

Republic of Haiti

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Access to Judicial Remedies in Haiti

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INTRODUCTION

1. Under Article 2 of the International Convention on Civil and Political Rights (ICCPR) and the Haitian Constitution (Constitution), Haitian citizens have the right to effective judicial remedies, including competent legal systems that address rights violations.¹ Widespread poverty, corrupt elites, and lack of political will for government accountability perpetuate a broken system in Haiti, despite repeated attempts to reform the country's judicial system.

2. Lack of access to education prevents much of Haitian society from understanding the justice system. French is the official language of Haiti, and is the language in which legal proceedings are conducted and legal materials are printed, but the majority of Haitians speak only Haitian Creole.²

3. Widespread poverty creates barriers to judicial access, as litigation costs are unaffordable for most Haitians.³ Haiti is among the poorest countries in the world. It has an unemployment rate of 60 percent and approximately 77 percent of Haitians live below \$2 per day.⁴ The Haitian Government (Government) does not sponsor legal assistance, and only a handful of organizations offer legal-aid to those who cannot afford it.⁵ Consequently, most Haitians do not have access to the formal justice system or legal remedies.

4. The justice system reinforces exclusionary practices that prevent the poor and non-elite from asserting their rights.⁶ Class discrimination permeates legal training and conditions lawyers and judges to favor the powerful while discounting both the testimony and legal needs of the poor.⁷ Widespread corruption, racketeering, intense backlogs, under-resourcing, and gender discrimination intensify existing barriers to justice.⁸

5. This report addresses five key aspects of the justice system that the Government must address to further Haitians' right to effective legal remedies and access to justice. These five aspects include:

- a. Discrimination against women and Lesbian, Gay, Bisexual, and Transgendered (LGBT) persons at each level of the justice system discourages victims of gender-based violence from seeking justice.⁹
- b. Executive and legislative interference and control over the judicial system interferes with Haiti's democratic principles of separate and balanced powers and perpetuates impunity.
- c. The Government's lack of political will to prosecute the collaborators of former dictator Jean-Claude "Baby Doc" Duvalier, which is emblematic of the larger problem of failing to hold government agents accountable for corruption and human rights abuses.¹⁰
- d. The Government has failed to protect lawyers, leaders of human rights organizations, members of the press, and others who publicly challenge the Government's impunity from harassment and attack. On the contrary, the Government is often complicit in persecution and the abuse of judicial procedures for political ends.¹¹
- e. Pre-trial detainees are systematically denied access to judicial remedies. Prisons fail to provide rehabilitation and social reformation. Due to severe overcrowding and inhumane conditions, current prison conditions amount to cruel and unusual treatment.

II. HAITIAN AND INTERNATIONAL LEGAL FRAMEWORK AND PRACTICE

6. Under the Haitian Constitution, international treaties, once ratified, become a part of the legislation of Haiti and abrogate any pre-existing, conflicting laws.¹² Haiti acceded to the ICCPR on February 6, 1991.¹³ ICCPR Article 2.3 guarantees the right to an effective remedy for rights violations regardless of the status of the actor who has committed the violation, and makes it incumbent on the State to ensure that this right is upheld. The Constitution also establishes the right to life, health, and respect of the human persons

pursuant to the Universal Declaration of Human Rights (UDHR).¹⁴ Additionally, Haiti ratified the Convention on the Elimination of Discrimination against Women (CEDAW) in 1981, Article 3 of which requires the State to undertake “appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”¹⁵

7. General Comment No. 3 emphasizes that States parties’ obligation under the ICCPR “is not confined to the respect of human rights, but...States parties have also undertaken to ensure the enjoyment of these rights to all individuals under their jurisdiction. This aspect calls for specific activities by the States parties to enable individuals to enjoy their rights.”¹⁶ General Comment No. 31 further states “[c]essation of an ongoing violation is an essential element of the right to an effective remedy” as Article 2.3 “requires that in addition to effective protection of Covenant rights States Parties must ensure that individuals also have accessible and effective remedies to vindicate those rights...The Committee attaches importance to States Parties’ establishing appropriate judicial and administrative mechanisms for addressing claims of rights violations under domestic law.”¹⁷ A State Party’s failure to investigate allegations of violations could give rise to a separate breach of the ICCPR.¹⁸

