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**Children's Rights**

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## I. EXECUTIVE SUMMARY

1. This report focuses on children's rights in Haiti. Haiti has a very young population where approximately 50 percent is under 18 years old.<sup>i</sup> While the Haitian Government, in cooperation with international partners, has taken some steps to address the issues raised in this report, those steps are woefully inadequate. First, this report addresses children's right to health focusing on malnutrition and the cholera epidemic. Second, it addresses children's right to special protection, focusing on children with disabilities, child victims of trafficking and sexual violence. Third, it addresses children's Right to Housing. And lastly, it addresses protection for children in conflict with the law.

2. Before the devastating January 12, 2010 earthquake, it was estimated that 2,000 children in Haiti were kidnapped or trafficked every year;<sup>ii</sup> however, following the earthquake conditions ensuring protection for the children of Haiti have worsened considerably. Among facilities destroyed by the earthquake were many of the schools in Port-au-Prince and its surrounding cities; many health centers and hospitals. As a consequence, conditions have worsened considerably in the past year. As a result, the Haitian Government's responsibility to provide protection for the children of Haiti has only gotten greater and the government must intensify its efforts to implement international children's rights.

## II. NORMATIVE AND INSTITUTIONAL FRAMEWORK

3. The Haitian Constitution provides that: "The State has the absolute obligation to guarantee the right to life, health, and respect of the person for all citizens without distinction, in conformity with the Universal Declaration of Human Rights."<sup>iii</sup> Those rights also encompass protection for children's rights."<sup>iv</sup> Addressing employment, the Haitian Constitution requires the minimum age for gainful employment to be set by law and requires special laws to govern the work of minors.<sup>v</sup>

4. International human rights law and norms also establish minimum standards that State Parties must implement to effectively protect children's rights. The Universal Declaration of Human Rights (UDHR) sets forth minimum standards, and these are reiterated in treaties to which Haiti is a State Party, including the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of Persons with Disabilities (CRPD). Haiti's international human rights treaty obligations are self-executing and once ratified, become a part of the legislation of the country abrogating any laws in conflict with them.<sup>vi</sup>

5. In addition to general human rights protection, the UDHR provides specific protection for children's rights. For example, the UDHR provides protection against any form of slavery.<sup>vii</sup> It guarantees children the right to be registered at birth<sup>viii</sup> and be recognized as persons before the law.<sup>ix</sup> Under the UDHR, children are also protected from arbitrary arrest<sup>x</sup>; they are guaranteed the right to housing<sup>xi</sup> and the right to education.<sup>xii</sup>

6. Haiti has ratified the CRC in 1995, a legally binding instrument, but has not signed the two protocols<sup>xiii</sup> attached to the Convention. When the Haitian government ratified the CRC, it agreed to protect and ensure children's rights and agreed to hold itself accountable for this commitment before the international community. Article 3 of the CRC requires State Parties to “ensure that the institutions, services and facilities responsible for the care or protection of children shall conform [to] the standards established by competent authorities, particularly in the areas of safety, health . . . .”<sup>xiv</sup> While Haiti has ratified the CRC since 1995, the Haitian parliament has yet to adopt a children’s code that will implement the provisions of the CRC.

7. Furthermore, Article 34 of the CRC commits Haiti to “undertake to protect the child from all forms of sexual exploitation and sexual abuse.” To prevent “[t]he inducement or coercion of a child to engage in any unlawful sexual activity; [t]he exploitative use of children in prostitution or other unlawful sexual practices. . . .” Next, Article 35 mandates that states take all appropriate measures “to prevent the abduction of, the sale of or traffic in children . . . .” In addition to the CRC, the CEDAW ratified in 1981, also provides protection from sexual violence to girls.

8. Haiti ratified both the Convention on the Rights of Persons with Disabilities (CRPD) and the attached Protocol on July 23, 2009. Pursuant to Article 3, the principles of the Convention include: (1) “full and effective participation and inclusion in society;” and (2) equality of opportunity and accessibility. State Parties are required under Article 3 to adopt all appropriate legislative, administrative and other measures to implement the rights recognized in the CRPD.

### III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

#### A. The Right To Life, Survival And Development

##### a. Right To Health

9. The right to health is addressed in the CRC, the UDHR<sup>xv</sup> and in the International Covenant of Economic Social and Cultural Rights (ICESCR). In addition to Article 4 of the CRC, Article 12.2 of the ICESCR also addresses the right to health, and requires states to take affirmative steps to improve children’s health and to reduce child mortality. Because Haiti ratified the CRC, its failure to ratify the ICESCR does not absolve the government of its responsibility to guarantee children’s right to health.

