

HAITI

Haiti is a constitutional republic with a population of approximately 9.9 million. On January 12, a 7.0 magnitude earthquake struck the country, killing an estimated 230,000 persons and directly affecting approximately three million others. The country has a multiparty political system. Presidential and legislative elections occurred on November 28. Allegations of fraud and irregularities raised questions regarding the preliminary tally and prompted the president and the Provisional Electoral Council (CEP) to request a review by the Organization of American States. The CEP subsequently announced the final first round results; since none of the candidates received a majority of the vote, a runoff election between the two leading candidates was scheduled for March 2011. Elements of the security forces occasionally acted independently of civilian control.

Human rights problems included allegations of extrajudicial killings by Haitian National Police (HNP) officers, findings of excessive use of force against prisoners, overcrowding and poor sanitation in prisons, prolonged pretrial detention, an inefficient judiciary subject to significant influence by the executive and legislative branches, severe corruption in all branches of government, violence and societal discrimination against women, child abuse, human trafficking, and ineffective enforcement of worker rights.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The government or its agents did not commit any known politically motivated killings; however, there were allegations of HSP involvement in extrajudicial killings. HNP officers killed several persons who were armed and resisting arrest. Some cases of arbitrary killings were referred to the Office of the Inspector General for investigation.

On January 19, in the aftermath of the earthquake, inmates in Les Cayes prison rioted. Officers from the departmental riot control police (UDMO) intervened, killing 12 inmates, while 22 others escaped and scores of others were injured. Three investigations were launched: one by the chief inspector general of the HNP, a second by the government with the UN, and a third by the investigating judge in

Les Cayes, in cooperation with the government's Office of Citizen Protection (OPC). The chief inspector general concluded that the action of the joint departmental SWAT team and corrections officers caused the deaths of 10 of the 12 inmates. Two other prisoners died of unrelated causes. The report noted that "if the intervention was legitimate, the force used was excessive and disproportionate," and that "a measured use of force was possible under the circumstances." The inspector general issued six recommendations, including the dismissal of prison warden Sylvestre Larack and the suspension of Les Cayes Police Chief Olrich Beaubrun. A joint HNP-UN report called the killings a grave violation of human rights and urged the justice system to prosecute those responsible. On May 27, the HNP placed Larack in preventive detention, as it reopened the chief inspector general's investigation and recommended that Frantz Dehonnet, the deputy administrator of prisons, resign. Authorities charged Beaubrun and ten other officers with homicide. At year's end their cases had yet to be tried, Beaubrun had not yet been arrested, and Dehonnet still held his post as deputy administrator of prisons.

On January 21, police shot and killed Gentile Cherie for stealing rice. Foreign journalists saw police stop two men who had taken a bag of rice that had fallen from a truck; witnesses claimed that the officers shot the men in the back and left them on the sidewalk. The Office of the Inspector General had not received an official complaint nor opened an investigation into the matter.

On December 6, unknown assailants shot and killed former inspector general of the HNP Etienne Saint Gourdin. Officials opened an investigation into his death.

There were no further developments in the 2009 case concerning seven individuals, including two active police officers and one former police officer, who were arrested for killing the manager of a money-exchange outlet during an armed robbery in Port-au-Prince. The case was under investigation by the court at year's end.

The HNP Internal Investigations Unit completed its investigation of the 2008 death of Renece Charon while in police custody and sent the case to the criminal court, which found that other prisoners beat Charon to death.

Residents in some areas resorted to vigilante justice. In November and December mobs attacked and killed Vodou (voodoo) practitioners accused of spreading cholera by placing contaminated powder into rivers and waterways. According to the HNP, 31 people were confirmed killed by the end of the year. Credible sources

reported an additional 22 possible killings. Two ministerial-level officials publicly denounced the killings, and local police confiscated 16 firearms, but made no arrests.

Nongovernmental organizations (NGOs) also reported vigilante incidents including shootings, beatings, and lynchings in rural areas, where effective judicial and law enforcement institutions largely were absent. Police statistics documented 83 vigilante incidents through the end of the year, but police made no arrests. Observers attributed the majority of vigilante justice incidents to accusations of theft, witchcraft, or kidnapping.

b. Disappearance

There were no reports of politically motivated disappearances by government agents.

Current and former HNP officers were accused of participation in kidnappings.

The number of reported kidnappings nearly doubled from the previous year. There were 121 reported kidnapping victims during the year, compared with 66 through October 2009.

Gonaives Police Commissioner Ernst Dorfeuille Bouquet, who was arrested and charged for the 2008 kidnapping and killing of Monica Pierre, escaped from the National Penitentiary on January 12, but later turned himself in to police in Petionville. At year's end he was awaiting trial after being returned to prison.

There were no known developments in the following cases:

- The January 2009 abduction of Joseph Francois Robert Martello, the director of the National Commission of Public Markets (CNMP).
- The 2008 arrests of three Cap-Haitien police officers for allegedly heading a gang responsible for multiple kidnappings.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, but there were some reports of degrading treatment, most notably in prisons, during the year.

The Sri Lankan Ministry of Defense provided an update in 2009 on the status of 23 Sri Lankan UN peacekeepers who were convicted in late 2008 of sexually exploiting and abusing children while they were stationed in Haiti under UN auspices in 2007: 20 of them were discharged, demoted, formally reprimanded, or otherwise punished; and the other three were killed in military action.

Prison and Detention Center Conditions

Prisoners reported physical abuse by correctional officers; prisons also suffered from corruption and neglect. Due to insufficient staffing, equipment, and security officers avoided some cellblocks. At times officials used lethal force against prisoners to quell inmate uprisings (see section 1.a.).

