

HAITI 2021 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Haiti is a constitutional republic with a multiparty political system. The most recent national legislative elections were held in November 2016; international observers considered the elections free and fair. In January 2020 the terms of the majority of parliamentarians expired due to a failure of the country to conduct elections in 2019. Only 10 elected members of 30 remained in the upper house, while the lower house had none. As a result, parliament was unable to reach a quorum and ceased to function. Nearly 400 unelected mayors served at the pleasure of the executive.

Jovenel Moise was elected as president for a five-year term and took office in February 2017. Controversy arose early in the year regarding the length of his mandate and whether it expired in February 2021 or 2022, due to ambiguities in the constitution. Despite opposition from most political actors and civil society, President Moise remained in power until his assassination on July 7. Three days before his death, Moise had named, but not yet sworn in, Ariel Henry to replace Joseph Jouthe as prime minister. On July 20, after a short power struggle, Henry became the prime minister, and on September 11, he signed a political accord with a large number of opposition parties and civil society organizations. Planned 2021 presidential and legislative elections had already suffered logistical difficulties and delays; Moise's assassination and an ensuing lengthy process to negotiate a political accord resulted in an agreement to delay elections until 2022 or later.

The Haitian National Police, an autonomous civilian institution led by a director general under the authority of the minister of justice, is responsible for maintaining public security. The Haitian National Police includes police, corrections, fire, emergency response, airport security, port security, and coast guard functions. The Ministry of Justice and Public Security, through its minister and the secretary of state for public security, provides oversight to the Haitian National Police. The Superior Council of the National Police, chaired by the prime minister, provides strategic guidance. The Superior Council includes the director general and the chief inspector general of the Haitian National Police, the minister of the interior,

and the minister of justice. Civilian authorities at times did not maintain effective control over security forces. There were credible reports that members of the security forces committed abuses.

Significant human rights issues included credible reports of: unlawful and arbitrary killings by gangs allegedly supported by government officials and private-sector actors; torture or cruel and degrading treatment by government agents; harsh and life-threatening prison conditions; arbitrary arrest; serious problems with the independence of the judiciary; violence or threats of violence against journalists; serious government corruption; lack of investigation of and accountability for sexual and gender-based violence; crimes involving violence or threats of violence targeting persons with physical, mental, and developmental disabilities; and forced child labor.

The government rarely took steps to prosecute government and law enforcement officials accused of committing abuses and corruption, and civil society groups alleged widespread impunity regarding these acts.

Gang violence escalated throughout the country, particularly in metropolitan areas, and the gangs allegedly received support from political and economic elites. Kidnappings for ransom by armed gangs increased and affected all sections of society. Armed gangs were also responsible for armed conflicts resulting in approximately 20,000 displaced persons, for capturing up to 10 police stations and substations, and for blocking fuel supplies in October and November, bringing economic life and freedom of movement to a virtual standstill.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were numerous reports of arbitrary and unlawful killings perpetrated by armed gangs allegedly supported and protected by the government.

Young men from the Port-au-Prince neighborhood of Ravine Pintade alleged police killed 11 of their peers on September 21 as they were recording a music video with fake weapons. During a press conference on September 22, police

spokesperson Inspector Marie Michelle Verrier stated police had heard gunfire and that an investigation was underway. According to an investigation of the incident by the Center for Advocacy and Research in Human Rights (CARDH) released in October, at least 11 persons were killed, including the son of a Haitian National Police (HNP) divisional inspector. According to CARDH, police killed three at the scene, wounded and then killed two others, carried away four others later found dead in a second location. Three more were found dead the following day. The official investigation remained open as of November.

The HNP reported 1,352 homicides between January and October 31. The Catholic Commission for Peace and Justice blamed most of these deaths on gang warfare and called on the government to investigate the “hidden forces” behind the violence, including political and economic actors bankrolling gang activity. In June the Eyes Wide Open Foundation (FJKL) reported the existence of more than 150 active gangs in the country and alleged the government actively supported certain gangs.

The National Network for the Defense of Human Rights reported the government weakened the HNP during the year through politicization and exploitation of the institution. It further reported the government did not provide sufficient resources for police officers to carry out their duties but used government funds to strengthen chosen armed gangs instead. In 2020 armed gangs were invited by the National Commission for Disarmament and Reintegration to federate with the support of the government, ostensibly with the intention of reducing intergang violence and providing the commission with a negotiating partner. As a result, the G9 federation of gangs, formed in May 2020 and led by Jimmy “Barbeque” Cherizier, emerged as one the largest criminal organizations in the country. Following the G9’s formation, the country witnessed a spike in attacks against the HNP, including the killing of 36 police officers between January 1 and September 1, kidnappings for ransom of police officers, the takeover of police stations by armed gangs, and police officers fleeing for their lives.

On March 12, the HNP attempted to conduct an antigang operation in the Port-au-Prince neighborhood of Village de Dieu. The offensive led to the deaths of at least four HNP officers, whose bodies were not recovered. Two of the officers were publicly mutilated. The gangs also captured one police armored vehicle and

destroyed a second in an operation that yielded no arrests.

The government and judiciary made minimal progress on a growing list of emblematic human rights cases. While authorities stated they continued to investigate large-scale attacks in the Port-au-Prince neighborhoods of Grande Ravine (2017), Bel Air (2018), La Saline (2019), and Cite Soleil (2020), each of which left dozens dead, the government had yet to bring any of the perpetrators to justice. In January President Moïse declined to renew the mandate of the investigative judge in the La Saline case, despite a positive vetting record and recommendation by the Superior Council of the Judiciary. Among those implicated in La Saline and Bel Air were Jimmy Cherizier, Fednel Monchery, and Joseph Pierre Richard Duplan, all of whom were government officials at the time of the La Saline attacks. On February 13, Monchery was arrested for a traffic violation, yet despite an active warrant against him, authorities released him within hours of his arrest. Progress also ceased in the judicial investigation into the 2020 killing of Port-au-Prince Bar Association president Monferrier Dorval, as the judge responsible for the case resigned his position in September due to persistent threats on his life and a lack of cooperation from the government. On October 5, a new judge took over the Dorval investigation. A judge continued to investigate the assassination of President Moïse; however, many members of civil society organizations and the government did not believe the judiciary had the capacity to handle such a complex, sensitive, and politicized crime.

The UN Integrated Mission in Haiti (BINUH) and numerous civil society organizations reported that gang violence in the Port-au-Prince metropolitan area and Artibonite Department increased as gangs attempted to expand their spheres of control, resulting in 1,352 homicides as of October 31.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

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

While the law prohibits such practices, there were several reports from

nongovernmental organizations (NGOs) alleging that HNP officers beat or otherwise abused detainees and suspects.

On May 12, a widely circulated video showed four departmental public order unit officers from Nord-Est Department forcibly removing Peguy Simeon from the roof of a public bus, after which they threw him to the ground and beat him. Simeon, on his way home from the Dominican Republic following his recent deportation, was taken to a local hospital, where he died due to his injuries. The HNP Office of the Inspector General placed the four officers involved in isolation, took precautionary measures (e.g., removal of firearms, assignment to desk duty, or both) against three more, and transferred the case to the local prosecutor for legal proceedings.

Impunity was a significant problem in the security forces. From September 2020 to June, BINUH documented 213 human rights violations, of which 126 were further investigated by the HNP Office of the Inspector General. During the same period, the General Inspectorate completed 131 investigations, many of which had been initiated previously. None of the eight cases transferred to prosecutors had gone to trial as of October. Civil society representatives continued to allege widespread impunity, driven largely by poor training and a lack of professionalism, as well as rogue elements within the police force allegedly maintaining gang connections.