10. Haiti has struggled to provide adequate health care for its children and the country’s lack of a public health system has left children in a dangerous situation.<sup>xvi</sup> In a March 2006 report, UNICEF found that one of every fourteen infants in Haiti never reaches their first birthday. The infant mortality rate is worse than any other country in the Latin American and Caribbean regions.<sup>xvii</sup> Chronic malnutrition, indicative of rampant poverty, is compounded by the lack of public health expenditures for children.<sup>xviii</sup> Prior to the earthquake, it was estimated that “diarrhea accounted for 16% of the deaths in children under 5 . . . .”<sup>xix</sup> To exacerbate the situation, the earthquake

damaged the country's power, water and sanitation systems, and the deterioration in quality of these vital utilities has created a major health risk.<sup>xx</sup> This risk became a catastrophe when in October 2010 Haiti was hit with a cholera outbreak.<sup>xxi</sup> To date, the cholera outbreak has infected 215,936 and caused 4,131 deaths.<sup>xxii</sup>

11. As the cholera outbreak indicates, the Haitian Government's response to providing preventive services for children is widely inadequate. Malnutrition affects the child's development which affects the child's ability to learn and ultimately affects the child well into adulthood. Thus, the government must aggressively tackle those issues despite its lack of resources. To combat cholera, the Ministère de la Santé Public et de la Population (MSPP) has cooperated with international partners such as Medecins Sans Frontières, to establish cholera treatment centers across the country. In addition, radio stations routinely play public education programs to inform the population on prevention methods to avoid contracting cholera.<sup>xxiii</sup>

12. However, the number of casualties indicates that the MSPP's response lacked efficiency; due in part to pre-existing lack of resources. The number of fatalities is likely to worsen in the coming months if the government does not aggressively undertake meaningful steps to address the lack of water and sanitation infrastructure. In that endeavor, the Haitian government must pay particular attention to the right to life and the right to health of children from poor families. Those children, like all children, must have access to basic services such as preventive medical care, food and water to combat child malnutrition and child mortality.

#### **b. Right To Housing<sup>xxiv</sup>**

13. The right to housing is intricately linked to children's rights and wellbeing. Over a year after the earthquake that rendered 1.5 million people homeless,<sup>xxv</sup> lack of access to adequate housing continues to affect the security, physical and mental health of children. In a January 2011 report on the anniversary of the earthquake, UNICEF estimated that 380,000 children still remained displaced and living in about 1,200 tent camps.<sup>xxvi</sup> Forced evictions from Internally Displaced Persons (IDP) camps present a particularly urgent problem that disproportionately affects children and other vulnerable groups. Over a quarter of those living in IDP camps, 233,941 individuals, including small children, orphaned children, and single mothers have either been evicted or face an immediate threat of eviction.<sup>xxvii</sup>

14. Property owners often employ a combination of coercive strategies and violence to pressure IDPs to leave their camps, resulting in children and their families being subjected to widespread abuse and constant uncertainty regarding their living situations. Forced evictions have led to the separation of families and fragmentation of communities, shattering critical safety nets for children in post-disaster situations.

15. Haitian civil procedure sets out clear sets out a clear eviction process through the *action possessoire*, which has to be brought before a justice of the peace, but most evictions are currently carried out extra-judicially. International agencies involved in the

negotiation process rarely pressure or require property owners to use the legal system, and sometimes abet illegal evictions by complying with purported landowner requests to cease providing essential services.<sup>xxviii</sup> International human rights standards also protect IDPs faced with eviction. In addition to a range of human rights treaties that protect the right to adequate housing, the UN Guiding Principles on Internal Displacement contain a number of procedural safeguards that must be fulfilled prior to eviction, including consultation with those affected, reasonable notice, and detailed communication regarding the eviction process. Living under tarps and tents is already a violation of the children's right to housing, however when these families are evicted, they are mostly left with no alternative and often become even more vulnerable to abuse.<sup>xxix</sup> The government must prioritize providing adequate housing to families still living under tarps and tents throughout Port-au-Prince and its surroundings cities.

#### **a. Right to Education<sup>xxx</sup>**

16. The Haitian Constitution provides individuals with the specific right to education. In particular the Haitian Constitution provides that: “the State recognizes the right of every citizen to decent housing, *education*, food and social security . . . . The State guarantees the right to *education*. It sees to the physical, intellectual, moral, professional, social and civic training of the population.” (Emphasis added).<sup>xxxi</sup> While the Constitution of Haiti provides a right to free compulsory primary education to all children,<sup>xxxii</sup> almost half of all primary school-age children do not attend school. Haiti's education system is among the world's most privatized. Only 8% of Haitian schools are funded by the state, often with additional fees expected to be paid by families. The other 92% of schools are privately owned with students expected to pay tuition that most Haitian parents are unable to pay.<sup>xxxiii</sup> Furthermore, it is estimated that nearly 80% of teachers do not hold teaching degrees.<sup>xxxiv</sup> According to the CIA World Factbook, Haiti ranked 177th in the world in education spending in 2007.<sup>xxxv</sup>