Prisons and detention centers throughout the country remained overcrowded, poorly maintained, and unsanitary. Overcrowding was severe; in some prisons detainees slept in shifts due to lack of space. The earthquake, which damaged several prisons, intensified the existing problems. The earthquake damage compromised the holding capacity at facilities in Carrefour, Delmas, Jacmel, and the National Penitentiary in Port-au-Prince. Over 5,000 detainees escaped in the wake of the earthquake, including all 4,215 persons held at the National Penitentiary. Some prisons had no beds for detainees; some cells had no access to sunlight. Many prison facilities lacked basic services such as medical services, water, electricity, and medical isolation units for contagious patients. Many prisoners and detainees suffered from a lack of basic hygiene, malnutrition, poor quality health care, and illness caused by the presence of rodents. Some prisons did not allow prisoners out of their cells for exercise.

On October 17, prisoners at the National Penitentiary overpowered guards in an attempted prison break, taking seven persons, including UN Police (UNPOL) officers and visiting Swedish police officers, hostage for several hours. The authorities regained control of the penitentiary, but three prisoners were killed in the process; two were shot, and one was reportedly trampled by other prisoners.

In some prisons the incidence of preventable diseases such as AIDS, malaria, and drug-resistant tuberculosis remained a serious problem. The cholera outbreak also affected the prisons. Within the first week of the outbreak, five detainees in the Mirebalais Prison died. The Bureau of Prisons responded by limiting outside contact.

At year's end the total prison population, including both pretrial detainees and sentenced prisoners in the country's 17 prisons, was more than three times the planned capacity of the country's prisons. Pretrial detention and its effect on overcrowding remained a serious problem during the year (see section 1.d.).

The overburdened prison system had insufficient holding facilities. The Civil Prison of Port-au-Prince (CPPP) contained approximately half of the country's prisoners and pretrial detainees in its intake room. Provincial authorities, in particular, incarcerated many convicted prisoners for terms of months or even years in temporary holding cells. Severely overcrowded police stations served as prisons in the cities of Gonaives and Petit Goave, whose prisons were destroyed in 2004. Gonaives, for example, held 140 long-term prisoners in its local police station in October.

Port-au-Prince maintained separate penitentiaries for adult men and women, but in other prisons, there were instances of male and female prisoners being held together due to space constraints. Children 16 and older were confined with adults. Minors and adults sometimes occupied the same cells due to lack of available space. Pretrial detainees were held together with convicted prisoners in the women's prison. When space was available, boys were held in a separate cell of a facility in Port-au-Prince. By law that facility may hold only boys ages 13 to 15, although a few child inmates claimed to be as young as age 10. Girls were not held separately from women at the Petionville Women's Penitentiary.

For most of the year, prisoners and detainees had reasonable access to visitors, who were allowed to bring them food and clothing. Inmates also were permitted religious observance and could request to see a Protestant minister, a Catholic priest, or a Vodou (voodoo) leader. However, these policies were suspended at the end of October in response to the nationwide cholera outbreak. The Administration of Prisons barred any outsider from entering prisons, in an attempt to curb the spread of cholera. Prisoners and detainees were permitted to make a written or verbal complaint regarding their conditions to the facility supervisor. If their complaint was regarding the supervisor, they were given the option to refer it up the chain of command for investigation.

The International Committee of the Red Cross (ICRC), the UN Stabilization Mission in Haiti (MINUSTAH), the local NGO National Human Rights Network for Haiti, and the OPC monitored prison conditions in cooperation with the Department of Prison Administration.

Authorities freely permitted the ICRC, the Haitian Red Cross, and human rights groups to enter prisons and police stations, monitor conditions, and assist prisoners and detainees with medical care, food, and legal aid. Primary concerns for most groups monitoring the conditions in the prisons related to adequate water, food, and sanitation. Although some programs, such as efforts to improve sanitation and health care delivery at the CPPP reported success, the government did not implement many changes recommended by NGOs and donor governments.

Authorities took some measures to improve prison conditions. In response to the prison killings in Les Cayes, Minister of Justice Paul Denis began a series of unannounced prison visits, beginning with the Women's prison in Petionville followed by the National Penitentiary. In addition, the government started releasing defendants who had been held in preventive detention for unacceptably long periods, pending formal charges and trial. Officials implemented a pilot project at the Petionville Women's Prison, establishing a special correctional tribunal to deal with the 257 detainees awaiting formal charges. Between June 8 and 14, the tribunal heard 15 cases, including three involving juveniles; 14 defendants were released, including an inmate who had served her sentence but remained incarcerated. The Ministry of Justice held hearings in August and September to reduce the pretrial detention backlog in the National Penitentiary, and the court committee released 30 inmates as a result. Still, since most of the 1,570 detainees awaiting trial in the Penitentiary were held for serious crimes that warranted a jury trial, they were effectively denied the right to a prompt trial. An estimated 15 percent of detainees in the National Penitentiary had been convicted by year's end.

The ICRC, in collaboration with the Prison Authority, renovated and refurbished the earthquake-damaged civil prison in Jacmel.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the constitution stipulates that a person may be arrested only if apprehended during the commission of a crime or on the basis of a warrant by a legally competent official such as a justice of the peace or magistrate. The authorities must bring the detainee before a judge within 48 hours of arrest. Officials frequently did not comply with these provisions in practice.

Role of the Police and Security Apparatus

MINUSTAH, deploying 8,766 soldiers, 3,082 police officers, and 481 civilian UN officials, trained and supported the national police force, provided disaster recovery assistance, and assisted the government in suppressing gang-related violence.

The approximately 8,500-member HNP has sole responsibility for law enforcement and maintenance of order; there are no military forces. The UN has estimated that the country needs a force of at least 14,000 police officers, although it recommended 18,000 to 22,000. Women make up less than 10 percent of the total police force, however the HNP established a recruiting drive for female officers in 2008, and 350 of the 2,755 recruits hired in the past four years were women. The HNP is officially an autonomous civilian institution under the authority of a director general and includes police, corrections, and coast guard functions in separate units. The Ministry of Justice and Public Security, through its minister and the secretary of state for public security, provides oversight.

The HNP lost 142 officers in the January earthquake (72 confirmed deceased and 70 missing), and an additional 253 were injured. Approximately 40 police stations and offices were damaged. The HNP worked with UNPOL and MINUSTAH to provide security for aid operations and to patrol internally displaced person (IDP) camps.

