

**Republic of Haiti**

**Submission for the**

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*Review of Haiti's Report under the International Covenant on Civil and Political Rights*

**Prison Conditions and Pre-Trial Detention in Haiti**

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## I. INTRODUCTION

1. Haiti's criminal justice system routinely fails to provide protections required under both Haitian and international law. Haiti's prison conditions rank among the worst in the world; prisons and detention centers are overcrowded, poorly maintained, unsanitary, often lacking in food and water, and underserved in terms of basic medical services.<sup>1</sup> Over 70 percent of prisoners have not been convicted of or tried for their alleged crimes and are held in illegal pretrial detention for over a year on average, and over six years in some prisons.<sup>2</sup> The conditions fall far below minimum standards under international law and amount to torture or cruel, inhumane and degrading (CID) treatment or punishment.<sup>3</sup>

2. The criminal justice system of Haiti is largely dysfunctional.<sup>4</sup> Class discrimination and elitist legal training condition lawyers, judges, and prosecutors to give preferential treatment to the powerful, either based on class prejudice or in search of bribes, while they discount the testimonies and legal needs of the poor.<sup>5</sup> Lack of access to education prevents major segments of Haitian society from understanding the workings of the justice system. As a result, most criminal defendants do not understand their legal rights, do not have access to legal counsel, and do not understand legal proceedings, which are conducted in French even though most Haitians speak only Haitian Creole. Because the violations primarily impact poor people, this justice system has not prioritized judicial reforms to address human rights abuses in the prisons or substantial case back-logs, which result in prolonged and arbitrary pretrial detention, prison overcrowding, and other due process rights. Wealthy people are able to buy their way out of jail with expensive lawyers and bribes.

3. The diminished capacity of the Haitian government to undertake systemic reforms of the criminal justice system has been ongoing since the January 12, 2010 earthquake. Tropical Storm Isaac in August 2012 and Hurricane Sandy in October 2012 exacerbated the problems experienced in the Haitian criminal justice system.<sup>6</sup> According to United Nations (UN) Independent Expert on the Situation of Human Rights in Haiti Gustavo Gallón, the efforts to improve the criminal justice system in Haiti have been insufficient, resulting in no viable improvements.<sup>7</sup> The Haitian government's goal of rebuilding the prison system has been left under-served and under-resourced, in part because of limited funding from the international community, in part because of an insufficient lack of resources from the Haitian government, and in part because of a lack of political leadership.<sup>8</sup>

4. In order to bring the criminal justice system in line with international human rights obligations, we urge the Haitian government to take the follow measures to address the issues and practices that violate applicable human rights norms and standards under the International Covenant on Civil and Political Rights (ICCPR):

- Eliminate practices that amount to torture and CID treatment and punishment;
- Take measures to reduce prison population and overcrowding;
- Improve detention center conditions to bring them into compliance with the Minimum Standards for Treatment of Prisoners;
- Eliminate prolonged pretrial detention; and

- Ensure the right to a fair and impartial trial for all individuals.

## II. HAITI'S LEGAL & INSTITUTIONAL FRAMEWORK

5. Haiti's Constitution of 1987 requires the government to protect all individuals deprived of their liberty. There is thus an obligation to prevent arbitrary arrests, prosecutions, or detentions.<sup>9</sup> In situations of lawful arrest, persons may only be held for 48 hours before they are to see a judge and obtain a ruling on the legality of their arrest.<sup>10</sup>

6. Under the Haitian Constitution, international treaties, once ratified, become a part of the legislation of Haiti and abrogate any pre-existing, conflicting laws.<sup>11</sup> Haiti acceded to the ICCPR on February 6, 1991, and submitted its first report on November 29, 2012.<sup>12</sup> The Constitution also guarantees respect for human dignity by guaranteeing the right to life, health, and respect of the human person pursuant to the Universal Declaration of Human Rights (UDHR).<sup>13</sup>