17. Due in part to the lack of affordability of Haitian schools, only fifty-five percent (55%) of primary-school-age children in Haiti attend school, while less than 1/3 of those enrolled reach the fifth grade.<sup>xxxvi</sup> In addition, only around 4 per cent of disabled children actually attend school.<sup>xxxvii</sup> After primary school, students attend secondary school, and unfortunately do not fare much better. In the Haitian government's 2007 Growth and Poverty Reduction Strategy Paper, of the 123,000 students admitted to Haitian secondary schools in 2004, only 67% were able to receive secondary schooling.<sup>xxxviii</sup>

18. Education for Haitian parents is one of the most valuable things they can provide to their children. Unfortunately, education in Haiti is a luxury that most Haitian parents cannot afford, particularly because most schools in Haiti are private. Unlike the parents, education expenditure does not seem to be a priority for the Haitian government. As a result, the literacy rate in Haiti is only at a dismal 53 percent;<sup>xxxix</sup> the lowest in the region.

## **B. The Right To Protection From Harmful Influences, Abuse And Exploitation**

### **a. Trafficking**

19. International law specifically mandates that State Parties to the CRC take measures to combat the illicit transfer and non-return of children abroad.<sup>xi</sup> To meet this end, State Parties are expected to enact bilateral and multilateral agreements in order to prevent the trafficking of children.<sup>xii</sup> Article 35 of the CRC directs State Parties to protect children against abduction and trafficking.

20. Following last year's earthquake where a large number of children were separated from their families, Haitian authorities caught ten American missionaries attempting to cross the Haitian border into the Dominican Republic with 33 children without any documentation for them. Following that incident, the *Institut du Bien Etre Social et de Recherche* (IBESR) placed the children at the SOS Children's Villages in Santo, Haiti. All thirty-three children have since been reunited with their families.<sup>xiii</sup> While all the children have been reunited with their families, that incident illustrates the vulnerability of Haiti's children. Since then, IBESR in collaboration with UNICEF and the Organization of American States, of which Haiti is a member, created a nationwide civil registration campaign "focusing on children living in institutions and spontaneous sites and expanding to all children throughout the country."<sup>xiii</sup>

21. The Brigade for the Protection of Minors (BPM) formed in 2003, is a specialized unit of the Haitian National Police.<sup>xiv</sup> The BPM mission consists of preventing juvenile delinquency and supporting police investigations into cases involving child victims of sexual assault, abuse, and exploitation.<sup>xv</sup> The brigade also has a mandate to protect children's physical and psychological integrity.<sup>xvi</sup> "Since UNICEF started funding the BPM in April 2010, 8,000 children have been identified as extremely vulnerable within the camps.<sup>xvii</sup> The BPM has also screened 7,000 children passing through the border and of those, 1,400 were found not to have the right paperwork.<sup>xviii</sup> Thirty five people have been arrested on suspicion of offences relating to kidnapping<sup>xix</sup> but under current legislation, there is no law against trafficking in Haiti."<sup>i</sup>

22. While has taken a positive step in establishing the BPM, it is underfunded and understaffed, unable to fully respond to child protection problems when they arise. In addition, the Haiti/Dominican Republic border is not adequately monitored allowing many Haitian children to be trafficked to the Dominican Republic. Because the CRC is a legally binding instrument, Haiti's failure to provide protection for its children from coercion to engage in unlawful sexual activity is a violation of Haiti's international obligations.

### **b. Sexual Violence Against Girls<sup>ii</sup>**

23. Among many of the other issues facing girls in Haiti, sexual violence against their person is one of the most invasive and traumatizing experiences many of them have experienced. Under the CRC, "States Parties undertake to protect the child from all forms

of sexual exploitation and sexual abuse. . . .” They should take appropriate measures to prevent: “(a) [t]he inducement or coercion of a child to engage in any unlawful sexual activity; (b) [t]he exploitative use of children in prostitution or other unlawful sexual practices.”<sup>liii</sup> CEDAW General Recommendation No. 19 affirms that the duty of States not to engage in acts of gender-based violence extends to the liability for failure to act with due diligence to prevent, investigate and punish acts of violence.