The Inspector General's (IG) Office of the HNP accepts and investigates allegations from any complainant of police wrongdoing, including human rights violations, complicity in criminal acts, and other violations. IG investigations revealing criminal activity were referred to the regional prosecutor. The IG also conducted vetting with MINUSTAH to certify that members of the HNP had no serious disciplinary violations or accusations of human rights abuses pending against them.

Reform and professionalization of the HNP continued as international programs and foreign governments provided human rights and other training and equipment for new recruits and for existing officers; police station upgrades; security and humanitarian improvements to prisons; vehicles, computers, communications equipment; and other technical assistance. Some units, notably the Anti-Kidnapping Unit, made significant improvements.

Although the HNP's efforts resulted in significantly increased levels of physical security and policing effectiveness, the HNP often could not prevent or respond to

gang-related and other societal violence, such as vigilante justice, due to an insufficient number of officers and inadequate equipment or training.

Arrest Procedures and Treatment While in Detention

The law permits police officers to make arrests when a suspect is caught during the commission of a crime, or later with a court-authorized warrant. Police sometimes apprehended persons without warrants or with warrants not issued by a duly authorized official. The authorities occasionally detained individuals on unspecified charges or pending investigation.

The government frequently did not observe the legal requirement to present detainees before a judge within 48 hours, and prolonged pretrial detention remained a serious problem. Many detainees were held in pretrial detention for extended periods--in some cases up to five years--without being informed of charges against them.

Investigative judges granted bail at their discretion. Bail hearings were not routine, and judges usually granted bail only for minor cases and based on compelling humanitarian grounds, such as a need for medical attention. Detainees generally were allowed access to family members and a lawyer of their own choosing. Many detainees could not afford the services of an attorney, and the government routinely did not provide free counsel.

Some returnees, some of whom spent substantial portions or most of their lives abroad, alleged corruption, widespread discrimination, and social abuse after returning home. Reported discriminatory practices included arbitrary arrests, false accusations about their activities to local police, and extortion attempts against them and their families abroad during the initial detention phase, in exchange for quicker release from administrative quarantine.

Lengthy pretrial detention was a problem during the year. By the end of the year, of the 5,331 persons in custody, only 1,722 had been tried and sentenced, while 3,609 awaited trial. Approximately one third of those awaiting trial had been incarcerated for a year or longer.

Prison population statistics did not include the large number of persons held in police stations around the country in prolonged pretrial detention (without a hearing or filed charges) for longer than the constitutionally mandated 48-hour maximum detention period. Inadequate record keeping and data entry at the police

stations made it difficult to estimate the number of persons held in prolonged detention.

e. Denial of Fair Public Trial

The justice system sustained significant losses in the January earthquake. The Ministry of Justice and the Palais de Justice (Supreme Court) were destroyed, and 27 court and tribunal buildings were damaged. A subsequent fire at the Palais de Justice destroyed all the records, including records of cases pending trial. Although the law provides for an independent judiciary, in practice the executive and legislative branches exerted significant influence on the judicial branch. Judges assigned to politically sensitive cases complained about interference from the executive branch. Credible reports of judicial corruption were commonplace (see section 4).

Pervasive and long-standing problems--including a shortage of funding and adequately trained and qualified justices of the peace, judges, and prosecutors as well as failure to convene court sessions on the schedule provided by law--contributed to the large backlog of criminal cases, and many detainees waited years for a court date. The government took steps during the year to reduce the pretrial backlog (see section 1.c.).

The code of criminal procedure does not assign clear responsibility for criminal investigations and divides authority among police, justices of the peace, prosecutors, and investigative magistrates. Authorities often failed to question witnesses or complete investigations and rarely conducted autopsies, and examining magistrates often received incomplete files.

An outdated juridical fee scale created another barrier for crime victims requesting investigation of their cases. After a citizen reported being the victim of a crime, some justices of the peace charged varying "fees" to initiate criminal prosecutions based on their perceptions of what a service should cost.

Long distances and limited transportation between citizens' residences and the courts also limited access to the judicial system. In most regions judges lacked basic resources and professional training.

The School for Magistrates was the temporary seat of the Supreme Court after the January earthquake. The school continued in-service training for justices of the peace, and the majority of justices from all 18 jurisdictions had completed the

intensive six-week training program. However, the school had not had a class of magistrates in more than five years. An internationally funded program continued to provide training for judges, prosecutors, and other court personnel; furnished technical assistance in drafting rules and procedures; and assisted in curriculum planning for the school. The Judicial Strengthening Program begun by the National Center for State Courts provided assistance with training and curricula for judges and court personnel.

Trial Procedures

The judicial apparatus follows a civil law system based on the Napoleonic Code, largely unchanged since 1880. In practice authorities widely ignored the constitutionally provided right to a fair public trial. The constitution also expressly denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice is present or they waive this right. Most accused persons could not afford legal counsel for interrogation or trial, and the law does not require that the government provide legal representation. Defendants who could not afford representation were more vulnerable to interrogation without counsel. However, some defendants had access to counsel during trials. With the support of the national government and the local legal community, international groups provided funds to indigent defendants for professional legal representation.

While the constitution provides defendants with a presumption of innocence, the right to be present at trial, the right to confront witnesses against them, and the right to present witnesses and evidence on their own behalf, judges frequently denied defendants these rights. The lack of a witness protection program and widespread impunity discouraged some witnesses from testifying at trials. Defendants and their attorneys had access to government-held evidence before trial. Defendants had the right to appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Victims of alleged human rights abuses are able to bring their cases before a judge for cessation of the violation. Damages can be awarded if the claim is brought as a civil suit and the judge convicts the perpetrator. Seeking legal remedies for human

rights abuses is difficult, especially in the aftermath of the January earthquake, since very few organizations had the resources to start and maintain a case through its duration in the system.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government and elected officials generally respected these rights in practice. However, there were a few incidents of local government officers and elected officials harassing or threatening journalists.