7. The *Ministère de la Justice et de la Sécurité Publique* (Ministry of Justice and Public Safety) is charged with developing policy, managing the operation of courts, addressing shortcomings in the criminal justice system, reducing prolonged pretrial detention, preventing corruption and money laundering, constructing new detention centers, and ensuring respect for human rights in Haitian prisons.<sup>14</sup> An agency of the ministry, the *Direction de l'Administration Pénitentiaire* (DAP) (Prison Administration Authority), is responsible for the management of prisons and detention centers.<sup>15</sup>

8. The practice of criminal justice procedures in Haiti falls significantly below the minimum standards required by both national and international law. This has been reported repeatedly by human rights monitors, including in the reports of the UN Human Rights Council's Independent Expert on the Situation of Human Rights in Haiti, Gustavo Gallón, Human Rights Watch, and the U.S. Department of State.<sup>16</sup>

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

### A. Article 7: Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

9. Both Haitian and international law, including Article 7 of the ICCPR prohibit torture, cruel, inhumane and degrading (CID) treatment or punishment.<sup>17</sup> This right cannot be violated under any circumstance, including public emergency.<sup>18</sup> It is therefore necessary for the government to take measures to prevent violations of the right to freedom from CID treatment or punishment.

10. Government agents routinely subject Haiti's prisoners to torture or CID treatment or punishment. When interviewed, 40 percent of prisoners in a May 2009 census in three prisons claimed that they were subject to torture or other abusive treatment by government agents.<sup>19</sup> Despite Haiti's laws that prohibit torture and other CID treatment or punishment, government agents continue to employ such practices with impunity.<sup>20</sup> There have been documented incidents of corrections officers using both physical and psychological means to mistreat prisoners.<sup>21</sup>

11. Moreover, the abuses of prisoners in Haitian prisons extend far beyond traditional notions of torture. The conditions of the prisons are so poor that they are tantamount to CID treatment (see Prison and Detention Center Conditions section below).<sup>22</sup>

## **B. Article 10: Prison and Detention Center Conditions**

12. In addition to Article 7's prohibition of CID treatment or punishment, Article 10 obligates the Haitian government to treat all individuals who have been arrested or detained with humanity and with the respect warranted by the inherent dignity of their person.<sup>23</sup>

13. The Haitian government has a further obligation to separate the detention of convicted persons from the detention of accused persons.<sup>24</sup> This separation is to include separate treatment appropriate to their status, with the essential aim being the reformation and rehabilitation of prisoners.<sup>25</sup>

14. Haitian prison conditions are amongst the worst in the world. The detention conditions fall below Haitian standards and even farther below international standards.<sup>26</sup> Prisoners have limited access to food, clean water, medical treatment, and space.<sup>27</sup> The prisons in Haiti neither meet basic international standards nor ensure the human dignity of inmates. The situation is exacerbated by the fact that authorities in Haiti describe the situation as nothing new, attributing it to a decline in judges available to deal with the cases of detainees.<sup>28</sup>

15. Since the May 6, 2008 decision of the Inter-American Court of Human Rights in *Yvon Neptune v. Haiti*, little has been done to comply with the Court's order. The Haitian government has failed to develop a plan to bring prisons up to international standards; it has also failed to comply with other provisions of the decision.<sup>29</sup>

16. Prisoners detained in Haitian prisons are also subject to moderate to severe malnourishment. Prisons like the Jacmel prison in the south run on severe food shortages, lacking in sufficient funds to provide food for all of the detainees.<sup>30</sup> All of the prisons provide at most one or two meals per day, and few prisons have facilities or employees to prepare and distribute food.<sup>31</sup> According to medical standards, none of the prisons provide regular meals with sufficient calories or nutrients.<sup>32</sup> As a result of this, families of the detained often resort to paying prison staff to deliver food to prisoners.<sup>33</sup>

### **1. Extreme Overcrowding**

17. Haitian prisons are characterized by extreme overcrowding. The number of people detained in Haitian prisons at the end of 2012 was 8,860.<sup>34</sup> This number grew to 9,921 in 2013 and 10,000 in 2014.<sup>35</sup> The level of overcrowding varies by report; nevertheless, Haitian prisons are currently operating at anywhere from 250 percent to over 400 percent of their official capacity.<sup>36</sup> As a result of the severe overcrowding, there are significant problems with ventilation and sanitation.<sup>37</sup>