Prison and Detention Center Conditions

Conditions in prisons and detention centers throughout the country were life-threatening. In June, BINUH and the Office of the UN High Commissioner for Human Rights (OHCHR) jointly reported prisoners were subject to torture and other cruel, inhuman, and degrading treatment in prisons and makeshift detention centers.

Physical Conditions: Overcrowding at prisons and detention centers was severe. The June OHCHR/ BINUH report found the average amount of space per prisoner was six square feet for men and 9.5 for women, although in some prisons space per prisoner was limited to as little as 2.5 square feet. In many prisons detainees slept in shifts due to the lack of space. Some prisons had no beds, and some cells had no

natural light. In other prisons the cells were either open to the elements or lacked adequate ventilation. Prison facilities generally lacked adequate basic services such as plumbing, sanitation, waste disposal, medical services, potable water, electricity, ventilation, lighting, and medical isolation units for patients with contagious illnesses. BINUH and the OHCHR found the use of cruel, inhuman, and degrading treatment, sometimes amounting to torture, was widespread as a disciplinary measure throughout the prison system.

As of July approximately 270 prisoners were being held in makeshift and unofficial detention centers such as police stations in Petit-Goave and Miragoane. Local authorities held suspects in these facilities, sometimes for extended periods, without registering them with the HNP's Directorate of Prisons.

Corrections authorities in Port-au-Prince maintained separate penitentiaries for adult men, women, and minors. In Port-au-Prince all male prisoners younger than 18 were held at the juvenile facility, but due to the lack of documentation, authorities could not always verify the ages of detainees. At times authorities mistakenly detained minors whose ages they could not confirm with adult inmates. Outside Port-au-Prince, due to lack of prison space and oversight, authorities did not always separate juveniles from adult prisoners or separate convicted prisoners from pretrial detainees, as the law requires.

There are specific provisions for juvenile offenders. Children younger than 13 are not held responsible for their actions. Until age 16, children cannot be held in adult prisons or share cells with adults. Juvenile offenders (anyone younger than 18) are placed in one of the country's two re-education centers with the objective of having the offender successfully rejoin society.

Because of poor security, severe understaffing, and a lack of adequate facilities, many prison officials did not allow prisoners out of their cells for exercise. In the National Penitentiary, prisoners spent approximately one hour per day outside of confinement, but in all other facilities, prisoners had 15-20 minutes to use the toilet and bathe before returning to their cells.

On February 25, nearly 400 prisoners escaped from the Croix-des-Bouquets Prison in Port-au-Prince, which held approximately 1,550 inmates prior to the escape.

The prison warden was killed during the incident. Gang leader Arnel Joseph escaped but was later killed by an HNP patrol unit. There were indications HNP officers both inside and outside the prison may have been complicit in the escape. The HNP recaptured 68 of the fugitives and initiated two investigations into the incident.

International and local observers said prisoners and detainees continued to suffer from a lack of adequate nutrition. According to the NGO Health Through Walls, approximately 3,700 prisoners in the penitentiary system were acutely malnourished. The HNP is responsible for the delivery of food to prisons, but Food for the Poor, Health Through Walls, the National Network for the Defense of Human Rights, and OHCHR/BINUH reported that delays in fund disbursement and payments to contracted food suppliers reduced the number of meals fed to prisoners. Some prisons had kitchen facilities and employed persons to prepare and distribute food. Prison authorities generally gave prisoners one to two meals a day, consisting of broth with flour dumplings and potatoes, rice and beans, or porridge. None of the regular meals provided the recommended caloric intake per day, and authorities allowed regular deliveries of food to prisoners from relatives and friends. According to Health Through Walls, approximately 500 prisoners suffered either minor or major episodes of malnutrition during the year.

International and local observers also reported a lack of hygiene and health care provision in the prison system. Health Through Walls reported that unsanitary conditions and overcrowding led to high rates of waterborne illnesses as well as tuberculosis and other communicable diseases. Most detention facilities had only basic clinics and lacked medications. Many lacked medical isolation units for patients with contagious illnesses. Few prisons had the resources to treat serious medical situations. Some very ill prisoners were treated at hospitals outside of prisons, but many hospitals were reluctant to accept prisoners as patients since there was no formal arrangement between the Ministry of Justice and the Ministry of Health regarding payment for treatment. Prisoners who died in the care of hospitals were not counted in official statistics of deaths in custody, which as of September 1 stood at 117.

Administration: The country's independent human rights monitoring body, the Office of Citizen Protection (OPC), investigated credible allegations of inhuman

conditions in prisons. The OPC regularly visited prisons and detention facilities and worked closely with NGOs and civil society groups.

Independent Monitoring: The corrections authority permitted the United Nations, local human rights NGOs, the International Committee of the Red Cross, and other organizations to monitor prison conditions. These institutions and organizations investigated allegations of abuse and mistreatment of prisoners. One human rights organization complained of a guard taking their photographs as they interviewed detainees.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but it does not provide an explicit right to challenge the lawfulness of an arrest in court. The government generally failed to observe these requirements.

The constitution states that authorities may arrest a person only if that person is in the act of committing crime or if the arrest is based on a warrant issued by a competent official such as a justice of the peace or magistrate. Authorities must bring the detainee before a judge within 48 hours of arrest. By routinely holding prisoners unlawfully in prolonged pretrial detention, authorities failed to comply with these requirements.

The OPC's national and 12 regional offices worked to verify that law enforcement and judicial authorities respected the right to due process. When authorities detained persons beyond the maximum allotted 48 hours and OPC representatives learned of the case, they intervened on the detainee's behalf to expedite the process. The OPC was unable to intervene in all cases of unlawful detention.

Arrest Procedures and Treatment of Detainees

While authorities generally acknowledged the right to counsel, most detainees could not afford a private attorney. By law the National Legal Assistance Program provides free assistance to criminal defendants and victims of crimes who cannot afford a lawyer. In May President Moise appointed the members of the National Legal Assistance Committee charged with overseeing the program, which was being implemented. The criminal code has a bail procedure that was rarely used in

practice. The law contains explicit and defendant-friendly provisions, but in practice they rarely protected detainees and prisoners.

Arbitrary Arrest: Independent observers confirmed instances of police arresting individuals without warrants or with improperly prepared warrants even when those individuals were not apprehended in the process of committing a crime. Authorities frequently detained individuals on unspecified charges.

On February 7, the date many political and civil society leaders contended the president's term expired, Dimitri Herard, then head of national palace security, arrested 23 persons on a private compound, where they had gathered the previous day and were sleeping at the time of their arrest, on allegations of plotting to depose the president and install a transitional government. The group included Ivikel Dabrezil, a Supreme Court justice, and Inspector Marie Louise Gautier, a high-ranking HNP officer. Dabrezil refused to answer police questions, arguing Supreme Court justices may be arrested or questioned only by special authorization. Furthermore, Dabrezil contended arrests occurred outside the constitutionally mandated 6 a.m. to 6 p.m. period during which police may execute arrests, except when apprehending individuals in the process of committing a crime. Herard and other progovernment officials argued the detainees had been caught in the act of plotting a coup, despite photographic evidence to the contrary. The group's lawyers filed a habeas corpus action, and the Port-au-Prince Court of Appeals ordered their release on March 24. All the detainees were free as of October, although they continued to face judicial investigation.

Pretrial Detention: Illegal and prolonged pretrial detention remained a problem due to the arbitrary application of court rules and discretion, corruption, and poor recordkeeping. Many pretrial detainees never consulted with an attorney, appeared before a judge, or received a docket timeline. In some cases detainees spent years in detention without appearing before a judge. According to BINUH, 82 percent of detainees were victims of unlawful pretrial detention in September. Local human rights groups reported detainees were often held after completing their sentences due to difficulty obtaining release orders from the prosecutor's office.