On September 16, several agents in the Cite Soleil police station shoved and beat female journalist, Orpha Dessources, from Radio Boukman. She was there to attend a press conference by Cite Soleil police on the arrest of a notorious gangster. The journalist filed a complaint with the Office of the Inspector General of the HNP. The motivation for the attack was unknown. The HNP spokesperson, Commissar Leurebours, said that the incident was being investigated and made recommendations to journalists about how to behave in police stations. However, the HNP Internal Investigations Unit (IG) stated at year's end that they had never received a complaint on the issue and never opened an investigation.

There were no further developments in the case of radio journalist Sainlus Augustin, who was publicly harassed, struck, and threatened by the brother and other supporters of senatorial candidate Wilot Joseph, allegedly because they objected to Augustin's attempt to interview supporters of the political opposition in 2009. Repeated anonymous death threats forced Augustin into hiding.

In December 2009, HNP officers in Port-au-Prince beat journalist Edwige Joseph Watson and destroyed his equipment when he attempted to take photographs of a peaceful student demonstration. Following an investigation by the Office of the Inspector General, one police officer was given an administrative sanction of 40

days' suspension without pay. His case was then referred to the criminal court for investigation.

There were no further developments in the 2008 attack on news correspondent Joachim Marcel by the deputy mayor of Cap-Haitien and his bodyguards, allegedly in retaliation for Marcel's investigation of voting corruption.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Approximately 30 percent of the population had routine access to the Internet during the year, primarily via Internet cafes. Lack of infrastructure limited public access to the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice. Citizens must apply for a permit to hold legal demonstrations; the HNP regularly issued permits.

Demonstrations were infrequent during the first part of the year, but starting in August, political parties, displaced persons, and students staged protests. An uptick in protests and demonstrations occurred in the days preceding the November 28 election and continued into December. Demonstrators fired shots, threw rocks, and blocked roadways.

On October 8, Jean Philbert Louis was injured during a demonstration for quality education when a tear gas canister fired by a police officer hit him in the head. The next day, Louis died in the hospital. Authorities arrested the officer who shot the canister, and the case was investigated by the IG, who found wrongdoing and forwarded the case to the parquet (prosecutor's office). At year's end the incident remained under investigation at the parquet.

On December 9, a group of four armed men began firing openly on supporters of presidential candidate Michel Martelly in the Champ de Mars area. The Martelly supporters were planning a demonstration as President Preval's motorcade passed through the area. Authorities arrested the four men but then released them without charge by order of the prosecutor's office.

In June 2009 bystander Kerel Pascal was killed during a public funeral, allegedly by peacekeeping forces. Television cameras recorded a force member discharging a weapon in the general direction of Pascal. MINUSTAH began an investigation and conducted an autopsy. At year's end MINUSTAH Human Rights section reported that the inquiry was inconclusive as to whether MINUSTAH forces fired the shot that killed Pascal.

c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons,
Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Persons deported from other countries were sometimes subjected to amendments in their Haitian passports by the Immigration office, denoting the infraction for which they were deported.

The government coordinated with the Office of the UN High Commissioner for Refugees and other governments and humanitarian organizations in providing protection and assistance to internally displaced persons.

The law prohibits forced exile, and there were no reports of its use. However, according to anecdotal reports, former government officials sometimes abandoned the country with their families for fear of retaliation or prosecution by political enemies.

Internally Displaced Persons (IDPs)

More than a million people were displaced by the January 12 earthquake. Approximately 500,000 IDPs left for other parts of the country to stay with family

or friends, and an estimated 20 percent of those who fled the city remained in the provinces, severely straining provincial and other resources. By the end of December, approximately one million earthquake-affected individuals remained displaced in more than 1,150 spontaneous and planned settlement sites in and around Port-au-Prince, with temporary housing and difficult living conditions. The government worked with domestic and international humanitarian organizations, through a combination of mechanisms, to coordinate the oversight of and the provision of assistance to IDPs. The government continued to work with foreign government agencies, international organizations, the UN, and NGOs to coordinate humanitarian efforts and to facilitate the transition from emergency relief activities to recovery and reconstruction.

To provide displaced persons with the opportunity to return to their former residences, the Ministry of Public Works assessed approximately 400,000 buildings for habitability and safety. The assessment found that 51 percent of houses were safe for habitation, with another 26 percent classified as dwellings that could be made safe with repairs, and the remaining 23 percent deemed unsafe for habitation and requiring major repairs or demolition. IDPs were encouraged to return to safe houses, and humanitarian groups completed repairs on some near-safe houses. Reconstruction focused on enabling earthquake-affected families to return to their neighborhoods of origin where they maintained family and social ties and employment possibilities. However, those whose homes were destroyed or uninhabitable remained in IDP camps. The problem of resettlement has been magnified by lack of land tenure and contradictory land registry records, as well as a slow government response.

MINUSTAH estimated that more than 8,000 displaced individuals have been subject to forced evictions (especially from land that was the location of ongoing concerns such as schools, places of worship, and businesses) by private property owners or gang members who seek to resume pre-earthquake operations. More than 11,000 others remained in situations that place them at risk of involuntary evictions and secondary displacement by private property owners.

Protection of Refugees

The law provides for the granting of refugee status or asylum, and the government has established a system for providing protection to refugees. The Ministry of Foreign Affairs, usually through missions or consulates abroad, handled asylum and refugee requests. In practice the government provided protection against the expulsion or return of refugees to a country where their lives or freedom would be

threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion; however, the government did not routinely grant refugee status or asylum.

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

The law provides citizens the right to change their government peacefully, however in practice citizens were not always able to exercise this right. The November elections were marred by fraud, flawed voter registration lists, ballot stuffing, intimidation, and some violence at the polls.

Elections and Political Participation

Multiparty presidential and parliamentary elections in November were marked by irregularities and criticism from multiple sources. Several presidential candidates denounced the elections as fraudulent before the voting concluded. Independent election observers and NGOs noted irregularities at many polling stations. The preliminary results released on December 7 called into question the legitimacy of the electoral process, resulting in public protests and prompting the CEP to review the vote tally. On December 29, as part of an agreement between the government and the Organization of American States, electoral and legal experts began reviewing the results of the first-round elections.