24. Sexual violence against women in general was increasing even before the earthquake and girls accounted for more than 50 percent of all rapes.<sup>liii</sup> Based on non-governmental organizations reporting of sexual violence cases in 2008, those groups found that the number of cases of women and girls victim of sexual violence increased 40 percent, from 1,100 cases in 2007 to 1,600 in 2008.<sup>liv</sup> The January 2010 earthquake served to exacerbate existing gender inequalities. Though official statistics are lacking, there is overwhelming evidence from grassroots groups living and working in displacement camps that the problem of sexual violence, specifically, the rape of women and girls, has dramatically escalated in the highly unstable and insecure environment of post-earthquake Haiti.

25. The Haitian government has taken several steps over the past few years to address issues of gender based violence. For example, the Ministry of Women's Affairs and Women's Rights and the Gender Unit of the UN Stabilization Mission in Haiti (MINUSTAH) have been implementing a National Plan to Combat Violence against Women since 2006.<sup>lv</sup> However, these measures fall far short of the problem, especially with respect to protection for girls. In view of the increase in violence against women and girls, the government is simply failing in its duty to protect girls against sexual violence.

26. One grassroots women’s group working in over two dozen IDP camps recorded two times the number of incidents of sexual violence recorded in the year 2010 in January 2011 alone. Certain grassroots women organizations have experienced a lack of cooperation on the part of the Ministry of women’s conditions Women’s Ministry and international actors to recognize or work with those grassroots organizations from some of the poorest areas of Port-au-Prince. Furthermore, members of KOFAVIV (Komisyon Fanm Viktim pou Viktim – Commission of Women Victims for Victims) have expressed their frustration with Haitian police in their failure to properly investigate the complaints. Women and girls have reported instances where the victims were told to capture and transport their attackers to the police themselves. Other problems with the HNP include police officers not showing up to participate in scheduled joint patrols, especially night patrols.<sup>lvi</sup>

27. Because Haiti lacks an effective legal system “[a]pprehended perpetrators often escape punishment, because shoddy investigations do not hold up in court or perpetrators benefit from corruption in law enforcement, the judiciary and the penitentiary system. Specifically with regard to sexual . . . violence, the gravity of such crimes is often not understood by Haitian law enforcement and justice officials on the ground.”<sup>lvii</sup> The Haitian police needs to be better trained to respond to victims of sexual violence and to understand the sensitive nature of each case when presented.

### c. Children With Disabilities

28. The earthquake left Haiti coping with a great number of physically disabled people, including children. Handicap International estimated that between 2,000 and 4,000 amputations were performed in the days following the earthquake.<sup>lxviii</sup> Accordingly, international partners stressed that “persons with disabilities must not become the forgotten ones during the emergency response and the reconstruction of the country.”<sup>lix</sup> As such, Article 23-3 of the CRPD requires States Parties to “prevent . . . abandonment, neglect and segregation of children with disabilities,” [by providing] “early and comprehensive information, services and support to children with disabilities and their families.”<sup>lx</sup>

29. In 2009, the UN estimated that around 200,000 children had mental<sup>lxi</sup> or physical handicap in Haiti.<sup>lxii</sup> Many handicapped children are abandoned because it is both more expensive to take care of them and there is a history of shunning the disabled who are considered a burden to their already struggling families.<sup>lxiii</sup> A report published in the Miami Herald in 2009, documented how disabled children are often abandoned in a ward of the General Hospital.<sup>lxiv</sup> The hospital ward is only intended to be a temporary accommodation for the children, however abandoned children with no prospect for adoption, are left lingering at the hospital.<sup>lxv</sup> Advocates have urged the Haitian government to facilitate and promote adoption of those children so that they have an opportunity to learn and live a normal life.<sup>lxvi</sup>

30. As a signatory to this convention, Haiti is mandated to prevent children with disabilities from being discarded or at the very least to ensure that, if abandoned, those children are adopted or put in foster care.<sup>lxvii</sup> However, the Haitian government does not have a program promoting the adoption of children with disabilities; nor does it have a program educating parents of disabled children to prevent their abandonment. Nevertheless Haiti has made some progress towards the integration of the disabled in Haitian society. For example, in 2007, the « Secrétairerie d'Etat à l'Intégration des Personnes Handicapées » (SEIPH) was established by a presidential decree. SEIPH's mission is to work in prevention and integration of the disabled population.<sup>lxviii</sup>

31. In response to the earthquake, advocacy groups have formed camps consisting of at least one disabled person per family. One such camp is camp SOHAMO which stands for Solidarité des Handicapés Moteurs.<sup>lxix</sup> From speaking to camp leaders of SOHAMO, there has been some collaboration with SEIPH. The camp has to date received cholera prevention training from SEIPH and education regarding camp members' rights as persons with disabilities. Parents of some of the disabled children at the camp, speak of the difficulties they have taking their children to school. One mother in particular talked about having to carry her 5 year old boy whose left leg was amputated at the knee after the earthquake because his prosthetic leg was too heavy and he was unable to walk with it.