Some lawyers began to use habeas corpus actions to free clients improperly arrested; however, prisoners unable to afford private legal fees generally faced

unlawful and prolonged pretrial detentions. The law mandates that the National Legal Assistance Program provide free assistance to criminal defendants and victims of crimes who cannot afford a lawyer. In May the president appointed the members of the National Legal Assistance Committee charged with overseeing the program, and two of 11 planned legal assistance offices had opened as of November 22.

In June 2020 the government enacted new penal and penal procedures codes, scheduled to enter into force in 2022. The new penal procedure code would provide judicial authorities with alternatives to detention, but activities and training planned for the two-year transition period had yet to begin, and most experts believed the codes would not enter into force on schedule. On September 23, Frantz Louis-Juste, the newly named Port-au-Prince prosecutor, declared he would prioritize a reduction in pretrial detention. Louis-Juste announced the creation of a specialty pretrial unit of 11 judges and 10 law students. He stated the students would staff a toll-free telephone number and collect information from detainees' family members on their behalf. Louis-Juste was removed from his position three weeks after the announcement, however, and at year's end his replacement had not indicated any plans concerning the pretrial unit. On October 12, Acting Minister of Justice Liszt Quitel stated he was committed to addressing prolonged pretrial detention, although corrective measures had not been implemented as of the end of November.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The law does not provide for the explicit right of any person to challenge in court the lawfulness of his or her arrest or detention in court.

e. Denial of Fair Public Trial

The law provides for an independent judiciary; however, the government did not respect judicial independence and impartiality. Judicial independence eroded severely during the year, according to all major national magistrate and judges' associations as well as human rights activists. Of the country's three paramount courts – the Supreme Court, Constitutional Court, and High Court of Justice – the Supreme Court lost its quorum in June with the death of the chief justice, while the Constitutional Court remained unestablished, and the High Court of Justice could

not function without a parliamentary quorum. Similarly, a constitutionally mandated independent body for judicial oversight was dissolved on July 4 but restored by Prime Minister Henry on October 1; some lawyers and civil society actors doubted the legitimacy of the revived body. The Office for the Protection of Citizens and the Superior Court of Accounts and Administrative Litigation remained the only independent government bodies outside of direct executive control.

Senior officials in the executive branch exerted significant influence on the judicial branch and law enforcement, according to local and international human rights organizations. Human rights organizations alleged politicians routinely influenced judicial decisions and used the justice system to target political opponents. Detainees reported credible cases of extortion, false charges, illegal detention, physical violence by police, and judicial officials refusing to comply with basic due-process requirements. The executive has the power to name and dismiss public prosecutors and court clerks at will. Judges faced less direct executive pressure, since they served for fixed-term mandates, but civil society organizations and judges themselves reported a fear of ruling against powerful interests due to concern for personal safety. Furthermore, the president has the power not to renew judicial mandates once expired or to divest judges of their investigative mandates.

A conflict between the executive and the judiciary arose when the Superior Council of the Judiciary published a note siding with those who believed President Moise's term of office ended in February. Following the alleged February 7 conspiracy to replace him, President Moise forcibly "retired" three Supreme Court Justices: Izykel Dabrezil, Joseph Mecene Jean-Louis, and Windelle Coq-Thelot. The February 8 forced retirements were considered unlawful by civil society and the press, but on February 11, the president published a decree naming three new replacement justices to the court. The Superior Council vetted and recommended numerous judges for renewal, but the president in certain instances chose not to follow its recommendations. Among those recommended but not renewed was Judge Chavannes Etienne, who had been leading the judicial investigation of the 2018 La Saline attacks, implicating notorious G9 leader and then police officer Jimmy Cherizier that left up to 71 persons dead. Regis Renord, the judge investigating the Monferrier Dorval assassination, resigned from the judicial

system in September 2020 citing political influence and a lack of protection for his family and judicial facilities. In his investigation he had cited numerous persons for judicial questioning, including former first lady Martine Moise, but few appeared in court. In many cases the court prosecutor unlawfully refused to serve subpoenas ordered by the judge. Moreover, while the HNP had been maintaining a security detail for Renord, police authorities ordered that detail to surrender its weapons in what the director general described as an administrative error, which the judge saw as a clear signal from the government and subsequently resigned. In October the HNP removed the protective detail from Judge Jean Wilner Morin as well, one day after he publicly criticized the former chief prosecutor and the HNP director general as impediments to the rule of law.

The government sought to influence other judicial actors. For example, 23 persons were arrested in the alleged February 7 attempt to depose the president and install a transitional government. Four of the 23 detainees were released the following day when police concluded they had not been involved in the alleged conspiracy, and the remaining 19 argued their arrests were unconstitutional and sought immediate relief in the form of release. By law there can be no court sessions without the presence of a recording clerk (akin to a court reporter), and the government ordered all clerks to return home as a way of preventing the hearing. The judge in question managed to find an alternative clerk to assist her, after which the then minister of justice Rockefeller Vincent fired that clerk.

Although there were fewer judicial strikes than in 2020, labor actions hobbled the system. After the president summarily named three new justices of the Supreme Court, judges announced an indefinite strike, which lasted from February 15 to April 19. Court clerks also announced a strike following the decision to dismiss the clerk in the Petit-Bois affair. The Ministry of Justice reinstated the clerk in April.

The law requires each of the country's 18 jurisdictions to convene jury and nonjury trial sessions twice per year, usually in July and December, for trials involving major, violent crimes. During a jury trial session, the court may decide for any reason to postpone the hearing to the next session, most often because witnesses are not available. In these cases defendants return to prison until the next jury trial session. Human rights groups highlighted poor treatment of defendants during

criminal trials, saying defendants in some jurisdictions spent the entire day without food or water.

Corruption and a lack of judicial oversight severely hampered the judiciary. Human rights organizations reported several judicial officials, including judges and court clerks, arbitrarily charged fees to begin criminal prosecutions. The organizations also claimed judges and prosecutors ignored those who did not pay the fees. There were credible allegations of unqualified and unprofessional judges who received judicial appointments as political favors. There were also persistent accusations that court deans, who are responsible for assigning cases to judges for investigation and review, at times assigned politically sensitive cases to judges with close ties to the executive and legislative branches. Many judicial officials reportedly held full-time jobs outside the courts, although the constitution bars judges from holding any other type of employment except teaching.

Judges frequently closed cases without bringing charges and often did not meet time requirements. By law the chief prosecutor launches criminal investigations by transferring a case to the chief judge of a jurisdiction, who then assigns it to an investigative judge who takes control of the case. The investigative judge must order a trial or dismiss the case within six months. Judges and other judicial actors frequently did not meet time requirements, resulting in unlawful and prolonged pretrial detention for many detainees.

Trial Procedures

The constitution provides for the right to a fair and public trial, but the judiciary did not uniformly enforce this right. The judiciary follows a civil law system based on the Napoleonic Code, largely unchanged since 1835. The constitution denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice is present, or the suspect waives this right. Authorities widely ignored constitutional trial and due-process rights.

The constitution provides defendants a presumption of innocence, as well as the rights to be informed promptly of the charges against them and to attend their own trials. Defendants also have the right to the assistance of an attorney of their choice. Legal aid programs were limited, and those who could not pay for

attorneys were not always provided one free of charge. The law does not specifically provide a defendant time to prepare an adequate defense. Defendants have the right to confront hostile witnesses and present their own witnesses and evidence. Judges often denied these rights. The perception of widespread impunity discouraged some witnesses from testifying at trials. Defendants may not be compelled to testify or confess guilt. Defendants have the right of appeal.

While French and Haitian Creole are both official languages, with Haitian Creole being the most commonly spoken language, all laws and most legal proceedings were in French. Observers noted judges often spoke to defendants in Haitian Creole to facilitate comprehension. Interpreters were used only in cases involving foreigners. Judges generally ensured that defendants fully understood the proceedings.

