

58. On March 23, 2010, during its 138th regular session, the IACHR held a public hearing on the situation of economic, social, and cultural rights following the earthquake.<sup>49</sup> In particular, the attending organizations provided information on the rights to food, health, and housing. That information was collected during the observation missions carried out by some of the organizations in the first two months after the earthquake; it was then processed and analyzed in a report submitted to the Inter-American Commission.<sup>50</sup>

59. In its 2008 Observations, the IACHR noted its concern at the serious restrictions on access to decent housing, drinking water, health, education, and employment. It also identified structural inequalities between men and women in the economic, health, and other sectors. Thus, in its report *The Right of Women in Haiti to be Free from Violence and Discrimination*, the Inter-American Commission recommended that Haitian State adopt legislation, public policies, and programs to correct the inequalities between men and women, particularly in sectors such as health. Additionally, in Chapter IV the Commission stressed that extreme poverty remains one of the most extensive and complex challenges Haiti faces, with its consequent effects on human rights.

60. Regarding the right to food, the attending organizations indicated that more than half the people interviewed said they had received no food assistance whatsoever, and that between 60% and 100% said they were in urgent need of water. In some communes located away from Port-au-Prince, all the respondents had indicated a need for food. They also described poor coordination in the distribution of food aid. There had even been reports of women forced into sex in exchange for food distribution cards.

61. Regarding the right to health, almost half of the interviewees stated that there was at least one sick person in the family. That is compounded by the serious hygiene problems at the IDP camps, including poor sanitation, foul smells, contaminated water, and a shortage of latrines. Those unhealthy conditions were a key factor behind the cholera epidemic referred to in the second section of this chapter. Vulnerable groups – such as newborns, young children, pregnant women, the disabled, and the elderly – have been particularly hard hit. At the same time, the exodus of thousands of people from the capital to the country's interior has outstripped the capacities of the host communes, which even before the earthquake were in need of aid. For example, the commune of Saint Marc, home to 300,000 people, received 35,000 displaced persons.

62. Regarding the right to housing, the vast majority of the camps, which were installed spontaneously, are lacking in all regular services. Only 21% of camp residents sleep in tents, 58% sleep under tarpaulins, and the rest have no weatherproof materials at all to protect them. Finally,

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<sup>49</sup> General hearing on "Economic, Social, and Cultural Rights in Haiti following the Earthquake," March 23, 2010, participants: Institute for Justice and Democracy in Haiti, Bureau des Avocats Internationaux, Center for Human Rights and Global Justice, Robert F. Kennedy Center for Justice and Human Rights, Partners in Health, and the Haitian State. Available at: <http://www.cidh.oas.org/prensa/publichearings/Hearings.aspx?Lang=ES&Session=118>.

<sup>50</sup> *Neglect in the Encampments: Haiti's Second-Wave Humanitarian Disaster*. Available at: <http://ijdh.org/wordpress/wp-content/uploads/2010/03/Neglect-in-the-Encampments-FINAL.pdf>.

the organizations stressed the urgency of a mechanism for tracking the international aid funds sent to Haiti, which would ensure the right of the population to know how much has been sent to the country and how those resources are being used. It would also assist the Haitian people's participation in the reconstruction effort and the provision of assistance based on a human rights approach.

63. On September 21, 2010, the attending organizations submitted updated information to the IACHR to follow up on the points addressed at the hearing. They reported that the economic and social rights situation of the affected population remained unchanged. They also spoke of the forced evictions from the displacement camps, sexual violence at the camps, and the limited access to basic goods and services such as water and food. On a more positive note, they also referred to the establishment of the Interim Commission responsible for coordinating Haiti's reconstruction. They also mentioned the creation of the Haiti Reconstruction Fund at the donors' conference held in March 2010, which offered mechanisms that could improve coordination, accountability, and transparency in the handling of funds. They pointed out, however, that only a small portion of the financial assistance had been placed in that fund.

#### **D. Justice system**

64. In its 2008 Observations, the Inter-American Commission identified several structural weaknesses in the institutions responsible for the administration of justice. During its 2007 visit, the IACHR concluded that those institutions needed broad, long-term reforms to train the Haitian police and courts so they could ensure the population effective and impartial justice. It also stated that although urgent measures were needed, they were insufficient for dealing with deep-rooted institutional weaknesses. It therefore recommended that the Haitian state draw up an exhaustive national judicial reform program and ensure the allocation of sufficient resources to implement that plan, including providing the Secretariat of State for Justice with adequate technical and financial support. In addition, it recommended the prompt enactment of the draft legislation on the status of judges, the establishment of the judicial school, and the creation of the Superior Council of Magistrates.

65. In its Chapter IV the Commission noted that in 2009 the information received indicated that the system of justice continues to be characterized by grave deficiencies, notably an insufficiency of judges, *ultra vires* decisions, corruption and the excessive use of preventive detention.