18. The recommendation of the International Committee of the Red Cross (ICRC) establishes 3.4 m<sup>2</sup> per prisoner as the minimum space necessary.<sup>38</sup> In 2013, Haitian prisoners had roughly 40 cm<sup>2</sup> per prisoner—a decrease from the 60 cm<sup>2</sup> reported the previous year.<sup>39</sup> The severely overcrowded conditions of the prisons forces prisoners to

take turns, sleeping on the floor in shifts.<sup>40</sup> To accommodate the extent of overcrowding, some prisons do not provide beds for prisoners in any of the cells.<sup>41</sup>

## **2. Lack of Healthcare & Sanitation**

19. The prisons themselves are unsanitary. The U.S. Department of State indicates that roughly 70 percent of those detained in Haitian prisons suffer from “a lack of basic hygiene, malnutrition, poor quality health care, and water-borne illnesses.”<sup>42</sup> Many prisons lack plumbing, waste disposal, potable water, electricity, or isolation for prisoners with contagious pathogens.<sup>43</sup> Prisoners generally do not have access to treated drinking water, leaving them to use well water for both their drinking and bath water.<sup>44</sup> The facilities themselves are often unlit and poorly ventilated, resulting in temperatures reaching over 100 degrees Fahrenheit.<sup>45</sup>

20. Medical care within the prisons is severely under-resourced. Most facilities face problems with HIV/AIDS, malaria, drug-resistant tuberculosis, cholera, scabies and beriberi.<sup>46</sup> While some prisons contain clinics to treat these maladies, medical treatment in most prisons is limited to care provided by NGOs and international organizations.<sup>47</sup> Prisoners are kept in overcrowded cells, usually without toilets, in conditions that foster and promote the spread of contagious pathogens.<sup>48</sup>

21. The lack of access to healthcare is not limited to physical maladies. Due to the poor treatment of prisoners, by prison officers as well as the general conditions, there is a notably high prevalence of psychological problems.<sup>49</sup> Rather than receiving medical and/or psychiatric care, prisoners in need are often left with untreated mental illness or placed in total isolation.<sup>50</sup>

## **3. Lack of Security**

22. Within the prisons, corrections officers are severely under-resourced. They often lack capacity for self-defense and basic riot control, creating a system either that severely deprives the inmates or that encourages the officers to use brutality.<sup>51</sup>

23. On August 9, 2014, approximately 329 prisoners escaped from a new prison in Croix-des-Bouquet, which opened in 2012 with the assistance of foreign aid. No evidence of force was found in the prison break, calling into question whether the escape was facilitated by authorities within the prison system. As of the end of August 2014, approximately 42 prisoners had been recaptured,<sup>52</sup> including Clifford Brandt, who confessed to a high profile kidnapping of his father’s business rival. According to Haitian authorities, the raid was a well-planned attack from within the prison aimed at freeing Brandt, the son of a well-known businessman.<sup>53</sup> This was the largest prison break since approximately 4,500 prisoners escaped the National Penitentiary after it collapsed as a result of the 2010 earthquake. Fewer than 1,000 of those prisoners had been re-apprehended at the end of 2012.<sup>54</sup>

24. As a result of Hurricane Sandy, the collapse of an external wall of the prison in Jacmel has meant that in order to maintain security, detainees have been prevented from using the one courtyard that provided access to sunlight and fresh air.<sup>55</sup>

### **C. Article 9: Prolonged Pretrial Detention**

25. Under Article 9, the Haitian government has an obligation to prevent arbitrary arrest and detention.<sup>56</sup> The government must ensure that all instances of the violation of an individual's liberty are done in accordance with legal procedures. All who are arrested must be informed of the reasons for his arrest, promptly informed of pending charges, and promptly brought before a judge or other legal officer.<sup>57</sup> The government must ensure that all individuals are tried within a reasonable time and that anyone subjected to arrest or detention receive fair proceedings before a court.<sup>58</sup> Victims of unlawful arrest or detention must be permitted to seek compensation for the violation of the right to liberty.<sup>59</sup>