The functioning of justice of the peace courts, the lowest courts in the judicial system, was inadequate. Judges presided based on their personal availability and often maintained separate, full-time jobs. Law enforcement personnel rarely maintained order during court proceedings, and frequently there was no court reporter. Defendants would often bribe judges to have their cases heard.

In many communities, especially in rural areas, elected communal administrators with no legal judicial authority took on the role of state judges and asserted powers of arrest, detention, and issuance of legal judgments. Some communal administrators turned their offices into courtrooms.

Political Prisoners and Detainees

There were no credible reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Victims of alleged human rights abuses may bring a civil or criminal complaint before a judge. Courts may award damages for human rights abuse claims brought in civil court, but seeking such remedies was difficult and rarely successful.

Human rights cases may be submitted directly through petitions by individuals or organizations to the Inter-American Commission on Human Rights, which in turn

may submit the case to the Inter-American Court of Human Rights.

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

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions. President Moise signed an executive order in 2020 ordering the creation of a National Intelligence Agency with nearly unlimited jurisdiction and agent anonymity, but it was unclear if the executive order was implemented.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution provides for freedom of expression, including for members of the press and other media. Civil society observers noted this right was not always upheld or respected.

Violence and Harassment: Journalists reported a deteriorating security climate and said some journalists resorted to self-censorship to avoid being publicly targeted by political or gang leaders.

On June 29, a journalist and an activist radio presenter, Diego Charles and Antoinette Duclair, were killed in the Port-au-Prince metropolitan area. The acting HNP director general issued a statement the following day claiming the police union, SPNH-17, was behind the double killing and others in retaliation for the earlier killing of the SPNH-17 spokesperson, although many observers in civil society failed to understand the connection between the two incidents or how police were able to draw their conclusions so rapidly.

Local media reported a prominent photojournalist fled the country in June due to death threats from gang members. He had reportedly taken photographs of the gang looting a private business.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authorization.

Academic Freedom and Cultural Events

There were no reports of the government restricting academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights. Gangs believed to have ties to the government sometimes issued threats against antigovernment protesters.

Freedom of Peaceful Assembly

Under the constitution citizens have almost unlimited rights to peaceful gatherings. Police must be informed in advance of planned gatherings but cannot prevent them. As in previous years, many groups exercised that right. According to UN police statistics, the country witnessed 94 peaceful and 565 violent incidents of civil unrest between January 1 and August 1. There were accusations of heavy-handed tactics by police to suppress protests. In addition to the conduct of inspections and training, the HNP General Inspectorate launched several investigations into allegations of excessive use of force during protests, particularly against journalists, which continued as of year's end.

The Fantom 509 group, composed of a mix of rogue and former police officers, took to the streets on motorbikes and discharged their firearms on several occasions. In the aftermath of the March 12 failed police operation in Village de Dieu, Fantom 509 capitalized on rank-and-file officers' discontent with the institution's leadership and instigated incidents of street violence and vandalism. During these episodes of unrest, three police stations in West Department were stormed to free 12 detained officers, killing two police officers in the process. Following these incidents, the interim HNP director general reformed his senior

leadership and initiated legal action against Fantom 509, now officially designated a criminal organization. The HNP reported that it was searching for Fantom 509 members suspected of various crimes.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. Married women must present their marriage certificate to apply for a passport, but married men do not.

In-country Movement: On March 16, the government declared a limited state of emergency due to a botched March 12 police operation in Village de Dieu in which gangs killed several HNP officers, captured one armored vehicle, and destroyed another. The state of emergency, which only directly affected government-designated "red zones," limited freedom of movement and allowed the government to order the suspension of certain essential services such as road, maritime, air, and telephone communication. Human rights leaders criticized the decree for its perceived illegality, disproportionality, and apparent lack of regard for individuals and their property rights. Human rights groups reported the curfew was sometimes applied arbitrarily. On April 24, police stopped a man going to the pharmacy to buy medication for his wife, fined him, and threatened to kill him, according to the NGO Haitian National Human Rights Network. Activists also reported the circulation of a video showing police beating a woman, allegedly because she was violating the curfew. On April 28, police officers stopped journalist Georges Allen for supposedly violating the curfew and allegedly assaulted him. The NGO reported police made verbal threats against citizens for violating the state of emergency, reportedly including multiple threats of death.

e. Status and Treatment of Internally Displaced Persons

During the year an increase in intergang clashes caused the displacement of more

than 19,000 civilians in the metropolitan area of Port-au-Prince. The violence particularly affected the populations of three neighborhoods: Cite Soleil, Lower Delmas, and Martissant. Frequent shootings and regular roadblocks, whether by gangs or police, also limited access to neighborhoods and spread fear among citizens. Activists leveled allegations of human rights violations against police and decried its apparent reluctance or inability to intervene in the violence.

According to data gathered through the International Organization for Migration's Displacement Tracking Matrix at three major shelters for internally displaced persons (IDPs) – Carrefour Sports Centre, Delmas 103, and Saint Yves Church – six of 10 IDPs were women or girls, and more than 15 percent of IDPs were older than 60. Approximately 20 percent of the IDPs were younger than age five.

On June 7, armed men burned down Camp Lapiste, where hundreds of persons with disabilities found refuge after the 2010 earthquake. Dozens of persons with disabilities sought refuge in the Saint Yves Church, a temporary shelter lacking accessibility, adequate space, ventilation, or sanitation facilities.

f. Protection of Refugees

Access to Asylum: The law provides for granting refugee status or asylum through Haitian missions or consulates abroad, and the government has established a system for providing protection to refugees. Third-country nationals may petition for asylum through the local office of the UN High Commissioner for Refugees.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. Due to a long-running political impasse, however, national elections scheduled for 2019 and 2021 were delayed. Parliament was unable to function, with the upper house containing only 10 senators – too few to constitute a quorum – and the lower house left empty. A new president was originally scheduled to take office in February 2022; however, as of December it was unclear when this would occur. Ariel Henry, whom President Moïse designated as prime minister three days before

the president's assassination, served as head of government.

Elections and Political Participation

Recent Elections: Legislative, municipal, and presidential elections were last held in 2016. While there were isolated allegations of voter fraud, the elections were generally regarded as credible by international and domestic observers. Although voter turnout was low, citizens generally accepted the elections, and public demonstrations against the election results were muted compared with previous years. Presidential, legislative, and local elections scheduled for the year did not take place due to problems in logistics and in reaching a political accord. In October Prime Minister Henry dissolved the provisional electoral council installed by President Moïse in 2020, a body viewed as lacking credibility by civil society and political actors, thus increasing the likelihood of an eventual consensus political accord. The council is the country's electoral commission and has the responsibility of organizing presidential and parliamentary elections.

Participation of Women and Members of Minority Groups: No laws limit the participation of women or members of minority groups in the political process, but social norms and the threat of electoral violence discouraged women from voting and, to a much greater extent, from running for office. During the 2016 national elections, four of 58 approved presidential candidates were women, 23 of 209 senatorial candidates were women, and 129 of 1,621 candidates for deputy were women. The constitution requires that at least 30 percent of elected officials be women, but the most recent legislative session had only four female deputies and one senator, a decrease of one female deputy from the prior legislative session. Mayoral elections are organized around panels of three that are required by law to include at least one woman. While they were rarely the principal local leaders, women made up 30 percent of local officials.

