

**UPR Submission
Haiti
March 2011**

I. Summary

A devastating earthquake near Haiti's capital, Port-au-Prince, on January 12, 2010, left an estimated 222,750 people dead, 300,000 injured including 4,000 to 5,000 amputees, and up to 1.6 million homeless and displaced. In total, 3 million people were affected by the earthquake. Assessments calculate the material damage at about 120 percent of the country's annual GDP. Twenty-eight of twenty-nine government ministry buildings, and approximately 300,000 homes, were damaged or destroyed. Estimates from a range of NGOs, media outlets, and the World Bank suggest that Haiti's government lost between 20 and 40 percent of its civil servants.

The situation after the earthquake has exacerbated Haiti's chronic human rights problems, including violence against women and girls, inhumane prison conditions, and vulnerability of children. Already weak, the diminished capacity of the state since the disaster continues to significantly undermine its ability to safeguard fundamental human rights.

II. Human Rights Issues

Deficiencies in the Justice System and Detention Conditions

Haiti has been plagued by high levels of violent crime for many years. Police ineffectiveness and abuse, along with severe shortages of personnel, equipment, and training, existed prior to the quake and contributed to overall insecurity in Haiti. The earthquake has further weakened the capacity of Haitian National Police (HNP), with 75 officers reported killed, 70 missing, and 253 injured in the quake.

Haiti's justice system, long-troubled by politicization, corruption, shortage of resources, and lack of transparency, also suffered severe losses as a result of the quake. At least 10 members of the judiciary died in the earthquake, and the Ministry of Justice and the Palace of Justice were destroyed, along with many judicial documents. The UN reported that the Supreme Court of Haiti remained non-functional as of September.

Haiti's prison system suffered from chronic and severe overcrowding when the earthquake hit. The largest prison in Haiti, the Civil Penitentiary in Port-au-Prince, housed over 5,400 prisoners, all of whom escaped after the quake. Eight months after the quake, the UN stabilization mission in Haiti (known by its French acronym MINUSTAH) and HNP had re-incarcerated 629 of the escapees. The rest remain at large.

Prior to the earthquake, pre-trial detainees constituted almost 80 percent of all prison inmates in Haiti. The UN reports that the loss of judicial files and registries risks increasing prolonged pre-trial detention and detentions of people never formally

charged. Damage to prison facilities since the earthquake has led to limited cell space and even more dire prison conditions than existed before.

The negative health impact of substandard prison conditions has become life-threatening with the arrival of a cholera epidemic in October 2010. Within the first month of the epidemic, the Haitian National Police announced that 19 prisoners nationwide had died from cholera. In January 2011, a recent deportee from the United States died of cholera-like symptoms after less than two weeks in detention.

Women's Rights

High rates of sexual violence existed before the earthquake, but the precarious safety situation in the informal camps has left women and girls even more vulnerable to such abuse. Documentation of gender-based violence in the post-earthquake context has been extremely challenging, and it is difficult to get accurate quantitative data on sexual violence in the camps. The HNP reported that 534 arrests (24 percent of all arrests) from February-April 2010 involved sexual violence. In other reports, the HNP officials indicate that 20 rapes were reported in Port-au-Prince for January-March 2010. The University Hospital provided Human Rights Watch with intake data indicating it had treated 49 cases of sexual violence in both November and December 2011. The unavailability of consistent and comprehensive data reflects a lack of coordinated response to sexual violence after the earthquake. On September 13, 2010, the UN launched a campaign against rape and gender-based violence in Haiti.

In February and November 2010 and again in January and February 2011, Human Rights Watch conducted interviews with women and girls that had been victims of gender and sexual-based violence. While Human Rights Watch did find some advances over this period of time in coordination among different actors to address gender-based violence and to educate women on the availability of resources, it also found that some victims continue to have difficulty accessing post-rape medical services in sufficient time to prevent unwanted pregnancy.

Many women lost their homes and livelihoods in the earthquake and now reside in precarious informal settlements or rely on host families for shelter. The UN and HNP have increased their security presence in some camps, and UNFPA and humanitarian organizations have worked to increase lighting in many camps. Nevertheless, women's lack of access to economic security increases their vulnerability to other forms of insecurity, as women resort to risky behaviors to survive, including engaging in unprotected transactional sex.

Human Rights Watch also found that women had difficulty participating in decision-making about recovery and reconstruction. Some women interviewed by Human Rights Watch expressed frustration with the lack of consultation with women and girls living in camps on reconstruction decisions that affect their future and the future of their country. In addition, the Interim Haiti Recovery Commission, the body charged with overseeing reconstruction aid and projects, has very few female representatives.

Children's Rights

Prior to the earthquake, only about half of primary school-age children in Haiti attended school. UNICEF estimates that the earthquake damaged or destroyed

almost 4,000 schools and that 2.5 million children experienced an interruption in their education. Schools resumed several months after the earthquake; however, many experienced a sharp drop in enrollment.

In 2009, the UN special rapporteur on contemporary forms of slavery estimated there were from 150,000 to 500,000 child domestic workers in Haiti, called "restavèks." Restavèks are children, 80 percent of whom are girls, from low-income households sent to live with other families in the hope that they will be cared for in exchange for them performing light chores. These children are often unpaid, denied education, and physically and sexually abused. The UN and civil society organizations warned that unaccompanied minors and orphans, who increased in number after the earthquake, are vulnerable to this form of forced labor.

Some groups have also raised concerns about improper processing of inter-country adoption in violation of domestic and international standards.

Accountability for Past Abuses and Reconciliation

Judicial accountability for past abuses is rare, but an opportunity to break with the past and end impunity arose on January 16, 2011 with the unexpected arrival of former President for Life Jean-Claude Duvalier, after nearly 25 years in exile. He was quickly charged with financial and human rights crimes allegedly committed during his 15-year tenure.