26. Under Haitian law, those detained are entitled to see a judge within 48 hours of their arrest.<sup>60</sup> After this initial hearing, defendants shall be tried within four months, or given the right to contest their detention.<sup>61</sup> In practice, however, the most inmates are held in prolonged pretrial detention and wait over a year before ever seeing a judge.<sup>62</sup> The national average for persons held in pretrial detention is 80 percent, varying from roughly 50 percent in provincial prisons like Mirebalais to over 90 percent in Port-au-Prince.<sup>63</sup> This means that of the over 10,000 currently detained in Haitian prisons, roughly 8,000 have not yet appeared before a judge. Given the extent of pretrial detention, many of these people will have spent more time in pretrial detention than they would spend serving a sentence if they were to be convicted.<sup>64</sup>

27. The situation of pretrial detention for women is also concerning, though it is better than the average. Over 25 percent of women are being held without legal cause, and even more are being held in pretrial detention. Most of these women will wait anywhere from three to seven years before even going to trial.<sup>65</sup>

28. Corruption in the criminal justice system is one of the predominant sources of prolonged pretrial detention.<sup>66</sup> Rules and decisions of the court are applied inconsistently and arbitrarily, encouraging and fueling the corruption endemic to the criminal justice system.<sup>67</sup> Judges themselves have cited fear of vigilante retribution as reasons for their inability to administer justice, sometimes even as a result of explicit threats.<sup>68</sup> The popular mistrust for the criminal justice system can be seen in the incidents of vigilante justice across the country, which has been consistent or increasing since 2009.<sup>69</sup>

29. A lack of resources is another predominant source of the state of prolonged pretrial detentions. Courts lack the resources to pay judges to hold court sessions with any regularity, leading to the Haitian public's highly skeptical view of the judicial system.<sup>70</sup> The prisons in Haiti utilize only handwritten paper files, rendering the court database created by the UN Development Program (UNDP) and the Haitian government functionally ineffective.<sup>71</sup> As a result, there are no adequate records of the prison system as it currently exists.<sup>72</sup>

### **D. Article 14: Denial of a Fair Public Trial**

#### **1. Unfair Trial Procedures**

30. Under Article 14, the Haitian government has an obligation to provide all accused individuals with a fair, public trial by a competent and impartial tribunal.<sup>73</sup> In order to

accomplish this, the government must provide counsel, time to prepare a defense, access to information in the language of the accused, and a timely trial.<sup>74</sup>

31. Even with international and Haitian efforts to train judges and create tribunals, the high rate of arrests is maintaining the high volume backlog of cases.<sup>75</sup> Once detainees are brought before a judge, the criminal procedure of Haiti does not assign responsibility in criminal investigations in any meaningful manner. Responsibility is divided among the police, justices of the peace, prosecutors, and investigating magistrates in a pseudo-Napoleonic code largely unchanged since its inception in 1880.<sup>76</sup> This often leads to a failure to question witnesses, compile complete case files, and even to complete investigations.<sup>77</sup>

32. The lack of judicial oversight has led to a large amount of corruption within ongoing trials. Officials, not limited to judges and clerks, charge arbitrary fees for criminal prosecution, often failing to respond to the cases of those who cannot or do not pay.<sup>78</sup> Constitutionally guaranteed rights, including the presumption of innocence and right to present evidence and/or witnesses for the defense, are often denied at trial.<sup>79</sup> The lowest civil courts, *les tribunaux de paix*, are notably rife with corruption; bribes are frequently a major factor in judges' decisions about whether or not to hear a case.<sup>80</sup>

33. Even in instances where a case is heard by a judge, there are other factors that can inhibit the right to a fair trial.<sup>81</sup> Among the guarantees of the ICCPR is the defendant's procedural right to have access to an interpreter if necessary.<sup>82</sup> Although both Creole and French are the official languages of Haiti,<sup>83</sup> legal proceedings and most legal texts are written in French only, while the majority of the population speaks Haitian Creole.<sup>84</sup> This creates an inherent system of socio-economic discrimination, as French is only learned in the few schools available to roughly half of the Haitian population.<sup>85</sup> Because of this system, many defendants cannot understand the legal proceedings brought against them, and even fewer can meaningfully engage with the courts.