Section 4. Corruption and Lack of Transparency in Government

The law criminalizes a wide variety of acts of corruption by officials, including illicit enrichment, bribery, embezzlement, illegal procurement, insider trading, influence peddling, and nepotism. There were numerous reports of government

corruption, and a perception of impunity for abusers. The judicial branch investigated several cases of corruption during the year, but there were no prosecutions. The constitution mandates the Senate (vice the judicial system) prosecute high-level officials and members of parliament accused of corruption, but the body had never done so. The government's previous anticorruption strategy expired in 2019, and as of October there was no formal anticorruption strategy.

Corruption: There were many reports of widespread corruption associated with the Petro Caribe petroleum importation program, a strategic oil alliance signed with Venezuela in 2006 under which Haiti was able to save U.S. dollar reserves, borrowing fuel from its oil-rich neighbor and deferring payment for up to 25 years. The agreement mandated the government of Haiti to use any money saved for the development of the economy and social programs. Instead, between two billion dollars (equivalent to almost a quarter of the country's total economy for 2017) and six billion dollars went missing, and citizens saw few of the promised benefits, according to protesters and local media. The Superior Court of Auditors and Administrative Disputes reported that more than two billion dollars in Petro Caribe funds had been embezzled or wasted in worthless projects. On June 26, Investigative Judge Ramoncite Accime announced his decision to suspend the investigation indefinitely and unfreeze the defendants' assets due to what he termed a lack of evidence. Judge Accime also ordered the release of the frozen assets of six businesses, including President Moise's energy company Comphener, Inc. Despite these actions, however, the judge did not explicitly absolve the defendants of guilt.

On April 26, the FJKL published a report on HNP's financial mismanagement between 2016 and 2019, based on a decision rendered on March 25 by the Superior Court of Auditors and Administrative Disputes. According to the FJKL, the poor management of HNP finances posed a danger to public security by limiting the organization's operational capacity. The FJKL also highlighted errors in the High Court's judgments and recommended strengthening the institution, which plays a fundamental role in the fight against corruption.

Section 5. Governmental Posture Towards International and

Nongovernmental Investigation of Alleged Abuses of Human Rights

Several domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with human rights groups, although they disagreed at times on the scope of certain issues and the most appropriate means of addressing them. The government generally consulted human rights groups, including the government's independent OPC, on legislative matters.

The United Nations or Other International Bodies: Despite UN efforts beginning in 2018 to open an in-country OHCHR, as of November the government had not signed a host-country agreement.

Government Human Rights Bodies: The OPC's mandates are to investigate allegations of human rights abuse and to work with international organizations to implement programs to improve human rights. The government increased OPC funding by approximately 30 percent in the 2019-20 budget over the previous period. In July 2020 President Moise named a new minister-delegate responsible for human rights and the fight against extreme poverty, albeit with neither staff nor resources; Prime Minister Ariel Henry named a new minister-delegate in November.

When in session, the Chamber of Deputies has a Justice, Human Rights, and Defense Commission, and the Senate has a Justice, Security, and Defense Commission that cover human rights issues.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law prohibits rape of men and women but does not recognize spousal rape as a crime. The penalty for rape is a minimum of 10 years of forced labor. In the case of gang rape, the maximum penalty is lifelong forced labor. The crimes were rarely formally prosecuted and often settled under

pressure from community and religious leaders, generally through a monetary settlement calling on the father to pay for prenatal care and birth costs, and more occasionally calling on the father to acknowledge the child as his own; forced marriages were far less prevalent. The law excuses a husband who kills his wife, her partner, or both found engaging in adultery in the husband's home, but a wife who kills her husband under similar circumstances is subject to prosecution.

The law does not classify domestic violence against adults as a distinct crime. Women's rights groups and human rights organizations reported domestic violence against women remained commonplace and had increased due to the mass displacements caused by gang violence, COVID-19 restrictions, and the August 14 earthquake. Judges often released suspects arrested for domestic violence and rape.

Victims of rape and other forms of sexual violence faced major obstacles in seeking legal justice, as well as in accessing protective services such as women's shelters. Civil society organizations reported anecdotally that women were more likely to report cases of sexual and domestic violence since 2014, when the women's movement achieved major policy victories, including the enactment of the Law on Responsible Fatherhood. Nonetheless, the same organizations reported that many victims still did not report such cases for reasons that included social pressure, fear, and a lack of logistical and financial resources. Due to familial responsibilities, victims were usually unable to dedicate the time necessary to follow through with legal proceedings. According to some civil society organizations, many local nonprofit organizations that provided shelter, medical services, psychological services, and legal assistance to victims had to reduce services due to a lack of funding. There were reports that in rural areas, criminal cases, including cases of sexual violence, were settled outside the justice system. In such cases local leaders often pressured family members to come to financial settlements with the accused to avoid social discord and embarrassment. According to judicial observers, prosecutors often encouraged such settlements.

According to a rapid gender assessment conducted by CARE International, gender-based violence became a far greater problem in areas affected by the August 14 earthquake. Seventy percent of women and men surveyed in affected areas said their fear of sexual violence had increased since the earthquake. Forty-three

percent of community leaders and 75 percent of youth said sexual violence had increased since the earthquake, and 70 percent of organizations said women and girls were most at risk of sexual violence.

In Les Cayes Prison, where women have a section visible to men, women reported receiving abusive comments from male inmates and officers. During a 2019 prison mutiny, male inmates raped 10 women and one 15-year-old girl. The investigation conducted by the HNP Inspectorate General recommended the dismissal of a corrections officer, which was never implemented. The case was transferred to the Gonaives prosecutor's office, where it remained an open investigation.

Sexual Harassment: The law does not specifically prohibit sexual harassment, although the labor code states that men and women have the same rights and obligations. Observers indicated sexual harassment occurred frequently. Although authorities stated the government was opposed to sexual harassment, there were no formal governmental programs to combat it on a national scale.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

While stigma around seeking or accessing contraception significantly decreased over the past decade and women were far more knowledgeable about contraception, social and economic barriers remained. Cultural and historical barriers persisted in the use of the intrauterine device and contraception more generally, particularly cultural misconceptions and lack of knowledge of proper usage.

Many women and their families maintained a strong preference for giving birth at home with the assistance of *matrones* (traditional birth attendants) as opposed to giving birth in health facilities with the assistance of skilled birth attendants. The choice may be rooted in a desire for client-centered care, particularly for respectful maternity care, which was otherwise largely unavailable. The government did not allow state institutions to work openly with *matrones*, a practice that prevented them from acquiring the skills needed to serve as skilled birth attendants.

The government has protocols governing the provision of service to survivors of sexual violence. Emergency contraception is part of a mandatory package of

services for the clinical management of rape cases, according to government protocols on the handling of rape cases. Emergency contraceptives were available, although health providers noted they were not always distributed equitably. The Ministry of Health was responsible for maintaining these protocols and practices; however, donors and NGO partners provided nearly all such care.

The World Health Organization estimated the maternal mortality rate at 480 deaths per 100,000 live births in 2017. A major cause of maternal deaths was the government's lack of support for matrones. Other reasons included geographic difficulties in access to health facilities and financial barriers to primary health care. Of the country's 571 communal sections, 125 had no health facilities. The proportion of births attended by skilled health personnel was 42 percent. The adolescent birth rate for those ages 15-19 years was 140 per 1,000.

Discrimination: Women did not enjoy the same social and economic status as men, despite the constitutional requirement that women's participation in national life and in public service (i.e., political candidates, elected officials, and civil servants) be at least 30 percent of the positions.

By law men and women have equal protections for economic participation. In practice, however, women faced barriers to accessing economic inputs and securing collateral for credit, information on lending programs, and other resources. Women were often classified into certain jobs such as secretarial or cleaning services, and they faced lower pay as well as barriers when attempting to compete for hiring or promotions on an equal footing with men. Women were largely viewed as more vulnerable to coercive and exploitive practices in the workplace, such as sexual harassment.