III. IMPLEMENTATION: PROMOTION AND PROTECTION OF HUMAN RIGHTS IN HAITI

8. As Gustavo Gallón, the Independent Expert on the Situation of Human Rights in Haiti noted in his February 2016 report to the Human Rights Council, “[h]aving a State built on the rule of law is one of the main challenges facing Haiti and it is something that the country direly needs.”¹⁹ He went on underscore that reestablishing the position of Deputy Minister for Human Rights and relaunching the work of the Interministerial Committee on Human Rights would play a critical role in ensuring human rights issues are “accorded due prominence when tackling the causes of the country’s sharp inequality.”²⁰

A. Access to Judicial Remedies for Victims of Violence Motivated by Gender and Sexual Orientation

9. The Government’s efforts to advance women’s and LGBT rights fall short of fulfilling its obligations under the ICCPR, CEDAW, and UDHR.²¹ Failure to provide equal access to justice for women and LGBT persons denies victims the right to a remedy and breeds systemic, long-term victimization and distrust of the legal system.²²

10. Reports of gender-based violence in Haiti have increased since 2009.²³ Instability in the aftermath of the 2010 earthquake exacerbated vulnerabilities of women and LGBT persons and incited further sexual violence, human trafficking and domestic abuse.²⁴ Women and LGBT persons – especially in rural areas – face grave disadvantages in social, economic, and political sectors because of this violence along with longstanding hostility in the justice system.²⁵

11. Conservative religious traditions reinforce the Government’s discriminatory practices, and emphasize rigid gender roles. Cultural norms favor men and the elite, relegating women and LGBT persons to an inferior and dependent caste.²⁶ Gender-based and homophobic violence is not only expected, but normalized; many believe men have the prerogative to punish women, and sexual minorities frequently suffer harassment, physical violence, and “corrective” rape.²⁷

12. Political instability and gender discrimination impact the Government’s will to enact long-term policies advancing equality,²⁸ leaving the under-resourced judiciary with antiquated legal codes and procedures dating as far back as 1825.²⁹ As noted in CEDAW’s list of issues, paragraph 10, a 2012 constitutional amendment mandated that women hold at least 30 percent of elected offices.³⁰ Measures taken to satisfy this requirement – such as the quota in the 2015 Electoral Decree governing procedures for valid elections – are insufficient, as women are still underrepresented at all levels of government,³¹ with not a single woman currently in Parliament. This imbalance violates CEDAW Article 7, and solidifies the Government’s male-centered focus.³²

13 Vague legislation and arbitrary judicial standards further impede prosecution of sexual violence. The Decree of July 6, 2005 criminalizes rape but fails to specify the elements of the crime, and does not mention marital rape and domestic violence.³³ Officials routinely refuse to pursue rape cases if victims lack a medical certificate obtained within 72 hours of the assault to prove force even though it is not legally required for prosecution.³⁴ Arbitrary standards, high litigation fees, prolonged waiting, and risk of public shaming commonly make prosecuting untenable for women and LGBT victims.³⁵ Consequently, many have no access to the justice system and little incentive to report crimes, which is in violation of ICCPR Articles 2.3, 3, and 14.³⁶

14. Victim-blaming and negligent investigation and prosecution are commonplace in cases of sexual violence, given pervasive sexism, taboos, under-resourcing and corruption in the justice system.³⁷ Severe docket backlogs and inadequate judicial salaries present advantages for those who can afford to pay to have cases heard or advanced.³⁸ Without bribes, government officials at all levels are less likely to process complaints.³⁹ Victims already facing stigmatization for reporting a crime can be easily pressured to drop complaints due to the menace of re-traumatization, homophobia, threats and intimidation from the court, and financial strain.⁴⁰ To most victims without an education or stable income, litigation is impracticable.

