

HAITI ADVOCACY WORKING GROUP (HAWG)

HAWG is a working group of international development, faith-based, human rights and social justice organizations advocating on issues related to U.S.-Haiti policy.

The Three Principle Challenges Facing The Justice Sector In Haiti Following The Earthquake

A. Responding to the needs of the majority of Haitians who are poor

Haiti's justice system is notoriously corrupt, and the burden of this corruption falls primarily on those who cannot afford to pay for access to justice. Over 80% of the people in Haiti's prisons have not been convicted of a crime; almost all of these long-term pre-trial detainees are poor. Poor Haitians are unable to enforce the basic rights – labor, housing, contract, property and education rights, the right to child support – that are essential to escaping the cycle of poverty.

The inability to enforce their basic rights forced poor Haitians to live in inadequately constructed housing in the crowded slums which collapsed in the earthquake, killing thousands in single neighborhoods. The continued inability to enforce their rights will prevent most Haitian families from taking advantage of Haiti's reconstruction to obtain a minimally acceptable standard of living.

B. Protecting Women

Poor women and girls began reporting sexual assaults in the Internally Displaced Persons (IDP) camps as soon as they were set up. One survey found that 3% of all people in Port-au-Prince had been sexually assaulted since the earthquake, and half of the victims were girls under age 18.

Sexual assaults impose enormous stresses on women, girls, and families already deep in crisis. Before the earthquake, women in Haiti bore two disproportionate burdens: entrenched gender discrimination and the primary care-giving responsibility. Both left them poorer and more vulnerable to violence. Many women lost adult male family members who provided physical security and a source of income. Surviving women have primary care-giving responsibility for the most vulnerable, including infants, children, elderly, and newly disabled people. When women are injured due to rape or fear of rape, everyone within their circle of care, especially children, suffers.

The Haitian law enforcement and justice systems have never effectively prosecuted rape. Although the earthquake reduced the capacity of those systems, the Haitian government has not effectively deployed the resources it has available to protect women. The international community has responded to the rapes, but too slowly and with insufficient input from the women in IDP camps.

C. Security of Land Tenure

Judicial corruption, poor record-keeping, and political instability have left Haiti with an extremely insecure land tenure system. Many properties have two or more judicially-recognized owners, while most landowners, have title that is either informal or questionable. One study concluded that only 5% of Haiti's land has a clear and recognized title. Tenure insecurity has long plagued Haiti's economy, providing a disincentive to invest in improvements on land, and allowing people with political, economic or military power to appropriate the work and property of others.

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Multiple organizations contribute on a case by case basis to issue or sector specific recommendations and positions expressed in HAWG materials. These materials are not designed to be consensus positions and have not been explicitly endorsed by each organization active in the HAWG.

Tenure insecurity has been particularly problematic following the earthquake. NGOs, governments and individuals building homes cannot be certain that the intended homeless beneficiary will be able to stay on the land once the house is completed. The many people whose claim to land was based on their actual possession of the land, lost that claim when their house fell and they fled. On January 13th, opportunists dispossessed people with earthquake-weakened title claims.

Recommendations

A. Justice for Poor Haitians

1. Foreign aid supporting the Haitian government's capacity to arrest and incarcerate should be matched with aid supporting the government's capacity to treat detainees fairly and humanely. This includes programs to accelerate judicial procedures, fight corruption and provide aggressive, effective legal representation to pre-trial detainees.
2. Existing justice sector support should be complemented with programs designed specifically to help poor people enforce a range of their rights. The United States has many examples of effective anti-poverty legal initiatives to serve as models.

B. Protecting Women

3. Foreign assistance programs impacting Haitian women's security- including housing, emergency response and police programs- should systematically integrate poor Haitian women into the program's design and implementation.
4. The United States should support programs that increase the ability of police, judges and prosecutors to effectively respond to rapes, including programs that assist health care providers to generate medical documentation useful for court proceedings.
5. The United States Congress should encourage all programs funded by the United States to more quickly and effectively respond to the epidemic of rapes in the IDP camps.

C. Increasing Security of Land Tenure

6. The United States should support long-term initiatives designed to eradicate the causes of land tenure insecurity, especially judicial corruption and poor record keeping.
7. Short-term programs to resolve land-tenure problems caused by the earthquake should implement lessons learned from the 2004 Indian Ocean Tsunami and other natural disasters, with particular attention on programs that maximized long-term impact and protected the interests of the poorest landowners.

US Organizations Working on Justice

- Habitat for Humanity, www.habitat.org (land tenure)
- Huairou Commission, www.Huairou.org (land tenure and women's rights)
- Institute for Justice & Democracy in Haiti, www.HaitiJustice.org (enforcement of legal rights of poor, prison issues, protection of women, property rights)
- MADRE, www.Madre.org (protection of women)
- Partners in Health, www.pih.org (prison conditions, medical treatment of rape survivors)
- Transafrica Forum, www.transafricaforum.org (protection of women)

Haitian Partner Organizations Working on Justice

- Bureau des Avocats Internationaux (BAI) www.ijdh.org/about/bai (enforcement of legal rights of poor, prison issues, protection of women, property rights)
- Fanm Viktim Leve Kanpe (FAVILEK), contactable through BAI (protection of women)
- Komisyon Fanm Viktim Pou Viktim (KOFIV) contactable through BAI (protection of women)