66. A study conducted by the Institute for Justice and Democracy in Haiti<sup>51</sup> identified three main challenges facing the Haitian judiciary in the aftermath of the earthquake. The first challenge is to respond to the needs of the vast majority of the population (80%) living below the poverty line. That majority is unable to enforce their most basic rights – essential for escaping from the poverty cycle – on account of the notorious corruption within the judicial system. Second, the study notes that sexual violence against poor women and girls has never been effectively investigated or punished.

67. The study also referred to the challenge of security in land ownership. It noted that judicial corruption, the inadequate land registration system, and political instability had led to great insecurity regarding the ownership of land. Several properties had two legally recognized owners, and most small landowners had property deeds that were either informal or questionable. That insecurity discourages investment and land improvements, in addition to allowing individuals with political, economic, or military power to assume ownership over the work or property of others.

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<sup>51</sup> *Challenges Facing Haiti's Justice Sector*, July 13, 2010. Available at: <http://ijdh.org/wordpress/wp-content/uploads/2010/07/Justice1pagerbcdraft7-12-2010.pdf>.

Finally, the study also highlighted the disastrous consequences of this situation in the aftermath of the earthquake.

68. As the Inter-American Commission has stated on several occasions, a judicial system with adequate and effective resources is vital for the future of Haiti and for protecting the rights of its population. The new specific challenges that have arisen as a result of the earthquake and its repercussions have compounded the enormous challenges that the country already faced. Identifying solutions is a key factor in the reconstruction process. In that context, the role of the judiciary is crucial in providing a response to the extremely grave situations that have arisen following the earthquake, such as violence against women and girls in the IDP camps and the forced evictions in conjunction with the complex problems of land ownership.

## V. CONCLUSIONS AND RECOMMENDATIONS

69. Prior to the devastating earthquake of January 12, 2010, Haiti was showing some signs of progress in specific areas, such as civil and political rights and security, thanks to the political stabilization of the country as of February 2006. In that context, the State had undertaken a series of specialized initiatives to provide women violence victims with greater protection and additional services. In its report *The Right of Women in Haiti to be Free from Violence and Discrimination*, the Inter-American Commission acknowledged the willingness and commitment shown by the Ministry for Women in drawing up a plan of action for eradicating discrimination and violence against women in Haiti.

70. In spite of those efforts and indicators of progress, the IACHR noted an upswing in poverty in the country, a worsening economic gap, the absence of effective accountability mechanisms, as well as other problems. The Inter-American Commission also noted that it continued to receive information on persistent acts of violence and discrimination against women. In its 2008 Observations, the IACHR also concluded that in spite of the progress observed during the 2007 visit, Haiti's institutions remained weak, with inadequate resources and personnel, and that they were neither properly trained nor properly organized. As a result, the agencies of the State were largely unable to provide the population with basic services in the areas of health, education, and social welfare. For those reasons, Haiti continued to face a structural situation with a grave impact on its inhabitants' enjoyment of their essential rights.

71. That preexisting situation of extreme structural gravity was compounded by the emergencies caused by the earthquake and its aftermath. Following the earthquake, the challenges identified by the Inter-American Commission prior to the disaster have worsened and, at the same time, new problems related to the emergency situation have arisen. Consequently, the grave structural situation that already existed was compounded by more immediate and urgent challenges. One of the main challenges is a lasting solution to the problem of housing the people affected by the natural disaster. Meanwhile, the even more immediate challenge of improving living conditions in the internal displacement camps must be addressed. To keep the situation in Haiti from continuing to worsen, the State and the reconstruction agencies must resolve three issues at the IDP camps: (i) security, (ii) preventing violence against women, and (iii) access to basic goods and services.

72. Mechanisms must also be created to ensure that evictions are carried out in accordance with legal procedures, that the evicted people are voluntarily relocated, and that their basic rights are respected. To achieve that, resettlement strategies and measures to regularize land ownership must be adopted. Those measures are essential for attaining sustainable development and for keeping the existing camps from turning into new slums. In addition, a comprehensive solution to the deficiencies of the registration system is essential in ensuring the country's long-term economic and social development.

73. The IACHR points out that during times of displacement, as has been established by the organs of the inter-American human rights system, states must interpret the rights enshrined in the American Convention in the light of the United Nations Guiding Principles on Internal Displacement.<sup>52</sup> Those principles indicate that the authorities must prevent and avoid the emergence of conditions that could lead to the arbitrary displacement of persons.<sup>53</sup> In addition, the principles must be enforced regardless of any distinctions of sex, and certain internally displaced persons – such as children, female heads of household, and persons with disabilities – have the right to treatment that takes their special needs into account.<sup>54</sup>

74. Regarding the situation of women and girls in Haiti following the earthquake, the Inter-American Commission expresses its particular concern at the seriousness, urgency, and irreparable nature of the sexual violence and humiliation being suffered by women and girls in the internal displacement camps. In Haiti's history, sexual violence has been frequently used by both state and nonstate agents as an instrument and strategy to control women and the community that surrounds them. In addition, as noted by the IACHR in its 2009 Report, discrimination against women is a constant and structural characteristic of Haitian society and culture, during periods of peace and instability alike, and one that must be addressed to guarantee the full protection of women's rights.