15. Systematic denial of equal access to justice perpetuates cycles of poverty and vulnerability among women and LGBT persons.⁴¹ Illiteracy and lack of technical training in a system rife with sexism and homophobia bar many from formal employment, frequently leaving women and LGBT persons financially dependent on an intimate partner.⁴² Illiterate persons, in particular, are often unaware of their rights, remedies and resources available, like public health and legal advocacy organizations.⁴³

16. Lack of legislation prohibiting both sexual harassment and discrimination based on sexual orientation further nurtures a culture of underreporting, arbitrary judgment and impunity for abusers.⁴⁴ Without specific protection of their rights, those accused confront a double hurdle of legal ambiguity and cultural bias.⁴⁵ Sexual harassment constitutes gender discrimination prohibited by ICCPR Articles 1, 2.1, 3, and 14, but it is still not proscribed by Haiti's labor code.⁴⁶ Lack of legal remedy for sexual harassment, compounded with its status as a cultural taboo, induces victims to remain silent for fear of retaliatory dismissal and stigmatization.⁴⁷

B. Lack of an Independent Judiciary in Haiti

17. Despite the Government's democratic principles of separate and balanced powers, the judicial branch is not independent in reality. Article 60 of the Constitution mandates the autonomy of the Legislative, Executive and Judicial branches.⁴⁸ In March 2015, the Bar Association of Port-au-Prince adopted Haiti's first code of professional conduct that calls upon lawyers to exercise their functions with dignity, independence, humanity, and respect for the principles of honor and loyalty.⁴⁹

18. After his second mission to Haiti in 2014, Independent Expert Gallón reported, "the dilatoriness and passive stance of the judicial system; interference by the executive and legislative branches in judicial decisions and the weak operating capacity of the High Council of the Judiciary" contribute to lack of public confidence in the administration of justice.⁵⁰ In 2016 Independent Expert Gallón noted that "[t]he judicial system must have stronger guarantees of independence and the High Council of the Judiciary must be helped to operate more effectively."⁵¹ He called on the Government to "build greater credibility for the institutions fighting impunity, especially in cases involving murder (starting with those attributed to agents of the State), sexual violence and attacks against human rights defenders."⁵²

19. One of Haiti's most critical obstacles to judicial independence is corruption.⁵³ Allegations of corruption are rarely investigated or punished because many judicial agents are complicit in acceptance of bribes and preferential treatment of the elite.⁵⁴

20. Limited finances also means insufficient resources to train progressive judges and police.⁵⁵ Many students enter law school intending to reform the legal system, but the vast majority of graduates never join

the bar because they cannot pay costs associated with two post-graduation requirements: preparation of a *memoire* or master's thesis, and a two-year apprenticeship with a licensed lawyer. Both requirements prevent economically-disadvantaged Haitians who are often more progressive than their wealthy colleagues from becoming lawyers and challenging elitism.⁵⁶

21. Another obstacle to judicial independence is political interference. Various Presidents and their cabinets, including President Michel Martelly, who's term ended in February 2016, have pressured and interfered with the judiciary in a number of ways, including nominating and dismissing judges (bypassing the authority and mandate of the *Conseil Superior du Pouvoir Juridique* (CSPJ)), and assigning favored judges and prosecutors to politically-sensitive cases.⁵⁷ As of May 2014, the mandate of 81 judges across Haiti had not been renewed in defiance of the CSPJ's recommendations, often because authorities recommended other candidates.⁵⁸ In October 2014, the government removed three judges, promoted one, and nominated another, also without the consent of the CSPJ.⁵⁹ In response, three members of the CSPJ submitted a joint statement against interference of the executive power in the functions of the judiciary.⁶⁰