Some restrictions were placed on certain political parties. In November 2009 the CEP considered 69 political parties for the 2010 parliamentary elections and approved 53. The CEP rejected 16 parties, including, for the second time during the year, former president Jean-Bertrand Aristide's party, Fanmi Lavalas, for documentation that was inconsistent, lacked notarization, and did not conform to legal requirements. Other rejected major parties included Union, Popular Solidarity Alliance, Struggling People's Organization, and Fusion. The latter two groups allied under a new party banner, Alternative, which officially boycotted the elections, although many of the party's legislative candidates participated in the elections.

The constitution requires that following local and municipal elections, local officials must hold a series of indirect elections to staff departmental organs of self-government and an interdepartmental council to advise the national government and nominate candidates for the CEP. The law requires that the three branches of the national government select from among these nominees the

council's nine members. Since these indirect elections have not taken place since the constitution was written, the country continued to operate with the presidentially appointed CEP.

The electoral legislation mandated that political parties nominating at least 30 percent female candidates and electing 20 percent of those nominated receive twice as much public financing for those same positions in the next election. None of the political parties met these criteria in the November election. On November 28, two women ran as candidates for president, eight for the Senate, and 55 for deputy seats. Of the deputy candidates, two won their seats outright in the first round, and seven qualified to run in the second round. Mirlande Manigat, one of the female presidential candidates, won approximately 30 percent of the vote, qualifying her to run in the second round.

The monetary deposit required of female candidates for political office (if sponsored by a recognized party) was one-half that required of male candidates. Six women served in the outgoing Senate and Chamber of Deputies, which had a combined membership of 129 legislators; three women served in the 18-member cabinet; and no women served on the Supreme Court.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. According to the World Bank's worldwide governance indicators, government corruption was a severe problem. Corruption remained widespread in all branches and at all levels of government. The constitution mandates that high-level officials and parliament members accused of official corruption be prosecuted before the Senate, not within the judicial system. However, the Senate brought no such prosecutions.

In July the government's Anti-Corruption Unit (ULCC) investigated charges of corruption against Jean Enel Desir, a member of the CEP who represented the Catholic Church. He resigned from his position, and the ULCC's investigation revealed evidence to support the charges. The prosecutor's office had the file but put the investigation on hold because Desir was deemed too ill to stand trial.

In October the Ministry of Justice replaced two judges in Les Cayes who were accused of corruption. There were no further developments in the case at year's end.

There were reports of corruption in the HNP. For instance, affluent prisoners at times obtained favorable conditions of detention. The HNP investigated allegations of police malfeasance, leading to the arrest or termination of employment of some officers. For example in September, the HNP arrested seven officers for alleged involvement in kidnapping and drug gangs. The HNP, with the assistance of UN civilian police, continued efforts to eliminate corruption within its ranks, and the government continued to investigate individuals in the business sector and in government for corruption but brought no charges. The Center for Pleas and Legal Assistance offered judicial assistance to victims and witnesses of government corruption and widely disseminated telephone and e-mail contact information.

Authorities arrested or detained a few low-level public servants, mainly customs officials, on corruption or corruption-related charges.

The director of the Social Security Agency, Sandro Joseph, who was arrested in May 2009 on charges of misuse of funds within the social security system, escaped from prison on January 12. His case had not yet gone to trial.

The ULCC investigation into the use of approximately HTG7.9 billion (\$197 million) of humanitarian assistance provided to the country by Petrocaribe in the aftermath of the 2008 storm season continued at year's end.

The Financial Control and Information Office has responsibility for combating financial crimes. By law the president, the prime minister, cabinet ministers, other high-level public officials, and members of the HNP must declare assets. The ULCC reported in December that 444 public officials had observed the law and filed disclosure statements by the August 30 deadline. This number includes only four senators and 27 deputies, and accounts for less than 10 percent of all public officials. Public officials who do not fulfill this obligation are subject first to a 50 percent reduction in salary, followed by suspension, until they file their statements. However, by the end of the year the government sanctioned no officials for failure to file the disclosures.

The National Commission for Public Markets is charged with certifying and adjudicating public procurement contracts. In September 2009 the law was amended by presidential decree to raise the threshold of contracts subject to oversight. The certification requirement applies for supplies contracts in excess of 300,000 Haitian gourdes (HTG, or approximately \$7,440), public works contracts

in excess of HTG800,000 (approximately \$19,840), and services contracts in excess of HTG2,500,000 (approximately \$62,000).

No law requires public access to government information, but there were no reports that the government prevented public access to government information.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government cooperated with the various human rights observation missions and generally acknowledged their views but lacked the capacity to implement their recommendations. The government permitted special missions and the continued presence of UN bodies and other international organizations such as the ICRC.

The OPC is mandated to protect individuals against any form of abuse by the government. The OPC offered free legal assistance to any citizen who appeared before a court regarding a filed complaint. The OPC took an active role in investigating allegations of government abuse, and worked collaboratively with international organizations.

The Chamber of Deputies and the Senate each had a human rights committee; however, neither committee published any reports or introduced any legislation during the year.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law does not specifically prohibit discrimination on the grounds of race, gender, disability, language, or social status. It does provide for equal working conditions regardless of gender, beliefs, or marital status. However, no effective governmental mechanism administered or enforced these provisions.

Women

The law prohibits and provides penalties for rape but does not recognize spousal rape as a crime. The penalty for rape is a minimum of 10 years of forced labor, increasing to a mandatory 15 years if the victim was less than 16 years old. In the case of gang rape, the maximum penalty is lifelong forced labor. Prosecution was

often not pursued due to lack of reporting and follow-up on victims' claims. Actual sentences were often less rigorous, with sentences for convictions in the past year averaging approximately three years. The criminal code excuses a husband who kills his wife or her partner found engaging in an act of adultery in his home, but a wife who kills her husband under similar circumstances is subject to prosecution. Anecdotal evidence suggested that some younger women were detained after violently resisting sexual attackers, who were sometimes family members. Kidnappers often raped their female abductees.