32. Not only is it difficult for disabled children to go to school, most schools in Haiti are not built with access for disabled children in mind. While most schools are in fact private, even the public schools do not provide such access. The onus is upon the Haitian government to require the private schools to allow easier access to students with disabilities. The Chamber of Deputies voted on the draft law on the Integration of Persons with Disabilities in May 5, 2010. The law has been transmitted to the Senate for ratification, but the Senate has yet to take up the measure.<sup>lxx</sup> The government is urged to encourage the Haitian parliament to pass this law.

#### **d. Children in Conflict With the Law**

33. Article 40 of the CRC establishes “a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.” Haitian law sets this age at 13 years old. Article 50 of the Haitian Penal Code provides that when a child over 13 years and under 16 years violates the law, he shall simply be admonished or given to his parents, his guardian or the person having custody. Or sent to any other institution of remedial education, in order to receive a moral, civic, and professional education for the number of years the offence requires.

34. While the Haitian Penal Code prohibits the incarceration of children under 16 years old, children less than 16 years old are routinely held in prison, as noted in a study conducted by the Institute for Justice & Democracy in Haiti (IJDH).<sup>lxxi</sup> In that study, it was found that at the time of interview, 22 prisoners were younger than 18, the age of majority in Haiti. Further analysis revealed that 27 prisoners were minors at the time they were arrested, suggesting that five turned 18 during custody. In addition, the sample included one 13-year old, one 14-year old, and two 15-year olds. Additionally, minors were not segregated from the adult population, as required by Haiti’s international treaty obligations under the American Convention on Human Rights.<sup>lxxii</sup> In the IJDH study, it was found that pre-trial detention, used in Haiti to detain juveniles who have not been convicted of a crime, accounted for 22.2% of the arrests.<sup>lxxiii</sup>

35. Pre-trial detention is a gross violation of children’s right under both Haitian and International laws. Haitian law addressing children in conflict with the law is greatly outdated. Thus, the Haitian government should urge the parliament to pass a Family Code which will provide mechanism to deal with children in conflict with the law. The institutions of remedial education as required under the Penal Code are nonexistent. Thus, children accused of a crime, are incarcerated and often held in pre-trial detention without the benefit of due process. Outside of Port-au-Prince there are no separate prisons for children, and in some cases children are incarcerated with adults.<sup>lxxiv</sup> Accordingly, steps must be taken to improve prison conditions and to prevent pre-trial detention.

## **IV. RECOMMENDATIONS**

36. In light of the foregoing, we suggest that the Haitian government implement the following recommendations:

- a. Promptly sign the two protocols of the CRC.

- b. Urge the Haitian parliament to pass a children code to implement the CRC.
- c. With respect to child trafficking:
  - i. Immediately pass legislation criminalizing child trafficking
  - ii. Provide increase monitoring of the Haiti-Dominican Republic border in different parts of the country.
  - iii. Ensure that every Haitian child is registered at birth and recognized as a person before the law.
- d. With respect to children in Conflict with the Law:
  - i. Implement the requirement under Haitian law to establish at least 3 children courts in the country.
  - ii. Ensure that children arrested for infractions are immediately brought in front of a judge and not held in preventive detentions.
  - iii. Develop alternative methods of holding children accountable for their illegal acts by focusing more on rehabilitation, and less on punitive measures.
- e. With respect to Sexual Violence:
  - i. Install police stations in the camps and deploy regular police patrol in the IDP camps to ensure that the IDPs feel safe and that they can trust the police.
  - ii. Provide better training for police officers in responding to victims of sexual violence. Provide more women police officers to deal with girl victims of sexual violence.
  - iii. Provide police officers with instruction in conducting effective rape investigations.
- f. With respect to children with disabilities:
  - i. Sign and ratify the Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities.
  - ii. Empower the SEIPH in its campaign to educate the public in appropriate language to be used in addressing children with disabilities.
  - iii. Demand that the new Senate vote into law the legislation regarding the disabled passed last year by the Chamber of Deputies.
  - iv. Ensure that all public schools take into account accessibility for children with mental and physical disabilities.

## ANNEX: Endnotes

<sup>i</sup> Office of the Special Envoy for Haiti, Key Statistics, <http://www.haitispecialenvoy.org/relief-and-recovery/key-statistics/> (accessed March 17, 2011).

<sup>ii</sup> Glenn Milner and Caroline Gammell, The Telegraph, Haiti Earthquake: children sold by traffickers for as little as 76 pence each, <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/haiti/8328850/Haiti-earthquake-children-sold-by-traffickers-for-as-little-as-76-pence-each.html> (February 21, 2011).