22. The illegal appointment of unqualified Judge Lamarre Belizaire is a recent example of Executive Branch interference.⁶¹ President Martelly appointed Belizaire in 2012 as a trial court judge in Port-au-Prince (Tribunal de Premiere Instance). Belizaire, who lacked the requisite eight-years of legal experience and did not observe the mandatory three-year rest period between being a prosecutor and judge in the same district, was unqualified for the position.⁶² Yet, he was assigned to politically-charged cases and even cases outside of his jurisdiction.⁶³ In August 2014, as political opposition coalesced and pressured Martelly for fair and free elections, Belizaire was assigned several cases targeting opposition leaders.⁶⁴

23. Another example of political interference is the death of Judge Jean Serge Joseph in July 2013.⁶⁵ In the course of his investigation of President Martelly's wife and son for corruption, Joseph reportedly called high-ranking government officials as witnesses. In response, Martelly summoned Joseph to a private meeting on July 11, 2013, where the Prime Minister, Minister of Justice, and President of the Port-au-Prince Court of First Instance were also present, and ordered that he drop the case. Two days later, Joseph died from a cerebral hemorrhage. The Haitian Senate formed a Special Committee to look into Joseph's suspicious death. On August 8, 2013, after examining evidence, the Committee concluded that a) Judge Joseph died of stress caused by pressure from the high-ranking government officials; b) the Executive Branch violated the judiciary's independence; and c) the President, Prime Minister, and Minister of Justice lied to the Committee and the nation when they denied their presence in the July meeting.⁶⁶ Despite these findings, no further investigation or sanctions were imposed upon these officials.

C. Prosecution of Jean-Claude Duvalier

24. The criminal prosecution of former dictator Jean-Claude "Baby-Doc" Duvalier and his family highlights the challenges Haitians face in regards to an independent judiciary and access to fair legal services. Pursuing the case against Duvalier's co-defendants, despite Duvalier's death in 2014, is essential the government is to fight impunity and address access to legal services and remedies under Haitian law as well as the ICCPR.⁶⁷ In his February 2016 report, the Independent Expert Gallón remarked that it was crucial that these proceedings continue and move forward against Duvalier's cohorts in the dictatorship, particularly in light of the fact that there has been no significant progress since 2014.⁶⁸ He went on to remark that for progress to be made "the investigating judge must be assured independence, security measures need to be strengthened and additional resources (human, physical and financial) must be made available to follow through with this high-profile and symbolic case."⁶⁹

25. Following a 2011 dismissal of charges of political violence crimes against Duvalier on statute of limitations grounds, an appellate court reinstated the charges in 2013, ruling that the statute of limitations does not apply to crimes against humanity under international law.⁷⁰ The political violence charges were included along with previous financial criminal allegations. The dismissal came after newly elected President Martelly appointed a new prosecutor who asked the judge, also new to the case, to dismiss it.⁷¹

Various UN bodies and Inter-American Commission applauded the reinstatement, reminding the Government of its obligation to investigate and punish crimes against humanity.⁷²

26. Despite reinstatement, the Appellate Court judge conducting the investigation still struggles with a non-cooperative government and inadequate resources,⁷³ leading to lengthy delays.⁷⁴ The Government has not allocated necessary resources to the investigating judge, nor has it taken any special measures to protect the judge or victims and witnesses involved.⁷⁵ Similarly, obstacles remain in regards to the financial crimes. This is especially clear in the complicity of Swiss officials in Duvalier's embezzlement of Haitian funds. Over six million dollars, held in Swiss accounts and cleared for restitution, have yet to be remitted to Haiti.⁷⁶

27. With the Appellate Court's decision to reintroduce the political violence charges, a symbolic and progressive victory is attainable and could impact the judicial system.⁷⁷ While the current political climate in Haiti presents challenges to pursuing the prosecution, it cannot be used as justification to further delay the prosecution of Duvalier's co-defendants responsible for the grave human rights violations committed.⁷⁸ Furthermore, their victims cannot be denied the justice they deserve.⁷⁹

