



## HAITI'S UPR: ACCESS TO JUDICIAL REMEDIES

Under Article 2 of the ICCPR and the Haitian Constitution, Haitian citizens have the right to effective judicial remedies, including a competent legal system that address rights violations. Widespread poverty, a judicial system that caters to Haiti's elite, and lack of political will for government accountability perpetuate a broken system that prevents the poor from asserting their rights.

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.”

Haiti faces critical obstacles to an independent judiciary, including pervasive corruption and frequent political interference, such as the unauthorized nomination and dismissal of judges by the previous Michel Martelly government. 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. Allegations of corruption are rarely investigated or punished because many judicial agents are complicit in acceptance of bribes and preferential treatment of the elite. The failure of the State to adequately pursue the prosecution against the co-defendants of Jean-Claude “Baby-Doc” Duvalier after Duvalier’s death in 2014 highlights the challenges to an independent judiciary and fair legal services.

The government does not provide adequate protection for human rights defenders and journalists, who have received death threats, false criminal charges, been placed under police surveillance and have been assassinated; incidents which the government has failed to adequately investigate and punish.

Despite Constitutional provisions mandating an initial hearing within 48 hours of arrest and the Inter-American Court on Human Rights’ 2008 judgment in *Yvon Neptune v Haiti*, which ordered the Government to bring its prisons within international minimum standards by 2010, Haiti’s pre-trial detention scheme is still one of the worst in the world and is the fundamental crisis fueling its prison system failure. Eight years later, 80% of prisoners are in the pre-trial stage for three to five years, and some as long as ten years.

### QUESTIONS

1. 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?
2. What steps is the Government taking to enable the judicial system to effectively combat impunity, per the Human Rights Council’s 2012 recommendation (88.110)? For example, how is the Government supporting bar associations and the Supreme Council of the Judiciary (CSPJ), to develop a stronger regulatory framework to discipline judges, prosecutors, and lawyers?
3. 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?
4. What measures has the Government adopted to ensure training of law enforcement on the protection of rights under the ICCPR, particularly the rights of human rights defenders and the press?
5. 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?
6. What support is the Government providing the Appellate Court to continue the investigation of Jean-Claude Duvalier’s co-defendants, including ensuring that the relevant government agencies comply with relevant court orders and witnesses receive all necessary protection? (see HRC 2012

recommendation 88.111)

7. How is the Government ensuring compliance with the Inter-American Court on Human Rights' 2007 judgment in *Yvon Neptune v. Haiti* to bring conditions in Haiti's existing prisons up to international standards, in terms of access to food, safe drinking water, healthcare, and recreation time?

### **Recommendations**

1. Increase freedom of speech protections for journalists; eliminate criminal sanctions for defamation charges.
2. Enable the judicial system to effectively combat impunity, per the Human Rights Council's 2012 recommendation (88.110). For example, support the ministry of justice, bar associations and the Supreme Council of the Judiciary to develop stronger regulatory framework to discipline judges, prosecutors, and lawyers.
3. Establish a judicial inspection body within the Supreme Council of the Judiciary to track and evaluate judges' cases as a way to evaluate judges' performance in an objective manner.
4. Provide training to law enforcement on the protection of rights under the ICCPR, particularly the rights of human rights defenders and the press.
5. Implement an electronic record-keeping system for the court and prison system to track and advance pretrial detention cases. All court documents and court proceedings should be available in Creole.
6. Support the Appellate Court's investigation of Jean-Claude Duvalier's co-defendants; ensure that government agencies comply with relevant court orders and witnesses receive necessary protection.
7. Ensure full compliance with the Inter-American Court on Human Rights' 2007 judgment in *Yvon Neptune v. Haiti* to bring prison conditions up to international standards, including prisoners' access to food, safe drinking water, healthcare, and recreation time.