Reported sexual assault cases increased significantly. HNP statistics showed that 974 rapes were reported by the end of the year, compared with 218 through October 2009. Of these, 84 victims were minors. NGOs noted alarming increases in sexual violence against women in IDP camps. In addition, the increase in the number of reported rapes may be in part a result of the referral and awareness campaign initiated by the UN, in partnership with the HNP and NGOs. On December 22, the Inter-American Commission on Human Rights recommended that the government adopt "urgent measures" to prevent, report, and address violence against women and girls in the IDP camps of the Port-au-Prince area. By year's end, the government had not addressed the commission's recommendations.

In Saint-Marc the Federation for Women of the Lower Artibonite reported that it provided shelter services for 516 women and girls and assisted 909 victims of violence during the year.

Rape was especially common in areas with minimal police presence. Many credible NGOs and government sources believed that urban gangs used rape as a systematic instrument of intimidation. Women's shelters and organizations reported that armed gangs frequently raped and harassed girls and women.

Rape was often treated in society as a relatively minor infraction or a family or community matter instead of a prosecutable offense. Substantial disincentives discouraging victims from reporting rapes included: victims' desire to protect themselves from the social or physical consequences of bringing accusations against the perpetrators, who often lived in the community; tacit cultural acceptance of sexual assault; the lack of sufficient facilities or services at police stations to aid rape victims; the long distances between homes and qualified tribunals; and finally, the slow-moving judicial system that fosters a perception of impunity. However, cases that were heard in court, particularly in Port-au-Prince and Port-de-Paix, sometimes resulted in convictions and stiff penalties. In the 12-month period between October 2009 and October 2010, 48 individuals were

convicted for rape. Their sentences ranged from a fine to a life sentence of forced labor. The average sentence was three to 10 years.

MINUSTAH's Gender-Based Violence (GBV) unit, in partnership with the HNP, mapped GBV referral services to identify organizations providing GBV services by type, assessed the quality of services, and provided more complete information for GBV referral cards. The unit distributed referral cards to community workers and local and international NGOs to facilitate survivor access to appropriate medical, psychosocial, and legal services. MINUSTAH also provided an 18-officer Gender Mobile Unit, staffed mostly with female UNPOL Officers. The two HNP referral centers for victims of sexual violence were damaged by the earthquake. They remained operational, but worked out of limited space in a tent, which they shared with a collocated police station. The HNP does not have a sexual assault or domestic violence unit. The Criminal Unit investigates violence against adult women and the Brigade for the Protection of Minors (BPM) investigates assaults on children. In Saint-Marc the local government commissioner worked closely with the only local NGO offering comprehensive services to sexual assault victims in the region to protect victims' safety and access to the justice system.

The law prohibits and provides penalties for domestic violence against minors, but does not classify domestic violence against adults as a distinct crime. Instead, the Criminal Unit processes crimes of domestic violence against adults (e.g. assault, rape, harassment, etc.). Police figures reported 30 incidents of domestic violence against minors during the year (compared with 38 incidents from January to October of 2009). Women's rights groups and human rights organizations reported that domestic violence against women remained commonplace and underreported. Police rarely arrested the perpetrators or investigated the incidents, and the victims sometimes suffered further harassment and reprisals from perpetrators, sometimes prompting secondary displacement of victims within IDP camps. Corrupt judges often released suspects arrested for domestic violence and rape.

The government, with the support of international donors, sponsored a program for victims of violence that provided medical and legal assistance for victims, as well as a campaign denouncing violence against women.

The law does not specifically prohibit sexual harassment, although the labor code states that men and women have the same rights and obligations. Data concerning sexual harassment in the workplace were not available, although observers suggested that sexual harassment was common. Such incidents went unreported

because of high unemployment and because citizens had little confidence in the ability of the judicial system to protect them.

Couples and individuals have the legal right to decide the number, spacing, and timing of children. UNICEF data indicated that 32 percent of women ages 15-49 used modern contraceptive methods in 2008. Despite high levels of general knowledge of contraceptive methods, women had few opportunities to acquire additional information on family planning methods. The UN Population Fund estimated the maternal mortality ratio in 2008 at 300 deaths per 100,000 live births. Although UNICEF reported that 85 percent of pregnant women received prenatal care at least once during their pregnancy, only 26 percent had a skilled attendant at delivery in 2008. The vast majority of women delivered their babies at home without the benefits of a skilled birth attendant or the ability to find adequate care in the event of complications. Women and men had equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Women did not enjoy the same social and economic status as men. In some social strata, tradition limited women's roles. The majority of women in rural areas remained in the traditional occupations of farming, marketing, and domestic labor. Very poor female heads of household in urban areas also often faced limited employment opportunities, working in domestic labor and sales. Government and private sectors seldom promoted women to supervisory positions.

Children

Citizenship is derived through an individual's parents; only one parent of either sex is necessary to transmit citizenship. Citizenship can also be acquired through a formal request to the Ministry of the Interior.

The government did not register all births immediately and did not keep statistics concerning the number of births unregistered each year. One government report estimated births of more than 10 percent of Haitians were not registered. Birth documents are legally necessary to register for school, open a bank account, apply for credit, gain admission to a hospital, and vote. Individuals without required birth documents were not denied emergency medical services or educational opportunities on that basis. Many official documents were destroyed in the earthquake. The National Archives saw its requests for certified copies of documents more than triple upon reopening after the earthquake, and the Office of National Identification faced long lines for months as people sought to replace lost

or damaged identification cards. Both institutions were overwhelmed by the demand, but addressed the backlog incrementally.