D. Persecution and lack of Protections for Human Rights Defenders and Press in Haiti

28. Since President Martelly took office in 2011, human rights defenders and members of the Haitian press have called for improved government accountability for judicial-political scandals, human rights abuses, and deteriorating socio-economic conditions.⁸⁰ Haitians' constitutional rights to freedom of expression (Article 28), freedom of petition (Article 29), and the right to information (Article 40) are frequently violated.⁸¹ Due to public government criticism, leading human rights defenders and members of the Haitian press have received death threats, been placed under police surveillance, faced false criminal charges, and been assassinated.⁸² The Government has failed to investigate and punish crimes or provide judicial remedy for human rights defenders and the press, which violates the Constitution (Articles 16, 19, 24, 26, 27, 28) and ICCPR Article 2.⁸³

29. During the ongoing, contested 2015-2016 election process, the National Human Rights Defense Network (RNDDH) reported targeting, beating, and arbitrary arrest of many journalists and human rights defenders protesting the Martelly government.⁸⁴ The Government's failure to hold itself and others accountable for threats and criminal activity, along with its failure to provide effective legal remedies for the press and human rights defenders perpetuates this climate of fear and impunity.

1. Human Rights Defenders

30. Human rights defenders like Oxygène David, a leader of the grassroots organization Movement for Liberty and Equality by Haitians for Fraternity (MOLEGHAF), have been arrested without cause, illegally detained, and forced to leave their residences for fear of governmental retribution. Said persecution violates the right to security of person and to freedom from arbitrary arrest or detention (ICCPR Article 9), the right to free movement and choice of residence (ICCPR Article 12), and the right to be free from arbitrary or unlawful interference with their privacy (Article 17).⁸⁵ In 2014, the General Coordinator of the Platform for Haitian Human Rights Organizations (POHDH) Daniel Dorsainvil and his wife were murdered after publishing a report criticizing the Government. The police investigation of the double homicide has been stalled and no criminal charges have been filed. Several leaders and members of Commission of Women Victims for Victims (KOFAVIV), an organization founded by rape survivors to support rape survivors, have fled Haiti after threats and attacks in 2013 and 2014. KOFAVIV filed complaints with the police, but insufficient measures have been taken to investigate or to ensure adequate protection so members can fully enjoy their rights to liberty and security, in violation of ICCPR Article 2 (right to effective judicial remedy), Article 9 (right to security of person and to freedom from arbitrary arrest or detention) and Article 17 (right to be free from arbitrary or unlawful interference of privacy).⁸⁶

31. Lawyers of human rights activists are also targeted for their work for improved government accountability.⁸⁷ Haitian lawyer Mario Joseph with the *Bureau des Avocats Internationaux*, a finalist for

the 2013 Martin Ennals Award for human rights defenders, received repeated death threats for his work on several high profile cases, including representing victims of Duvalier in criminal court.⁸⁸ The threats were so severe that the Inter-American Commission on Human Rights (IACHR), issued several precautionary measures for human rights defenders in 2012 and 2013, requesting that Haiti adopt any necessary measures to guarantee Joseph's and other human rights defenders' lives and personal integrity. The Human Rights Committee also expressed concern and asked the Haitian government to fully investigate.⁸⁹

2. Freedom of Expression and Press

32. Similarly, the Government has failed to protect Haitian media groups. In October 2013, President Martelly's security guards beat Rodrigue Lalane from *Radio Télévision Kiskeya*, who has yet to recover any remedy. As antigovernment demonstrations increased in November and December 2015 in response to complaints of election fraud, so did attacks against the media.⁹⁰ Journalist Elie Pierre was killed by unknown gunmen, and cameraman Samus David François was beaten with his own tripod by Haitian police.⁹¹ In the early morning of December 1, the office of *Radio Télé Kiskeya* in Port-au-Prince was fired upon by unknown assailants.⁹² Witnesses say journalists were also attacked during December 2015 protests, having their cameras and equipment destroyed or stolen by protesters and police.⁹³ In February 2016, former then-President Martelly, with his band "Sweet Mickey," performed a song that called for physical and sexual violence against journalists Jean Monard Metellus and Liliane Pierre-Paul, fueling further threats and promoting violence against the press.⁹⁴