## **2. Lack of Defense Counsel**

34. The Haitian Constitution provides the right to defense counsel, but in practice free legal counsel is rarely provided by the Haitian government for detainees.<sup>86</sup> This further contributes to the criminal justice system's socio-economic discrimination, as very few criminal defendants are able to afford an attorney.<sup>87</sup> Legal costs and lawyers are prohibitively expensive for the poor, and the state does not sponsor legal assistance.<sup>88</sup>

35. With only a handful of civil society organizations offer legal assistance to victims, the Haiti's system of justice is for the wealthy. The majority of Haitians are left unable to find the means—whether monetary or via access to a pro-bono attorney—to obtain an attorney.<sup>89</sup>

## **IV. CONCLUDING RECOMMENDATIONS**

1. Comply fully with all international treaty obligations contained in the ICCPR;
2. Comply fully with the Inter-American Court on Human Rights' decision in *Yvon Neptune v. Haiti*;

3. Take appropriate measures to reduce the duration of pretrial detention and to conform with international standards and reduce overcrowding;
  - a. Fight corruption in the judiciary through increased oversight of judges and other officials;
  - b. Introduce simplified procedures to determine the legal status of persons in prolonged pretrial detention in order to process them and free the judicial system to deal with the most serious cases;
4. Improve conditions of detention to ensure compliance with the Minimum Standards of Treatment of Prisoners;
  - a. Set up hygienic sanitation services in prisons, including portable water, adequate food, access to latrines and ensure availability of soap;
  - b. Provide access to medical care and supplies in accordance with guidelines of one professional caregiver per detention facility;
  - c. Invest in construction of new prisons that meet minimum standards with regard to space allocation and access to basic services;
5. Separate detention of men and women, adults and juveniles, accused and convicted;
6. Update prison system records and databases so that the existing database may provide effective documentation of the prison system;
7. Provide free and mandatory French-Creole translation in criminal justice proceedings;
8. Establish a public legal aid institution within the Ministry of Justice to provide detainees with free defense counsel; and
9. Allocate sufficient funds for the timely and adequate payment of judges so that there are sufficient judges to hear cases.

## ANNEX I: ENDNOTES

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<sup>1</sup>See, e.g., U.N. Independent Expert on the Situation of Human Rights in Haiti, *Rep. of the Independent Expert on the Situation of Human Rights in Haiti*, U.N. Doc. A/HRC/25/71 (Feb. 7, 2014) (by Gustavo Gallón) [hereinafter Gallón 2014 Report].

<sup>2</sup> Gallón 2014 Report, *supra* note 1; United States Department of State, *2013 Country Reports on Human Rights Practices – Haiti* (Feb. 27, 2014) (by Bureau of Democracy, Human Rights and Labor) available at <http://www.refworld.org/docid/53284ad014.html> [hereinafter U.S. Dep’t State 2013 Report]; International Centre for Prison Studies, *World Prison Brief – Haiti* (2013) available at <http://www.prisonstudies.org/country/haiti>.

<sup>3</sup> Gallón 2014 Report, *supra* note 1; U.S. Dep’t State 2013 Report, *supra* note 2; Réseau National de Défense des Droits Humains (RNDDH), *Etude des conditions générales de détention dans six (6) prisons du pays*, Rap. N02/A12 (Apr. 2012); Human Rights Watch, *World Report 2014: Haiti*, (2014) available at <http://www.hrw.org/world-report/2014/country-chapters/haiti>; U.N. Security Council, *Report of the Secretary-General on the United Nations Stabilization Mission in Haiti*, U.N. Doc. S/2012/678 (Aug. 31, 2012) [hereinafter U.N. Security Council 2012 Report].

<sup>4</sup> U.N. Independent Expert on the Situation of Human Rights in Haiti, *Report of the Independent Expert on the Situation of Human Rights in Haiti*, U.N. Doc. A/HRC/22/65 (February 7, 2013) (by Michel Forst) [hereinafter Forst 2013 Report].