<sup>iii</sup> 1987 Constitution de la Republique d’Haiti, Art. 19 (available at <http://pdba.georgetown.edu/constitutions/haiti/haiti1987.html>).

<sup>iv</sup> *Id.* art. 261

<sup>v</sup> *Id.* art. 35-6. *See also* Restavèk report submitted by Restavèk Freedom.

<sup>vi</sup> *Id.* art. 276-2.

<sup>vii</sup> Article 4 of the UDHR. Child labor, known as restavèk is a practice that is deeply ingrained in Haitian society.

<sup>viii</sup> *See* Walter Kaelin, Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Human Rights of Internally Displaced Persons in Haiti: memorandum based on a working visit to Port-au-Prince (October 12-16, 2010) (available at [ijdh.org/wordpress/wp-content/.../Kalin-Statement-2010-Haiti-English.pdf](http://ijdh.org/wordpress/wp-content/.../Kalin-Statement-2010-Haiti-English.pdf)) (The situation is intensified within the tent camps in the country following the earthquake. Many children born in those tent camps are simply not registered and are thus susceptible to being sold and trafficked).

<sup>ix</sup> *See* Universal Declaration of Human Rights, art. 6, GA Res. 217(III), UN GAOR, 3d sess., Supp. No. 13, UN Doc. A/810 (1948) (specifying the right to be recognized as a person before the law).

<sup>x</sup> *Id.*, art. 9.

<sup>xi</sup> *Id.*, art. 25.1.

<sup>xii</sup> *Id.*, art. 26.1.

<sup>xiii</sup> One optional protocol addresses the sale of children, child prostitution and child pornography. It creates obligations on governments to criminalize and punish the activities related to these offences. The other Optional Protocol addresses the involvement of children in armed conflict.

<sup>xiv</sup> UN Convention on the Rights of the Child, art. 3, GA Res. 44/25, UN GAOR (1989) (providing that: “[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”).

<sup>xv</sup> UDHR, art. 25 (stating that: “[e]veryone has the right to a standard of living adequate for the health . . . of himself and of his family, including food . . . housing and medical care and necessary social services . . .”).

<sup>xvi</sup> *See* Lucy Basset, *Nutrition Security in Haiti: Pre- and Post Earthquake Conditions and the Way Forward*, En Breve Number 157, 2 (newsltr. of The World Bank) (June 2010) (Available at [http://www-wds.worldbank.org/external/default/main?pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64187510&searchMenuPK=51564153&theSitePK=523679&entityID=000356161\\_20100928025515&searchMenuPK=51564153&theSitePK=523679](http://www-wds.worldbank.org/external/default/main?pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64187510&searchMenuPK=51564153&theSitePK=523679&entityID=000356161_20100928025515&searchMenuPK=51564153&theSitePK=523679)) (Before the earthquake, it was estimated that 40% of the population did not have access to potable water and 80% had no access to sanitation facilities.).

<sup>xvii</sup> *See* UNICEF, *Child Alert: Haiti*, No. 2 (March 2006) (available at <http://www.unicef.org/childalert/haiti/>) (Low immunization was found to be a major factor in high level of infant mortality rates. “Many Haitian children have no access to basic health services at all. In rural and urban areas alike, cost and distance are barriers to healthcare. Those facilities that exist tend to be poorly situated, understaffed and inadequately supplied. Substandard private health facilities fill the gap between government capacity and public demand.”).

<sup>xviii</sup> *Id.* (“Rates of chronic malnutrition among Haitian children are also high, especially in rural areas. It is estimated that across the country, almost one quarter of all children under the age of five suffers from moderate to severe malnutrition a developmental inheritance that can leave children with an intellectual and physical deficit for the rest of their lives.”).

<sup>xix</sup> UN PAHO/WHO, *Earthquake in Haiti – One Year Later: PAHO/WHO report on the health situation*, [http://www.who.int/entity/hac/crises/hti/haiti\\_one\\_year\\_after\\_january2011.pdf](http://www.who.int/entity/hac/crises/hti/haiti_one_year_after_january2011.pdf) (January 2011).

<sup>xx</sup> *Id.*

<sup>xxi</sup> Centers for Disease Control and Prevention, *Cholera Confirmed in Haiti*, <http://www.cdc.gov/haiticholera/situation> (posted October 21, 2010).

<sup>xxii</sup> UN OCHA, *Cholera Outbreak: update*, <http://ochaonline.un.org/tabid/6412/language/en-US/Default.aspx> (updated February 4, 2011).