33. Haitian and foreign journalists have described access to government documents and data as nearly impossible, reporting obstruction to information if they report news critical of the government administration, in violation of their right to information (Article 40 of the Constitution).⁹⁵ Furthermore, the National Telecommunications Council (CONATEL), which issues licenses to radio stations, has attempted to sanction and shut down over 50 programs critical of the Government, on the grounds that these programs "disturb order, [and] destabilize the Republic's institutions."⁹⁶ These shut downs and threats directly impede access to information as well as Haitians' right to criticize the Government without fear of retribution (Article 40 of the Constitution; ICCPR Article 1, 2, 17, 19).

34. Defamation in Haiti carries both criminal and civil penalties, creating a chilling effect on journalists.⁹⁷ Under the Martelly government, the defamation law was increasingly used to imprison journalists for "slandorous accusations" against public officials, judicial authorities, and law enforcement preventing many in the media from freely expressing their opinions (Article 19).⁹⁸

E. Pre-trial Detention

35. In 2015, the Inter-American Court on Human Rights (IACtHR) ordered the Haitian government to comply with its 2008 judgment in *Yvon Neptune v. Haiti*, requiring the Government to bring its prisons within international minimum standards by 2010.⁹⁹ Additionally, the Constitution mandates an initial hearing within 48 hours of a detainee's arrest and notification to detainees of their right to free counsel throughout prosecution.¹⁰⁰ Despite these provisions and the IACtHR's judgment, Haiti's pre-trial detention scheme is still cited as one of the worst in the world and is the fundamental crisis fueling its prison system failure.¹⁰¹

36. Eighty percent of prisoners are in the pre-trial stage, often for three to five years, and some as long as ten years.¹⁰² The Independent Expert Gallón in February 2016 reiterated his call for Haitian authorities to end prolonged pretrial detention.¹⁰³ Poor pre-trial detainees are systematically denied access to judicial remedies. If a detainee's case progresses through the system, duties of justices of the peace, police, and investigating magistrates are divided illogically. Courts often rely on the victims themselves to present evidence. Cases are frequently thwarted when officials misunderstand their roles.¹⁰⁴ These time-consuming failures incite Haitians, distrustful of the justice system, to seek vigilante justice. Judges refuse cases for fear of vigilante justice and report receiving death threats.¹⁰⁵

37. There are many reports of arbitrariness and force amounting to cruel, inhumane or degrading (CID) treatment during arrests. Police have been accused of aiming gas canisters directly toward persons in order to incapacitate them.¹⁰⁶ Others are arrested on sham charges motivated by political agendas. Often, detainees are not arrested in the process of committing a crime and are never informed of the charges against them, both of which violate the Constitution.¹⁰⁷

38. Since 2010, Haitian prison occupancy has risen from 403% to 804% (approximately 11,000 prisoners. This figure does not account for the number of detainees in police stations for which estimates are unavailable).¹⁰⁸ The per-prisoner allocation of approximately .55 square meters has been described as “inhumane, degrading conditions,” by the Independent Expert.¹⁰⁹ Prisoners are forced to rotate sleeping on sparse floor space. In the Les Cayes prison, 572 intimates share nine showers and ten toilets.¹¹⁰ Overcrowding creates unacceptable sanitation; prisoners use the same untreated water for bathing and drinking; poor ventilation systems expose prisoners to fecal matter; rats and insects infest the cells; and illnesses like malaria and drug-resistant tuberculosis spread rampantly in this environment.¹¹¹ Constitutional Article 23 guarantees “protection, maintenance and restoration” of citizens’ health, but there are no isolation wards for sick prisoners and medical aid is rarely provided.¹¹² Malnourishment further exacerbates prisoners’ health. Given just one or two daily meals, well below their nutritional needs, prisoners regularly contract diarrhea and scabies.¹¹³