During his tenure, from 1971 to 1986, Duvalier commanded a network of security forces that committed serious human rights violations, including arbitrary detentions, torture, "disappearances," rape, and summary executions. Thousands of Haitians were victims of extrajudicial killings or otherwise died from torture or inhuman detention conditions. Many more were forced to flee the country, building the modern Haitian diaspora. The human rights violations during Duvalier's rule, if shown to be part of a widespread or systematic attack against a sector of the population, would constitute crimes against humanity.

As of March 11, 2011, the Haitian government appeared determined to move forward with the prosecution of Duvalier for these abuses, but it faces many obstacles, including the fragility of its justice system and the absence of a safe environment for the continued investigation and prosecution of Duvalier. Several victims expressed to Human Rights Watch concerns for their safety and alleged that Duvalier's lawyers and supporters create an air of intimidation, creating uncertainty as to whether witnesses could come forward in the current environment. At the time of this submission, the case was before the juge d'instruction, and he had not submitted his findings to the government prosecutor.

Economic and Social Rights

Haiti has long struggled to fulfill its obligations in regards to the economic and social rights of its citizens. The earthquake created additional obstacles to the full enjoyment of these rights. For many Haitians, the earthquake increased the daily strain of extreme poverty. Thirteen months after the earthquake, approximately 810,000 people still lived in some 1,150 informal settlements or camps, where conditions leave residents vulnerable to flooding, disease, and violence. Many of these camps formed spontaneously on private land, and most IDPs face mounting threats of eviction. The UN reports that 29 percent of closed camps have been shut down due to forced evictions or negotiated departures.

Residents in some camps told Human Rights Watch that they had never received any information regarding the government's plan for addressing substandard housing in the camps. Over a year after the earthquake, the emergency shelters provided in the immediate aftermath of the quake cannot stand up to the elements. Many parents complained that they are unable sleep on nights that there is rain, because they must hold their children throughout the night to protect them from leaks in the emergency structures. Female camp residents that spoke with Human Rights Watch also complained that these emergency shelters provide no security, and that they are constantly concerned about the security of their persons and belongings.

Already weak prior to the earthquake, the health system has struggled under increased pressure. The cholera epidemic, which broke out at the end of October 2010, had killed over 4,000 people by early February 2011. Humanitarian groups worked to contain the epidemic, but cholera will now be endemic to Haiti and will increase the need for the government of Haiti to address the country's low sanitation coverage and lack of access to potable water. Some camp residents raised concerns with Human Rights Watch that there were plans to charge residents for water usage, which will make potable water economically inaccessible to them.

III. Recommendations

The government of Haiti should:

Regarding Deficiencies in the Justice System and Detention Conditions

- Ensure that all defendants are brought to trial within a reasonable timeframe. The authorities should show special diligence in bringing the case to trial if the accused is in pretrial detention.
- Improve food supply, sanitation, and access to medicine and health services within prisons.
- Provide treated drinking water to all detainees and monitor detainees for symptoms of cholera.
- Promptly address the threat of contamination if a cholera case is found and treat detainees with cholera in compliance with the Ministry of Public Health and Population standards.

Regarding Women's Rights

- Continue to provide, and increase where necessary, security in camps to protect camp residents, especially women and children.
- Increase security in earthquake affected areas outside of camps.
- Create standard operating procedures for data and case management of gender-based violence.
- Conduct assessments of accessibility of post-rape care that identify areas for improvement and work towards greater accessibility.
- Integrate a gender perspective into recovery and reconstruction plans, with a particular focus on reconstructing women's livelihoods.
- Increase avenues for women's participation at the community, local and national level.
- Include more female representatives, with voting power, on the Interim Haiti Recovery Commission.

Children's Rights

- Develop and implement a plan towards the realization of universal primary education.
- Continue campaigns to discourage the use of "restavèks" and other forms of exploitative child labor.
- Prioritize targeted interventions for addressing economic vulnerability of unaccompanied minors living in earthquake affected areas and children living in rural areas that supply many "restavèks."
- Sign and ratify the Hague Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption.

Accountability for Past Abuses and Reconciliation

- Continue to strengthen the rule of law by investigating and prosecuting past crimes.
- Exhaust all judicial avenues in the prosecution of Jean-Claude Duvalier for both financial crimes and for human rights abuses perpetuated under his regime.
- Issue travel restrictions on Jean-Claude Duvalier during the pendency of the judicial process against him.
- Provide victims, witnesses and judicial officers with sufficient protection during the pendency of Duvalier's investigation, prosecution, and after the conclusion of the judicial process, as needed.

Economic and Social Rights

- Make all necessary efforts to acquire suitable land plots for the establishment of new housing for those left homeless by the earthquake in accordance with international law, and ensure that the titles for the allocated land are legally valid.
- Draft a clear, comprehensive plan to address the housing problems that have arisen after the earthquake and effectively communicate the plan, with benchmarks and clear expectations, to camp residents and other persons displaced by the earthquake.
- Develop an interim plan for addressing degraded housing conditions in camps.
- Follow through with implementation of the 2009 water reforms, including the development of a national water and sanitation sector, and the regulation and control of all actors.
- When privatizing water sources, continue to ensure economic accessibility of water to all, without discrimination.
- As an interim measure, in the struggle against cholera, make potable water accessible to all, including through the distribution of materials needed to treat water at point of use.
- Rebuild the health sector to ensure access to universal primary health care for all.
- Sign and ratify the International Covenant on Economic, Social and Cultural rights and its Optional Protocol.