- <sup>xxiii</sup> USAID, *Haiti-Cholera*, Fact Sheet No. 4, FY 2011 (November 26, 2010) (available at [http://www.usaid.gov/our\\_work/humanitarian\\_assistance/disaster\\_assistance/countries/haiti/template/fs\\_sr/fy2011/haiti\\_ch\\_fs04\\_11-26-2010.pdf](http://www.usaid.gov/our_work/humanitarian_assistance/disaster_assistance/countries/haiti/template/fs_sr/fy2011/haiti_ch_fs04_11-26-2010.pdf)).
- <sup>xxiv</sup> See Right to Housing Report submitted by Groupe d'Action pour la Defense des Droits Humains en Haiti GADH, You.Me.We, and IAT.
- <sup>xxv</sup> Teeluck Bhuwanee, UNESCO, UNESCO Haiti 1 (June 2010) (available at [unesdoc.unesco.org/images/0018/001883/188343e.pdf](http://unesdoc.unesco.org/images/0018/001883/188343e.pdf)).
- <sup>xxvi</sup> Unicef, Children in Haiti: one year after -- the long road from relief to recovery, [http://www.unicef.org/infobycountry/files/Children\\_in\\_Haiti\\_-\\_One\\_Year\\_After\\_-\\_The\\_Long\\_Road\\_from\\_Relief\\_to\\_Recovery.pdf](http://www.unicef.org/infobycountry/files/Children_in_Haiti_-_One_Year_After_-_The_Long_Road_from_Relief_to_Recovery.pdf) (January 2011).
- <sup>xxvii</sup> Camp Coordination Camp Management Cluster, International Organization for Migration, *Haiti: displacement tracking matrix v2.0 update 2,13* (March 16, 2011) (available as pdf report at <http://www.cccmhaiti.info/page.php?id=89>).
- <sup>xxviii</sup> Observations from human rights lawyers working with the Internally Displaced.
- <sup>xxix</sup> See Right to Housing Report and Gender Based Violence report submitted by MADRE, KOFIVIV, FAVILEK and KONAMAVID, endorsed by IJDH and BAI.
- <sup>xxx</sup> See Right to Education report submitted by AVS.
- <sup>xxxi</sup> 1987 Constitution of la Republique d'Haiti. Preamble, Art. 22, 32.
- <sup>xxxii</sup> *Id.* Art. 22, 32-33.
- <sup>xxxiii</sup> Ketty Luzincourt and Jennifer Gulbrandson, United States Institute of Peace Special Report, *Education and Conflict in Haiti: rebuilding the education sector after the 2010 earthquake 2* (July 2010) (available at <http://www.usip.org/publications/education-and-conflict-in-haiti>).
- <sup>xxxiv</sup> *Id.*
- <sup>xxxv</sup> See <https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html>.
- <sup>xxxvi</sup> See [http://www.unicef.org/infobycountry/haiti\\_statistics.html#67](http://www.unicef.org/infobycountry/haiti_statistics.html#67)
- <sup>xxxvii</sup> See Secrétairerie d'Etat à l'Intégration des Personnes Handicapées (SEIPH) *Rapport d'Activités 2007-2011*.
- <sup>xxxviii</sup> Supra note 29
- <sup>xxxix</sup> See [www.foodforthepeople.org](http://www.foodforthepeople.org).
- <sup>xl</sup> UN Convention on the Rights of the Child, Art. 11.
- <sup>xli</sup> *Id.*
- <sup>xlii</sup> UNICEF works to reunite children with their families in Haiti, [http://www.unicef.org/infobycountry/haiti\\_53157.html](http://www.unicef.org/infobycountry/haiti_53157.html)
- <sup>xliii</sup> Unicef, Children in Haiti, 13.
- <sup>xliv</sup> See Amnesty International, *Haiti: no protection for girls against sexual violence*, <http://www.amnesty.org/en/for-media/press-releases/haiti-no-protection-girls-against-sexual-violence-20081127> (November 27, 2008) (In a 2008 report, Amnesty International has reported that the BPM is severely understaffed and provides little protection to girls victims of sexual violence.)
- <sup>xlv</sup> See Le Nouvelliste, *Pour le renforcement de la brigade des mineurs*, <http://www.lenouvelliste.com/article.php?PubID=1&ArticleID=70502> (May 26, 2009).
- <sup>xlvi</sup> *Id.*
- <sup>xlvii</sup> Benjamin Steinlechner, UNICEF, *UNICEF Executive Director Makes First Official Visit to Post-Earthquake Haiti*, [http://www.unicef.org/infobycountry/haiti\\_56269.html](http://www.unicef.org/infobycountry/haiti_56269.html) (September 30, 2010).
- <sup>xlviii</sup> Milner and Gammell, <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/haiti/8328850/Haiti-earthquake-children-sold-by-traffickers-for-as-little-as-76-pence-each.html>.
- <sup>xlix</sup> *Id.*
- <sup>l</sup> *Id.*
- <sup>li</sup> See Gender Based Violence Report submitted by KOFIVIV
- <sup>lii</sup> Art. 34 of CRC.
- <sup>liii</sup> Athena Kolbe and Royce Hutson, *Human Rights Abuse and Other Criminal Violations in Port-au-Prince, Haiti: a random survey of households* (August 31, 2006) (available at [www.ijdh.org/pdf/Lancet%20Article%2008-06.pdf](http://www.ijdh.org/pdf/Lancet%20Article%2008-06.pdf)) (Where 4.6 percent of all female children surveyed were victim of sexual abuse).
- <sup>liv</sup> UN WOMEN, More women denounce rape and violence in Haiti, <http://www.un-instraw.org/global-gender-news/more-women-denounce-rape-and-violence-in-haiti.html> (accessed March 18, 2011).
- <sup>lv</sup> *Id.*