39. The Haitian prison system offers virtually no rehabilitation and social reformation, which is prisons’ fundamental purpose under the ICCPR.¹¹⁴ Survival is prisoners’ main concern. Pre-trial detainees and post-conviction inmates are housed together, in violation of the Constitution.¹¹⁵ There are several reports of correctional officers physically and psychologically torturing prisoners.¹¹⁶ The conditions wrought by prisons functioning at such a disastrous capacity alone amount to cruel, inhumane and degrading treatment. As the IACHR found in *Yvon Neptune*, prisons not only fail to provide rehabilitation and social reformation, they actively violate prisoners’ basic human rights.¹¹⁷

40. Tens of thousands of Haitian children are denied any access to or communication with their imprisoned parent. A large majority of Haiti’s 11,000 prisoners, both pre-trial and those serving prison sentences, are parents and are denied visitation by their children. The government has an obligation under ICCPR Article 23 to protect family ties, which requires them to consider the special needs, challenges, and the value of facilitating the parent-child relationship during the incarceration of the parent. The government should immediately recognize the established rights of children of incarcerated parents to continue their family relationship with their detained parent.

IV. QUESTIONS

GBV/LGBT Violence

1. What efforts has the Government made to create and notify civil society of legal measures -- for instance, the issuance of restraining orders -- to prevent imminent acts of gender-based violence against women and LGBT individuals?
2. What measures has the Government taken to pass the proposed Violence Against Women Bill and revised Penal Code (still pending before Parliament), to criminalize intimate partner abuse, marital rape, and sexual harassment; and assure that government officials do not arbitrarily mandate medical certificates?
3. How has the Government encouraged women to run for elected offices? What is the Government’s plan to achieve the Constitutional quota of 30% participation of women? What is the Government’s plan to increase women’s participation in the justice system?
4. What training program(s) are in place, and what programs are planned, that are designed to ensure that public officials responsible for responding to incidents of sexual violence receive sensitivity training

addressing the psychological, emotional and physical trauma and implications of gender-based violence? Such training is critical to ensuring officials are equipped to respond adequately and appropriately to complaints.

5. Making available information in Haitian Creole and French on civil rights and judicial resources available to women and LGBT victims of violence is an important step in ensuring access to and participation in the justice system. What steps can be taken to ensure the distribution of such information, including by the Ministry of Justice and the Ministry of Women?

HR Defenders/Freedom of Press

6. What steps are being taken to increase financial support and capacity building for the Office of Protection of Citizens (OPC) and the Interministerial Committee on the Rights of Persons (CIDP)? How is collaboration with civil society to fulfill their joint-mission of protecting human rights being encouraged?
7. How is compliance with international legal standards being ensured in the case of the national defamation legislation, particularly with regard to the elimination of criminal sanctions in that area?
8. Training of law enforcement on the protection of rights under the Constitution and ICCPR is critical to ensuring threats and attacks against human rights defenders and members of the press are investigated in a full and timely manner. These measures include:
 - (1) Outline the legal protections of freedom of expression, petition, and access to information to prevent unlawful arrests;
 - (2) Teach law enforcement how to provide security, while not interfering in the right to peacefully protest; and
 - (3) Enforce civil and criminal penalties for corruption and excessive use of force by law enforcement.

What measures has the Government adopted to ensure this training is provided to the appropriate actors?

9. Legal rights training for journalists is critical. What support has the Government provided the Ministry of Communication in the provision of this training and capacity building?
10. The shutdown policies of CONATEL should be reviewed to ensure adherence with both the Constitution and ICCPR. What steps has the Government taken to ensure this adherence? What types of activities can the Government support -- for instance, notification and training of judges, legislators and lawyers on the legality of these policies -- to ensure that CONATEL's actions are in compliance with both domestic and international legal standards?

Lack of Independent Judiciary

11. A strong framework to oversee the regulation and evaluation of members of the judicial system is critical to ensuring an independent judiciary. How is the Government supporting bar associations and the CSPJ to develop a stronger regulatory framework to discipline judges, prosecutors, and lawyers? Has the Government considered establishing a judicial inspection body within the CSPJ to track and evaluate judges' cases as a way to evaluate judges' performance in an objective manner?
12. Has the Government reached out to community-based organizations support them in empowering Haitians to know their rights and to access justice without the use of corruption?