Systemic Racial or Ethnic Violence and Discrimination

The constitution states that “to fortify the national unity, eliminating all discrimination between the populations, of the towns and of the countryside, by the acceptance of the community of languages and of culture and by the recognition of the right to progress, to information, to education, to health, to work and to leisure for all citizens [masculine] and citizens [feminine].” The constitution also establishes the Office of Citizen Protection to protect “all individuals against any

form of abuse by the government.”

There were high levels of colorism (prejudice or discrimination against individuals with a dark skin tone) and ethnic discrimination against the Syrian-Lebanese community that controlled many aspects of the economy. President Moïse often stoked these economic resentments into populist nationalism, as both he and his ministers made increasingly provocative claims in speeches regarding the oligarchs in control of the country’s economy. Colorism has a long tradition in society, with light-skinned, often French-speaking, Haitians disparaging darker-skinned Haitians, who more generally speak only Creole.

During the year the international activist and founder of the think tank Policite, Emmanuela Douyon, published an editorial examining the historically taboo subject of colorism. Douyon suggested that certain positions in society, including owners of supermarkets, entertainment companies, and other businesses, were dominated by lighter-skinned Haitians. She called for an end to “the hints of this infamous slavery system” by guaranteeing that neither racism nor colorism are tolerated.

The rhetoric of the Moïse administration on ethnic discrimination against the Syrian-Lebanese community became more dangerous as it was adopted by the infamous G9 Friends and Allies gang leader Cherizier, who advocated their toppling. In sporadic rioting during the year, unidentified individuals often targeted members of the Syrian-Lebanese minority. In a night of rioting on March 17, for example, individuals looted the Universal Motors dealership, owned by the wealthy businessman and leader of the Third Way Movement political party Réginald Boulos, and set the building on fire.

Children

Birth Registration: Citizenship is derived through an individual’s parents; either parent can transmit citizenship. Citizenship can also be acquired through a formal request to the Ministry of the Interior. The government did not register all births immediately. Birth registry is free until age two. Approximately 30 percent of children between ages one and five lacked birth certificates or any other official documentation. Children born in rural communities were less likely to be

documented than children in urban areas. During the year the Interior Ministry issued a large backlog of birth certificates, as these were necessary for the citizenry to apply for the new national biometrically enabled identification cards required to vote in elections.

Child Abuse: The law prohibits domestic violence against minors. The government lacked an adequate legal framework to support or enforce mechanisms to fully promote children’s rights and welfare. The government made some progress in institutionalizing protections for children.

Child, Early, and Forced Marriage: The legal age of marriage is 18 for men and 15 for women. Early and forced marriage were not widespread customs. *Plasaj*, or common-law marriage, was common and sometimes used by older men to enter relationships with underage girls. The government does not formally recognize *plasaj*, although children born to those couples can be recognized as lawful heirs of the father.

Sexual Exploitation of Children: The minimum age for consensual sex is 18, and the law has special provisions for rape of a person age 16 or younger. The law prohibits the “corruption” of persons younger than 21, including through commercial sex, with penalties ranging from six months to three years of imprisonment. The maximum penalty for human trafficking with aggravating circumstances, which includes cases involving the exploitation of children, is life imprisonment.

The former president of the Haitian Football Federation, Yves Jean-Bart, was banned for life by the International Federation of Association Football (FIFA) and fined \$1.14 million and procedural costs for the rape and sexual abuse, at times including sex trafficking, of up to 34 women, including at least 14 girls, between 2014 and 2020. As of November 22, authorities had not acted against Jean-Bart or 10 other perpetrators and accomplices in the case, including the head of the Haitian National Referees Committee, whom FIFA provisionally suspended for 90 days as part of its investigation.

Several civil society groups reported on impoverished children subjected to sexual exploitation and abuse. According to these groups, children were often forced into

commercial sex or transactional sex to fund basic needs such as school-related expenses. Recruitment of children for sexual exploitation and pornography is illegal, but the United Nations reported criminal gangs recruited children as young as age 10.

Displaced Children: Children displaced by the gang violence of June and the August 14 earthquake were vulnerable to sexual exploitation, as many of the children remained in formal or informal IDP camps while their parents went to work. The OPC contributed to the coordination of a humanitarian response, with food and medical relief; items for babies and pregnant or breastfeeding women; “dignity kits” containing menstrual pads, soap, underwear, detergent, a flashlight, and toiletries for girls and women; postexposure prophylaxis kits for those exposed to HIV; items for persons with disabilities; and psychosocial support for those affected by exploitation and sexual abuse.

Institutionalized Children: The Ministry of Social Affairs and Labor’s Institute of Social Welfare and Research (IBESR) has official responsibility for monitoring and accrediting the country’s residential children’s homes and care centers. The institute reported 754 such facilities in operation, although only 98 were licensed by the government. According to the international NGO Lumos, an estimated 25,000 children lived in residential children’s homes and care centers, and approximately 80 percent of these children had at least one living parent.

On April 12, 12 armed men broke into an orphanage in Croix-des-Bouquets, killing a security guard and sexually assaulting two children and an employee before leaving with stolen money and valuables. As of November no arrests related to the break-in or assaults had been made.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Jewish community numbered fewer than 100 persons, and there were no

reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The Office of the Secretary of State for the Integration of Handicapped Persons (BSEIPH) in the Ministry of Social Affairs and Labor is the lead government agency responsible for assisting persons with disabilities and ensuring their civil, political, and social inclusion. The constitution stipulates persons with disabilities should have adequate means to provide for their autonomy, education, and independence. The law requires all public buildings and spaces to be accessible to persons with disabilities. The law prohibits discrimination in employment practices against persons with disabilities, requires the government to integrate such persons into the state's public services, and imposes a 2 percent quota for persons with disabilities in the workforces of private-sector companies. The quota was not met, and the government did not enforce these legal protections, particularly regarding education, health services, public buildings, and transportation. The law bans discrimination against persons with disabilities and stipulates they have the right to basic services such as health, education, and justice.

Local disability rights advocates stated that persons with disabilities faced significant obstacles to voting and civic participation. Persons with disabilities had difficulty obtaining national identification cards, required for voting, because the National Identification Office was inaccessible to persons with disabilities.

Individuals with disabilities faced significant social stigma, exclusion, and discrimination due to their disabilities. For instance, families often left their disabled family members isolated at home. Establishments including government offices, churches, and schools did not routinely make services accessible for persons with disabilities. Opportunities to access services often depended on the economic status of the family. Persons with mental, developmental, or physical

disabilities were marginalized and neglected. Deaf and blind citizens also faced marginalization and neglect and did not routinely receive necessary services.

According to the Ministry of Social Affairs and Work, 3.5 percent of an estimated 120,000 children with disabilities in Port-au-Prince attended school, as opposed to 57 percent among the general population. Disability activists reported that students with disabilities had less access to secondary education. There were a few specialized schools, all located in West Department, including Port-au-Prince. Otherwise, the students with disabilities were integrated into general classes. Nationwide, while some children with disabilities were mainstreamed into regular schools, mainstreaming depended on the severity of the disability and the economic status of the family. A small number of schools provided specialized education for children whose disabilities did not allow them to be mainstreamed.

On September 2, the victims in the arson of Camp Lapiste organized a march to the Office of the National Ombudsman, denouncing what they saw as government and social neglect of their community. They shouted slogans asking whether they were full citizens and questioning why human rights activists had not spoken out on their behalf. Renan Hedouville, the national ombudsman, assured them of his support and criticized the government's decision to dismiss Undersecretary Soinette Desir, who led the BSEIPH. That decision had been taken a few weeks earlier, when Prime Minister Ariel Henry declared his government "did not have any undersecretary." As of October the victims had yet to be resettled, and the government had not nominated anyone to lead the BSEIPH.