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<sup>lvi</sup> Kaelin, Human Rights of Internally Displaced Persons in Haiti: Memorandum based on a Working Visit to Port-au-Prince, 9.

<sup>lvii</sup> *Id.*

<sup>lviii</sup> Handicap International, A Year of Action in Haiti (December 22, 2010) (available at [http://www.handicap-international.us/fileadmin/files/documents/Dec\\_22\\_Haiti\\_SitRep\\_FINAL.pdf](http://www.handicap-international.us/fileadmin/files/documents/Dec_22_Haiti_SitRep_FINAL.pdf)).

<sup>lix</sup> UN News Service, *Needs of Haiti's Disabled Must Not be Forgotten, Says UN expert Body*, <http://www.un.org/apps/news/story.asp?NewsID=33715&Cr=Haiti&Cr1> (February 9, 2010).

<sup>lx</sup> *See also* CRC Art. 23.

<sup>lxi</sup> *See* Lucy Basset, Nutrition *Security in Haiti: Pre- and Post Earthquake Conditions and the Way Forward*. (“Harmful deficiencies in key micronutrients cause a range of cognitive and physical problems, including mental retardation, blindness, and reduced physical productivity.” In addition, “59% of school-aged children were iodine deficient. An estimated 29,000 children are born mentally impaired due to iodine deficiency annually.”).

<sup>lxii</sup> Mike Thomson, Haiti: after the storm, [http://news.bbc.co.uk/today/hi/today/newsid\\_8393000/8393135.stm](http://news.bbc.co.uk/today/hi/today/newsid_8393000/8393135.stm) (published December 4, 2009).

<sup>lxiii</sup> *Id.* *See also* *Haiti should take care of disabled children*, <http://minustah.org/?p=15942> (September 2, 2009).

<sup>lxiv</sup> *See* MINUSTAH, <http://minustah.org/?p=15942> (September 2, 2009).

<sup>lxv</sup> *Id.*

<sup>lxvi</sup> *Id.*

<sup>lxvii</sup> *See* UN Convention on the Rights of Persons with Disabilities, art. 30(5).

<sup>lxviii</sup> *See* Secrétairerie d’Etat à l’Intégration des Personnes Handicapées (SEIPH), Rapport d’Activités 2007-2011, [http://www.seiph.gouv.ht/SEIPH\\_Bilan\\_2007-2011.pdf](http://www.seiph.gouv.ht/SEIPH_Bilan_2007-2011.pdf) (accessed March 2, 2011) (In the report, the SEIPH main goals were to: (1) reinforce the structure of the institution; (2) lead a big sensibility campaign; (3) facilitate access to basic services to persons with limited mobility; (4) pursue a legislation that is purely Haitian.

<sup>lxix</sup> The camp is dedicated solely to the elderly and people with some sort physical disability. It is located in the Michiko neighborhood of Cité Soleil. At the time of the visit to the camp (on March 8, 2011), they had 80 families consisting of about 320 persons, but approximately 10 children with some form of physical disability.

<sup>lxx</sup> *See* Secrétairerie d’Etat à l’Intégration des Personnes Handicapées (SEIPH), *Rapport d’Activités 2007-2011*.

<sup>lxxi</sup> Institute for Justice & Democracy in Haiti, *Health & Human Rights Prison Project*, at 7-12 (February 2008) (available at <http://www.ijdh.org/pdf/HHRPP.pdf>) [hereinafter IJDH Prison Project].

<sup>lxxii</sup> *Id.*

<sup>lxxiii</sup> Kolbe, and Hutson, *Human Rights Abuse and Other Criminal Violations in Port-au-Prince, Haiti*.

<sup>lxxiv</sup> US Dept of State, Bureau of Democracy, Human Rights, and Labor, *2008 Human Rights Report: Haiti*, <http://www.state.gov/g/drl/rls/hrrpt/2008/wha/119163.htm> (February 25, 2009).