13. What steps can the Government take to develop a pay scale and working environment that affords greater dignity to judges and other court officials, and discourages acceptance of bribes?
14. What steps have been taken to implement an electronic record-keeping system for the court and prison system? How can documents and court proceedings be made available in Creole?
15. How can support be provided to *École de la Magistrature* (EMA) to train a professional judiciary, focusing on recruiting more competent candidates and providing practical on-the-ground casework training?
16. How has the Government encouraged law schools to prioritize legal ethics training to ensure lawyers receive training on legal skills and strategies to represent clients without corruption?

Trial of Duvalier

17. What support is the Government providing the Appellate Court judge to continue the investigation of Duvalier's co-defendants, including ensuring that the relevant government agencies comply with relevant court orders and witnesses receive all necessary protection?
18. What concrete steps is the Government taking to ensure that the funds embezzled by Duvalier are returned from Switzerland to Haiti?

Pre-trial detention

19. How is the Government ensuring full compliance with the decision by the Inter-American Court on Human Rights' decision in *Yvon Neptune v. Haiti*?
20. What concrete measures is the Government undertaking to reduce the duration of pretrial detention and to conform with international standards and reduce overcrowding? Can the Government require simplified procedures to determine the legal status of persons in prolonged pretrial detention in order to process them and free the judicial system to deal with the most serious cases?
21. What is the Government doing to ensure that detainees are informed of charges against them and appearing before a judge within 48 hours of arrest? How is the Government ensuring that those with petty offense should be sent to a justice of the peace in place of prison?
22. What steps are being taken to provide detainees, who cannot otherwise afford it, with free legal counsel throughout engagement with the judicial system?
23. What concrete steps are being taken to ensure that every prisoner is provided, at a minimum, suitable clothing, three meals a day that fulfill nutritional standards, and a bed?
24. What is the Government doing to ensure that pre-trial detainees are housed separately from post-conviction prisoners, as required by the Constitution?
25. How can the Government ensure that there are designated areas for medical isolation, and that physical and mental medical aid is available?
26. What steps has the Government taken to recognize the rights of incarcerated parents to continue their involvement in their children's lives? Has the Government considered the creation of a committee to study and make recommendations for the prompt establishment of a safe and secure children's prison visitation program for children with an incarcerated parent?
27. What steps is the Government taking to ratify the Convention Against Torture and its Optional Protocol, and what is the timeframe for the ratification?

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- ¹ International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), Dec. 16, 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171 (ratified by Haiti on Feb. 6, 1991) (published by decree on Jan. 7, 1991).
- ² Inter-American Commission on Human Rights, *The Right of Women in Haiti to be Free from Violence and Discrimination*, OEA/Ser.L/V/II, doc. 64 para. 127 (2009) [hereinafter 2009 IACHR Report]; United Nations Children Fund (UNICEF), *At a Glance: Haiti*, (Mar. 2, 2010), available at: http://www.unicef.org/infobycountry/haiti_statistics.html.
- ³ 2009 IACHR Report, *supra* note 2, at para 122.
- ⁴ See, e.g., The World Bank, *2014 World Development Indicators* (2014), available at: <http://data.worldbank.org/sites/default/files/wdi-2014-book.pdf>; United Nations Development Program (UNDP), *Human Development Report 2013* (2013), available at: http://hdr.undp.org/sites/default/files/reports/14/hdr2013_en_complete.pdf; U.N. Independent Expert on the Situation of Human Rights in Haiti, *Rep. of the Independent Expert on the Situation of Human Rights in Haiti*, U.N. Doc. A/HRC/25/71 (Feb. 7, 2014) (by Gustavo Gallón) [hereinafter 2014 Report of the Independent Expert].
- ⁵ 2009 IACHR Report, *supra* note 2, at para 122.
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