Primary and secondary education was not compulsory, free, and universal. Before January 12, only half of school-age children were enrolled in classes. Almost 5,000 school buildings in the earthquake zone were destroyed or damaged on January 12. Hundreds of teachers and thousands of students were killed. After the earthquake, most schools remained closed through the summer, and reopened in early October. International donors and NGOs worked to build and repair schools. Many families who were not able to get their children into a public school paid for their children to attend private schools, which were generally unaccredited and unregulated.

Credible sources reported that over 200,000 domestically trafficked children worked as indentured household servants, or "restaveks" (see section 7.c.). Approximately 65 percent of these children are girls, and nearly three quarters of them work as servants in the home of relatives. Governmental agencies and programs promoted children's rights and welfare, but the government lacked sufficient resources to support or enforce existing mechanisms adequately.

Children also reportedly worked on the street and in IDP camps in prostitution. Recruitment of children for sexual exploitation, pornography, and illicit activities is illegal. The law prohibits the corruption of youth under the age of 21 years, including by prostitution, with penalties ranging from six months' to three years' imprisonment.

The minimum age of consensual sex is 18. Inefficiencies in reporting and investigating allegations of rape contributed to uncertainties regarding penalties, if any, for statutory rape.

The January earthquake created a large number of displaced children and left many as orphans. In cooperation with the government, NGOs and international donors established health clinics and child-friendly spaces in many of the camps; nevertheless, security issues posed a risk as many children were left on their own during the day.

Port-au-Prince's population of several thousand street children included many who were dismissed from or fled employers' homes or abusive families, but also some children who lost parents or caretakers in the earthquake. Almost 75 percent of street children were boys, according to estimates. NGOs reported that street children were likely to be sexually or otherwise abused, received little or no

education, and were easily exploited by trafficking recruiters. Criminal gangs also reportedly enlisted minors to commit illegal acts.

The Ministry of Social Affairs provided some assistance, such as food and temporary shelter, to street children.

In the aftermath of the January earthquake, many orphans were evacuated to other countries for expedited adoption. The Institute of Social Welfare and Research (IBERS), which oversaw adoptions and orphanages, resumed operations in March. Because IBERS had limited resources, many orphanages remain unregistered and unmonitored. Lack of sanitation, overcrowding, insufficient food, an absence of education, and poor adult supervision characterized many facilities.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

The Jewish community was very small. There were no reports of anti-Semitic acts or other societal abuses or discrimination based on religious affiliation, belief, or practice.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

The constitution and laws do not explicitly prohibit discrimination against persons with physical and mental disabilities, and there were no reports of discrimination by the government against persons with disabilities in employment, education, access to health care, or the provision of other state services. However, because of widespread and chronic poverty, a shortage of public services, and limited educational opportunities, persons with disabilities were severely disadvantaged. According to the National Network for the Defense of Human Rights (RNDDH), approximately 805,000 persons lived with a physical disability during the year.

The earthquake exacerbated the difficulties faced by persons with disabilities, with the RNDDH reporting that 6,000 persons were left with an amputated limb as a result of the earthquake. Only 3 percent of children with disabilities have access to schools.

The Secretariat of State for the Integration of Handicapped Persons (SEIPH) is the lead government agency responsible for providing assistance to and ensuring that the concerns of the disabled are taken into account, especially during the reconstruction phase. SEIPH worked with the UN Health Cluster to coordinate the Injury, Rehabilitation, and Disability working group, which coordinated all activity concerning the rehabilitation of injured persons, the fitting of orthopedic devices, and the provision of assistance to persons with disabilities. SEIPH also signed an agreement with foreign donors to enable the construction in the coming year of a rehabilitation center for persons with disabilities. The center will train teachers and technicians and will provide prostheses and hearing aids. SEIPH's broader mandate is to improve the living conditions of persons with disabilities, raise public awareness on national and international disability issues, strengthen the response capacity of associations or institutions that work on disability issues, and to establish a legal framework for persons with disabilities.

There were no reports of abuse in mental health facilities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There was a minimal presence of lesbian, gay, bisexual or transgender (LGBT) advocacy NGOs operating within the country.

There were no officially confirmed reports of discrimination against the LGBT community, but local NGOs reported that LGBT persons faced widespread societal discrimination including social stigma, targeted physical violence, sexual assault, and employment insecurity. NGOs also reported that such persons did not report human rights violations due to fear of reprisal.

Other Societal Violence or Discrimination

Societal discrimination occurred against persons with HIV/AIDS, particularly women, but educational programs sponsored by foreign donors and efforts by HIV/AIDS activists attempted to change that stigma.

Section 7 Worker Rights

a. The Right of Association

The law allows some workers, excluding public-sector employees, to form and join unions of their choice. The law also prohibits employers, management, and anyone who represents the interests of employers from joining a union. Freelance workers and workers in the informal economy are not covered under the Labor Code. The law requires that a union must have a minimum of 10 members and register with the Ministry of Labor and Social Affairs within 60 days of its formation. Any association with more than 20 members must obtain prior authorization from the government in order to be recognized. In practice most unions were not independent organizations, but extensions of political parties. There were nine principal labor federations representing approximately 5 percent of the labor force.

The labor code provides for the right to strike, with restrictions, and workers exercised this right in practice. The Haitian Labor Code considers four types of strikes legal: workers striking while remaining at their posts; striking without abandoning the institution; walking out and abandoning the institution; and striking in solidarity with another strike. Managers, administrators, other heads of establishments, public utility service workers, and public sector enterprise workers may not strike. The labor code defines public utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." A 48-hour notice period is compulsory for all strikes, and strikes may not exceed one day.

Despite the prohibition there were a few public sector strikes, usually related to the government's failure to pay staff. On April 20, bailiffs and clerks went on strike to demand higher wages from the Ministry of Justice. On July 1, teachers from both public and private schools struck to oblige the Ministry of Education to maintain its commitment to subsidize schools damaged by the earthquake. On July 22, transport workers called for a general strike and urged President Rene Preval to replace the CEP and to satisfy key demands of Haitian drivers and workers. They also protested a "toll" imposed by Haitian authorities at the Malpasse/Jimani border with the Dominican Republic.

b. The Right to Organize and Bargain Collectively

While the law protects trade union organizing activities and stipulates fines for those who interfere with this right, in practice the government made little effort to

enforce the law. High unemployment rates and antiunion sentiment among some factory workers and most employers limited the success of union organizing efforts. Collective bargaining was nonexistent, and employers set wages unilaterally.