The BSEIPH had several departmental offices outside the capital, but there was little progress towards creating a strategic development plan. The BSEIPH provided legal advice and job-counseling services to persons with disabilities. It regularly convened meetings with disability rights groups in all its regional offices. The BSEIPH generally worked to integrate persons with disabilities into the general society, in part by encouraging their employment in public institutions.

Some disability rights activists noted social services available to persons with disabilities were inadequate and that persons with disabilities had significant problems accessing quality medical care. Hospitals and clinics in Port-au-Prince were rarely accessible to persons with disabilities and often refused to treat them.

HIV and AIDS Social Stigma

Stigma against persons with HIV/AIDS was strong and widespread. In 2020 UNAIDS reported 63 percent of adults in the country said they would not purchase vegetables from a seller known to be HIV-positive, while 54 percent believed students with HIV should not attend school.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

There were reports that police condoned violence against lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) individuals. Some LGBTQI+ groups reported police and judicial authorities were inconsistent in their willingness to document or investigate LGBTQI+ persons' claims of abuse.

No laws criminalize sexual orientation or consensual same-sex conduct between adults, but there are no laws to protect LGBTQI+ persons from discrimination based on sexual orientation or gender identity.

The government's penal code reforms announced in 2020 and scheduled to enter into force in 2022, offer specific protections to LGBTQI+ persons for the first time. These include making LGBTQI+ persons a protected group and imposing penalties for public agents, persons, and institutions who refuse services on the grounds of someone's sexual orientation. A backlash against these changes, however, led to calls for a committee to amend the code, thus stalling any government efforts to prepare for the transition. The Ministry of Justice stated that it expected a significant delay in the code's implementation.

A 2017 study of public opinions on stigma and discrimination towards vulnerable groups showed that 71 percent of the individuals surveyed said "hate" was the most appropriate term to express their attitude toward LGBTQI+ persons, and 90 percent of the adult populations rejected the idea of equal rights for sexual minorities.

Local attitudes, particularly in Port-au-Prince, remained hostile toward LGBTQI+ persons who were public and visible about their sexual orientation or gender identity. Some politicians, social leaders, and organizations actively opposed the

social integration of LGBTQI+ persons or any discussion of their rights. LGBTQI+ advocacy groups in Port-au-Prince reported a greater sense of insecurity and less trust of government authorities than did groups in rural areas.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of some workers, excluding public-sector employees, to form and join unions of their choice and to strike, with restrictions. The law allows for collective bargaining, stating that employers must conclude a collective contract with a union if that union represents at least two-thirds of the workers and requests a contract. Strikes are legal if, among other requirements, they are approved by at least one-third of a company's workers. The law prohibits firing workers for union activities but is unclear whether employers may be penalized for each violation. The law sets very low fines for illegal trade union dismissals, however, and does not explicitly provide for reinstatement as a remedy.

The law restricts some worker rights. It requires that a union obtain prior authorization from the government to be formally recognized, although workers may freely associate to defend their common interests without prior authorization. According to the International Trade Union Confederation, the Social Organizations Service of the Ministry of Social Affairs and Labor has excessive authority in setting up and running a union. Foreign workers are prohibited from holding union office. The law limits legal strikes to four types: striking while remaining at post, striking without abandoning the institution, walking out and abandoning the institution, and striking in solidarity with another strike. Public-utility service workers and public-sector enterprise workers may not strike. The law defines public-utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." A 48-hour notice period is compulsory for all strikes, and strikes may not exceed one day. Some groups were able to strike despite these restrictions by being present at their workplace but refusing to work. One party in a strike may request compulsory arbitration to halt the strike. The law does not cover self-employed workers or workers in the informal economy.

The labor court, located in Port-au-Prince and under the supervision of the Ministry of Social Affairs and Labor, adjudicates private-sector workplace conflicts. Outside of Port-au-Prince, plaintiffs may use municipal courts for labor disputes. The law requires ministry mediation before cases are filed with the labor court. In the case of a labor dispute, the ministry investigates the nature and causes of the dispute and tries to facilitate a resolution, including reinstatement as a possible remedy. In the absence of a mutually agreed resolution, the dispute is referred to court.

The government did not effectively enforce the law, and penalties were not commensurate with those for other laws involving denials of civil rights, such as discrimination. Judicial procedures were subject to lengthy delays and appeals, and many courts were not functioning during the year due to conflict.

Government and private employers did not respect freedom of association and collective bargaining in practice. Antiunion discrimination persisted to some extent, although less than in previous years. Workers reported suspensions, terminations, and other retaliation by employers for legitimate trade union activities.

During the year, despite work stoppages and operational complications due to insecurity and political instability, the Office of the Labor Ombudsperson for the apparel sector and the Ministry of Social Affairs and Labor provided mediation services to workers and employers in Port-au-Prince, Caracol Industrial Park, and Ouanaminthe. Due to limited capacity and procedural delays in forwarding cases from the ministry to the courts, the mediation services of the apparel sector's labor ombudsperson and the conciliation services of the ministry were often the only practical options for worker grievances regarding better pay and working conditions. The Office of the Labor Ombudsperson intervened to improve relationships between employers, workers, and trade union organizations, either upon formal request by workers, unions, or employers' representatives, or based on labor-related human rights allegations reported by the International Labor Organization's Better Work Haiti (BWH) program.

b. Prohibition of Forced or Compulsory Labor

Although the law prohibits all forms of forced or compulsory labor, labor violations are part of civil law, not criminally prosecuted. The government did not effectively enforce the law in all sectors of the economy, and penalties were not commensurate with those for analogous crimes, such as kidnapping.

The Office of the Labor Ombudsperson, which reports directly to the prime minister, is responsible for, among other issues, receiving and investigating comments regarding compliance with core labor standards and relevant labor laws in the apparel sector according to the HOPE/HELP laws, but the office did not record any instances of intimidation or employer abuse. While there were no reports of forced or compulsory labor in the formal sector, other reports of forced or compulsory labor were made, specifically instances of forced labor among child domestics, or *restaveks*, a pejorative term for victims of the *restavek* system, who were believed to number 150,000-300,000 (see section 7.c.). As of July the courts were hearing 16 trafficking-in-person cases, although judicial proceedings were often protracted, and convictions tended to be rare.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law does not prohibit all the worst forms of child labor because it does not provide protection for children employed in domestic work. The minimum age for general work is 16. Other gaps existed in the legal framework to protect children adequately from the worst forms of child labor, including in the identification of hazardous occupations and illicit activities prohibited for children. Minimum age protections apply only to children with a formal employment contract.

The minimum age for employment in industrial, agricultural, or commercial companies is 16. Children ages 12 and older may work up to three hours per day outside of school hours in family enterprises, under supervision from the Ministry of Social Affairs and Labor. The law allows children 14 and older to be apprentices, but children ages 14 to 16 may not work more than 25 hours a week as

apprentices. The 2017 law on the organization and regulation of work over the duration of 24 hours, known as the “3×8 law” as it describes three shifts, states it is illegal to employ children younger than 16, but it was unclear whether the provision supersedes older statutes that create the sectoral exceptions mentioned above. In addition it was unclear whether there is a minimum age for domestic workers.