75. With regard to the reconstruction efforts, the Inter-American Commission believes that incorporating a human rights based approach into that process is of key importance in attaining sustainable development. To achieve that, the goal of each cooperation and development program must make a direct contribution to the pursuit of one or more human rights recognized by international law.<sup>55</sup> A reconstruction process focused primordially on humanitarian assistance without an approach based on human rights will not allow long-term solutions to be attained. In addition, Haitian society must have an active role in this process and must not be relegated to an essentially passive role limited exclusively to receiving international aid.

76. The IACHR believes that in the current context of reconstruction, the Haitian authorities and the international community have a valuable opportunity to adopt measures for strengthening the institutional apparatus of the Haitian State and thus ensure sustainable development for the country. It is in order to take advantage of that opportunity that the Inter-American Commission addresses the State of Haiti and the other authorities involved in the reconstruction, particularly the IHRC, to underscore the need to continue deploying efforts to meet the recommendations set out in the report *The Right of Women in Haiti to be Free from Violence and Discrimination*, in the *Observations of the Inter-American Commission on Human Rights upon conclusion of its April 2007 visit to Haiti*, and in Chapter IV of the Annual Report of the Inter-American Commission on Human Rights 2009

77. The Inter-American Commission reiterates the recommendations made in the said documents, since their implementation by the State is still pending. However, on account of the particular situation that Haiti is currently facing, those recommendations must be expanded with other more specific recommendations, focused on the new reality of reconstruction following the January 2010 earthquake.

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<sup>52</sup> I/A Court H. R., *Case of the Ituango Massacres*, Judgment of July 1, 2006, Series C No. 148, para. 209.

<sup>53</sup> United Nations Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, February 11, 1998, principles 5 and 6.

<sup>54</sup> United Nations Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2, February 11, 1998, principle 4.

<sup>55</sup> See, in this regard, the publications of the Instituto Universitario de Desarrollo y Cooperación, available at: <http://www.ucm.es/info/IUDC/pagina/158>.

## **Recommendations**

**Preliminary observation:** Although the State of Haiti, in its capacity as a member state of the Organization of American States, is the chief intended recipient of these recommendations, they are also intended for the international agencies directly involved in the country's reconstruction process as well as for the interim authorities created in response to the humanitarian crisis.

- **Regarding the situation of girls and women in the IDP camps**

1. Ensure that adequate medical and psychological services for victims of sexual violence are provided in accessible venues that:
  - address the need for privacy during exams;
  - have female medical providers and culturally sensitive medical providers who have experience working with rape victims;
  - issue medical certificates to rape victims;
  - provide HIV prophylaxis and emergency contraception;
2. Ensure adequate security be provided in the IDP camps, including public lighting, appropriate patrolling, and an increase in women police officers on patrol in and around IDP camps and at police stations near IDP camps;
3. Implement measures to facilitate the filing of legal actions and to improve the efficiency of judicial investigations, including, in particular, training police officers in their duties in cases of violence against women;
4. Ensure that special units within the judicial police and the Prosecutor's Office be created and fully funded in order to investigate cases of rape and other forms of sexual violence; and
5. Ensure Haitian grassroots women's groups full participation and leadership in all planning and implementation of policies and practices designed to address and prevent rape and other forms of sexual violence in IDP camps.

- **Regarding the practice of forced camp evictions**

6. Place a moratorium on evictions until the land ownership situation has been settled.
7. Ensure that land regulation, which is essential for the country's development, is carried out with regard to the economic and social rights of the earthquake victims.
8. Issue a public statement prohibiting all evictions that do not meet the legally established procedures, and publicize it massively.
9. Provide illegally evicted displaced people with effective judicial remedies.
10. Ensure that people illegally evicted from the camps are voluntarily relocated in places that meet minimum sanitary and security requirements.
11. Adopt security measures to safeguard the physical integrity of camp residents, with guarantees for the special protection of women, children, and adolescents.

12. Ensure that human rights defenders be provided with adequate protection.
13. Provide the security forces with training on the rights of displaced people, in particular the right of freedom from forced evictions.
14. Ensure that the international cooperation agencies have access to the internal displacement camps.

- **Regarding the reconstruction process**

15. Incorporate a human rights-based approach into the different aspects of the reconstruction process.
16. Ensure that the strengthening of the judicial system is a priority in the reconstruction effort.
17. Incorporate a comprehensive approach to the rights of children into the design of public policies, with particular emphasis on orphaned children and adolescents.
18. Ensure the timely disbursement of the donation pledges made at international donors' conferences.
19. Establish an accountability mechanism in the implementation of cooperation and development projects.
20. Ensure the participation and consultation of the beneficiaries of the cooperation, along with the involvement of Haitian society in all aspects of the reconstruction.