Although workers had access to labor courts established to resolve common labor-management disputes, the courts' judgments were not enforced, and as a result labor courts were considered weak and ineffective. Under the supervision of the Ministry of Labor and Social Affairs, the courts are responsible for adjudicating minor conflicts; however unions stated that the process was ineffective. Seven labor courts operated in Port-au-Prince, and in the provinces, plaintiffs utilized municipal courts.

The law prohibits antiunion discrimination by employers, who are liable to a monetary fine for each individual violation. Although illegally fired workers have the right to recoup any compensation to which they are entitled, the law does not specify that employers must reinstate workers illegally fired for union activity.

There are no special laws or exemptions from regular labor laws in the export processing zone in Ouanaminthe, a town on the Dominican border.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including of children; however, there were reports that such practices occurred, namely instances of forced labor among child domestics or restaveks. Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

d. Prohibition of Child Labor and Minimum Age for Employment

The minimum employment age for employment in industrial, agricultural, or commercial companies is 15. The minimum age for apprenticeships is 14. There is no minimum age restriction for work in domestic service and there are no legal penalties for employing children in domestic labor unless the nature or condition of domestic service harms their health, safety, or morals. The law prohibits the exploitation of children, which includes servitude and forced or compulsory labor. The law also prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector. However, children under the age of 15 commonly worked in the informal sector to

supplement family income. Activities and sectors in which children commonly work include domestic work, subsistence agriculture, and street trades, such as selling goods, washing cars, serving as porters in public markets and bus stations, and begging. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers.

Parents unable to care for their children have traditionally sent them to relatives or strangers, who were expected to provide the children with food, shelter, and an education in exchange for housework. Such children were known as *restaveks*. The practice was so entrenched that even poor families routinely kept one or more *restaveks* who came from even poorer families. Parents often offered their children as *restaveks* when they were six years old or younger. Domestic work as a *restavek* was the primary form of child employment, and there was no legal penalty for families that employed *restaveks*. While some host families cared for *restaveks* and sent them to school, most *restaveks* were subjected to abuse and involuntary domestic servitude. Also see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Government and NGO estimates of the number of *restaveks* ranged between 90,000 and 300,000. A 2009 survey estimated 225,000 children work as *restaveks* in urban areas of Haiti alone. The majority of *restaveks* were girls between the ages of six and 14. Host family exploitation of *restaveks* typically included forcing the children to work excessive hours on physically demanding tasks without pay or adequate food, not sending them to school, and subjecting them to physical and/or sexual abuse. Girls were generally placed in domestic servitude in private urban homes, while boys more frequently were exploited for labor on farms. *Restaveks* who did not run away usually remained with the host family until age 14. Labor laws require employers to pay domestic workers over 15 years old, so many host families forced *restaveks* from the household before that age. Others ignored the law, which was not well enforced. Abandoned and runaway *restaveks* constituted a significant proportion of the large population of children living on the street, where many were forced into prostitution or street crime by criminal gangs, while others became street vendors or beggars. The thousands of individuals displaced and/or orphaned as a result of the January earthquake likely increased the number of both *restaveks* and street children.

Although the government charged it with implementation and enforcement of child labor laws and regulations, the Institute of Social Well-Being and Research (IBESR) lacked adequate funding to investigate exploitive child labor cases

effectively. Other factors contributing to ineffective investigation and lack of judicial recourse were border permeability and lack of an adequately trained and equipped police force. Since the January 12 earthquake, there has been improved collaboration between IBESR and the BPM, the 35-person HNP unit responsible for child protection, to remove children from child labor and other dangerous and violent situations. Prior to January 12, the Government of Haiti also established a program in Carrefour to provide basic education, lodging, and food to street children.

e. Acceptable Conditions of Work

On October 1, the daily minimum wage increased from HTG125 (approximately \$3.00) to HTG150 (approximately \$3.60) in the textile sector and remained at HTG200 (approximately \$4.80) in the commercial and industrial sectors. Workers paid at a piecework rate received a minimum of HTG200 per day. For all other industrial and commercial establishments, the daily minimum wage was fixed at HTG200 for eight hours of work. The minimum wage would put a household's income at about twice the average in Haiti, but still provided for only a minimal standard of living. Minimum wage levels were often not effectively enforced.

Most citizens worked in the informal sector and subsistence agriculture, in which minimum wage legislation does not apply, and daily wages of HTG15 (\$0.37) were common. Many women worked as domestic employees, an area of work also exempted from minimum wage legislation.

The law sets the standard workday for industrial, commercial, and agricultural establishments at eight hours and the workweek at 48 hours, with 24 hours of rest. It also provides for the payment of overtime and prohibits excessive compulsory overtime. However, the law grants exemptions to health care, lodging, food and beverage, and entertainment establishments; managerial positions; and family establishments that employ only family members. The Labor Directorate may grant exemptions for other employers not specifically exempted by the law. These laws were not effectively enforced. The law is also silent concerning public sector employees. Due to staff shortages and special events, salaried HNP officers sometimes worked 12-hour shifts six days per week and received no overtime, although they received standardized bonuses at year's end. HNP officers had also not been incorporated into the standardized government schedule of benefits after their initial three-year probationary contracts. In severely understaffed regions, officers sometimes worked longer hours to serve the needs of their communities.

The law also establishes minimum health and safety regulations. The industrial and assembly sectors largely observed these guidelines, but the Ministry of Labor and Social Affairs did not effectively enforce them. No group collected formal data, but unions alleged job-related injuries occurred frequently in the construction and public works sectors. Although they have the legal right to do so, in practice workers could not exercise the right to remove themselves from dangerous work situations without jeopardizing their continued employment.