The law prohibits anyone younger than 18 from performing any work that is likely to be hazardous; interferes with their education; or is harmful to their physical, mental, spiritual, moral, or social health and development, including the use of children in criminal activities. The law prohibits night work in industrial enterprises for children younger than 18. The law doubles penalties for employing underage children at night. Prohibitions related to hazardous work omit major economic sectors, including agriculture, and the government had not published a specific list of hazardous occupations for children. The law states that primary education is free and compulsory, but according to one estimate, only half of all children attend primary school, rendering them vulnerable to forced labor. Persons between ages 15 and 18 seeking employment must obtain authorization from the Ministry of Social Affairs and Labor unless they work in domestic service. The law stipulates penalties for failure to follow this and other procedures, but it does not penalize the employment of children. The IBESR is responsible for enforcing child labor law. The IBESR and the Brigade for the Protection of Minors (BPM), a unit within the HNP, responded to reports of abuse in orphanages and establishments where children worked. The government did not effectively enforce the law, and penalties were not commensurate with those for analogous crimes, such as kidnapping.

The worst forms of child labor were endemic, particularly in domestic service. The government did not report on investigations into child labor law violations or the penalties imposed. Although the government and international donors allocated supplemental funds for the IBESR to acquire new administrative space and hire more staff, the IBESR lacked the programs and legislation needed to eliminate the worst forms of child labor. Nonetheless, the IBESR director general reported in November that combatting child trafficking, including the *restavek* system, was a central focus of her organization.

The National Tripartite Committee, organized by the government to help develop national policy on child labor, updated the list of hazardous work for children younger than age 18 in accordance with the International Labor Organization conventions. The hazardous work list had not yet been ratified because parliament ceased to function in January 2020.

The BPM is responsible for investigating crimes against children, and it referred exploited and abused children to the IBESR and partner NGOs for social services. Although it has the authority to respond to allegations of abuse and to apprehend persons reported as exploiters of child domestic workers, the BPM did not investigate cases involving the practice of *restavek* successfully. These investigations were difficult because no specific law protects *restavek* victims, and the BPM must rely on other laws, such as the law against human trafficking, to investigate and prosecute such cases. For example, the law prohibits commercial sex by those younger than 21, but the maximum penalty was only three years, while penalties for trafficking range up to life in prison.

The employment of children younger than 15 in the informal sector was a widespread practice. Children often worked in domestic work, subsistence agriculture, and street trades such as selling goods, washing cars, serving as porters in public markets and bus stations, and begging. Children also worked with parents on small family farms, although the high unemployment rate among adults kept significant numbers of children from being employed on commercial farms.

Working on the streets exposed children to a variety of hazards, including severe weather, vehicle accidents, and crime. Abandoned and runaway *restaveks* constituted a significant proportion of children living on the street. Many of these children were exploited by criminal gangs for prostitution or street crime, while others became street vendors or beggars.

The most recent study by the Ministry of Social Affairs and Labor, published in 2015, estimated 286,000 children worked in indentured domestic servitude, a form of trafficking in persons. An NGO specializing in child labor reported in November that 300,000, or one in 15 children, were caught in the *restavek* system. Such *restavek* victims were often victims of psychological, physical, and sexual abuse. While the IBESR and the HNP's specialized Child Protection Bureau were

responsible for protecting the welfare of children, their effectiveness was limited. Restavek victims were exploited by being forced to work excessive hours at physically demanding tasks without commensurate pay or adequate food, being denied access to education, and being subjected to physical and sexual abuse.

Girls were often placed in domestic servitude in private urban homes by parents who were unable to provide for them, while boys more frequently were exploited for farm labor. Restavek victims who did not run away from families usually remained with them until age 14. Many families forced restavek victims to leave before age 15 to avoid paying them wages as required by law. Others ignored the law, often with impunity.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings/>.

d. Discrimination with Respect to Employment and Occupation

The constitution provides for freedom of work for all citizens and prohibits discrimination based on sex, national or geographic origin, religion, opinion, or marital status. The constitution states that women should occupy 30 percent of the positions in public-sector employment. The law does not define employment discrimination, although it sets out specific provisions with respect to the rights and obligations of foreigners and women, such as the conditions to obtain a work permit, foreign worker quotas, and provisions related to maternity leave. The law prohibits discrimination based on disability but does not prescribe penalties for law violations. Persons with disabilities faced discrimination in hiring and access to the workplace. The law does not prohibit discrimination based on language, sexual orientation, gender identity, social status, or HIV-positive status. Women continued to face economic restrictions such as harassment in the workplace and lack of access to credit and other financial opportunities.

The government did not effectively enforce the law, and penalties were not commensurate with penalties for laws related to civil rights, such as election interference. In the private sector, several industries, including public transportation and construction, which in the past had been male oriented, employed female workers at the same pay scale as men. Despite these

improvements, gender discrimination remained a major concern. There was no governmental assessment or report on work abuses. The BWH's assessment of 28 factories between October 2020 and April 2021, the latest period for which such reporting was available, identified two cases of gender discrimination. Following the assessment, the factories where the cases occurred were reprimanded and conducted compliance training with the offenders as well as with all workers, and they reviewed sexual harassment policy in consultation with the trade union committee.

e. Acceptable Conditions of Work

Wages and Hour Laws: The law provides for a national minimum wage. Minimum wages are set by the government based on official macroeconomic indicators on at least an annual basis, and generally remain above the national poverty line. The government failed to publish an adjusted minimum wage for the year. Its most recent presidential decree setting minimum wages across sectors was issued in October 2019.

The 3×8 law organizes and regulates work over a 24-hour period divided into three eight-hour shifts. This law sets the standard workday at eight hours and the workweek at 48 hours for industrial, commercial, agricultural, and tourist establishments, and for public and private utilities. According to the chairman of the Haitian Hemispheric Opportunity through Partnership Encouragement Commission, a public-private labor oversight organization for the apparel assembly sector, the 3×8 law applied only to certain enterprises, thereby limiting its implementation. The 3×8 law also repealed some legal provisions related to work hours, leading to lack of clarity on overtime payments, rest days, and paid holidays, which were often the subject of friction between workers and employers.

The BWH reported cases in which employers made late payments for worker contributions to the country's social security administration (the Office of National Insurance) or when employers made erroneous or late payments to the Office of Insurance for Work Accidents, Sickness, and Maternity.

Occupational Safety and Health: The law establishes minimum occupational safety and health (OSH) regulations, including rules for onsite nurses at factories,

medical services, and annual medical checks. The law allows workers to notify the employer of any defect or situation that may endanger worker health or safety, and to call the Ministry of Social Affairs and Labor or police if the employer fails to correct the situation. Observers said OSH standards needed reform, including new policies and programs to mitigate persistent and emerging OSH risks, reinforce health promotion at work, and develop compliance programs. Standards were not always enforced. Penalties for violations of OSH regulations were not commensurate with penalties for analogous crimes, such as negligence.

The Ministry of Social Affairs and Labor was responsible for enforcing a range of labor-related regulations on wage and hour requirements, standard workweeks, premium pay for overtime, and occupational safety and health, but it did not effectively enforce the law. Penalties were not commensurate with those for similar crimes, such as fraud. There were no prosecutions of individuals accused of violating the minimum wage, hours of work, or safety regulations.

Labor inspectors lacked training and received little support from law enforcement authorities. Inspectors did not have the authority to make unannounced inspections or initiate sanctions. Despite operational difficulties due to the COVID-19 pandemic, the ministry was able to conduct inspections in the garment sector.

There were few reports of noncompliance with overtime provisions in apparel factories. In its 22nd *Biannual Synthesis Report*, which covers part of 2021, the BWH found that all factories were noncompliant on emergency preparedness and on chemical and hazardous substance management.

Informal Sector: Formal employment remained small (13 percent of the labor force), with agriculture and urban informal sectors providing employment to 40 percent and 47 percent of the labor market, respectively. The government did not enforce the law in the informal sector.

In the absence of effective contract enforcement or state oversight (the government does not track any data on the informal economy, including its size) economic operators tended to remain within family and existing social networks. More women participated in the informal sector than men. Women were approximately 20 percent more likely than men to be unemployed and, if working, 6 percent more

likely to participate in the informal sector.