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<sup>5</sup> Meena Jagannath, Nicole Phillips, & Jeena Shah, *A Rights Based Approach to Lawyering: Legal Empowerment as an Alternative to Legal Aid in Post-Disaster Haiti*, 10 NW. J. INT'L HUM. RTS. 10, 11 (2011).

<sup>6</sup> Gallón 2014 Report, *supra* note 1; Forst 2013 Report, *supra* note 4

<sup>7</sup> Gallón 2014 Report, *supra* note 1.

<sup>8</sup> In early 2013, the U.S. government committed to building two prisons: one a women's facility in Cabaret and one a men's facility in Petit Goave. At the end of 2013, the Haitian government announced that the National Penitentiary in Port-au-Prince is to be replaced by the facility to be built in Petit Goave. Neither prison facility is, at present, operational. *See, US plans to build 2 prisons in Haiti's provinces*, WASH. EXAM'R, Feb. 15, 2013, available at <http://washingtonexaminer.com/us-plans-to-build-2-prisons-in-haitis-provinces/article/feed/2072473#>; Institute for Justice & Democracy in Haiti, *Haiti – Justice: The National Penitentiary will be relocated* (Oct. 30, 2013) available at <http://www.ijdh.org/2013/10/topics/law-justice/haiti-justice-the-national-penitentiary-will-be-relocated/#.U0nOZtxN1uY>.

<sup>9</sup> 1987 Constitution de la République d'Haïti, art. 24.1, "Nul ne peut-être poursuivi, arrêté ou détenu que dans les cas déterminés par la loi" [hereinafter 1987 Const.].

<sup>10</sup> 1987 Const. art. 26, (stating that "Nul ne peut être maintenu en détention s'il n'a compare dans les quarantes huit (48) heures qui suivent son arrestation"); 1987 Const., art. 44.

<sup>11</sup> 1987 Const. art. 276.2.

<sup>12</sup> International Covenant on Civil and Political Rights, resolution 2200 A (XXA) UNGA, Dec. 16, 1966 (entry into force March 23, 1976). Ratified by Haiti on November 23, 1990 (published by decree on January 7, 1991) [hereinafter ICCPR].

<sup>13</sup> 1987 Const. art. 19, 44.

<sup>14</sup> République d'Haïti, Le Ministère de la Justice et de la Sécurité Publique, available at <http://www.mjsp.gouv.ht/presentation.htm>.

<sup>15</sup> République d'Haïti, Direction de l'Administration Pénitentiaire, Mission de L'Administration Pénitentiaire, available at [http://dap.gouv.ht/index.php?option=com\\_content&view=article&id=37&Itemid=97](http://dap.gouv.ht/index.php?option=com_content&view=article&id=37&Itemid=97).

<sup>16</sup> Gallón 2014 Report, *supra* note 1; Human Rights Watch, *World Report 2014: Haiti*, (2014), *supra* note 3; U.S. Dep't State 2013 Report, *supra* note 2; United States Department of State, *Report on International Prison Conditions* (by Bureau of Democracy, Human Rights and Labor) [hereinafter U.S. Dep't State Prison Conditions Report].

<sup>17</sup> 1987 Const. art. 24.1; ICCPR, art. 7; UDHR, art. 5; HRC, General Comment No. 20: Replaces General Comment No. 7 concerning the prohibition of torture and cruel treatment or punishment, U.N. Doc. HRI/GEN/1/Rev.1, 44th Sess. (March 10, 1992); ACHR, art. 5(2).

<sup>18</sup> ICCPR, art. 4(1).

<sup>19</sup> Inst. For Justice & Democracy In Haiti & Bureau des Avocats Internationaux, *Health and Human Rights in Prisons Project* (2009), available at <http://ijdh.org/wordpress/wp-content/uploads/2010/02/HHRPP-Description-Website.pdf>.

<sup>20</sup> *See* Human Rights Watch, *World Report 2008—Haiti* (2008), available at <http://www.unhcr.org/refworld/country,,,HTI,4562d94e2,47a87c0446,0.html>.

<sup>21</sup> U.S. Dep't State 2013 Report, *supra* note 2.

<sup>22</sup> Gallón 2014 Report, *supra* note 1; Forst 2013 Report, *supra* note 4.

<sup>23</sup> ICCPR, art. 10(1) (stating that "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person"); UDHR, art. 5; HRC, General Comment No. 21: Replaces General Comment 9 Concerning Humane Treatment of Persons Deprived of Liberty, U.N. Doc. HRI/GEN/1/Rev.9, 44th Sess. (Apr. 10, 1992).

<sup>24</sup> ICCPR, art. 10(2)(a) (stating that "Accused persons shall... be segregated from convicted persons").

<sup>25</sup> ICCPR, art. 10(2)(a), art. 10(3) (stating that "the essential aim... shall be... reformation and social rehabilitation")

<sup>26</sup> Haitian law provides that prisons must be operated to reflect human dignity. UN standards require that prisons, especially sleeping accommodations, "meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation." 1987 Const., art. 44.1; First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, *Standard Minimum Rules for the Treatment of Prisoners* (Aug. 30, 1955).

<sup>27</sup> Gallón 2014 Report, *supra* note 1.

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<sup>28</sup> *Id.*

<sup>29</sup> *Yvon Neptune v. Haiti, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 180 (May 6, 2008); Institute for Justice & Democracy in Haiti, Yvon Neptune Case Update (2009); Institute for Justice & Democracy in Haiti, Extreme Prison Overcrowding and Length Pre-trial Detention Continue in Haiti Despite International Court Order (July 3, 2013).*

<sup>30</sup> Gallón 2014 Report, *supra* note 1.

<sup>31</sup> U.S. Dep't State 2013 Report, *supra* note 2.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Forst 2013 Report, *supra* note 23.

<sup>35</sup> International Centre for Prison Studies, *supra* note 2; Gallón 2104 Report, *supra* note 1.

<sup>36</sup> International Centre for Prison Studies, *supra* note 2; Gallón 2104 Report, *supra* note 1; U.S. Dep't State 2013 Report, *supra* note 2.

<sup>37</sup> U.S. Dep't State Prison Conditions Report, *supra* note 26.

<sup>38</sup> Gallón 2014 Report, *supra* note 1.

<sup>39</sup> *Id.*; Forst 2013 Report, *supra* note 4.

<sup>40</sup> U.S. Dep't State Prison Conditions Report, *supra* note 26; Institute for Justice & Democracy in Haiti, *Extreme Prison Overcrowding and Length Pre-trial Detention Continue in Haiti Despite International Court Order (July 3, 2013).*

<sup>41</sup> U.S. Dep't State 2013 Report, *supra* note 2.

<sup>42</sup> U.S. Dep't State Prison Conditions Report, *supra* note 26.

<sup>43</sup> Prison like the facilities in Port-au-Prince and Jacmel lack sewage facilities entirely, leaving prisoners in a uniquely deplorable condition even amongst Haitian prisons. Gallón 2014 Report, *supra* note 1; U.S. Dep't State 2013 Report, *supra* note 2.

<sup>44</sup> U.S. Dep't State 2013 Report, *supra* note 2.

<sup>45</sup> U.S. Dep't State 2013 Report, *supra* note 2; International Committee of the Red Cross, *Haiti: keeping detainees health – a public health challenge (April 19, 2012) available at* <http://www.icrc.org/eng/resources/documents/interview/2012/haiti-health-detention-interview--2012-04-18.htm>.

<sup>46</sup> U.S. Dep't State 2013 Report, *supra* note 2; Institute for Justice & Democracy in Haiti, *Extreme Prison Overcrowding and Length Pre-trial Detention Continue in Haiti Despite International Court Order (July 3, 2013).*

<sup>47</sup> U.S. Dep't State 2013 Report, *supra* note 2; International Committee of the Red Cross, *The ICRC in Haiti (November 15, 2012) available at* <http://www.icrc.org/eng/where-we-work/americas/haiti/overview-haiti.htm>.

<sup>48</sup> International Committee of the Red Cross, *Haiti: keeping detainees health – a public health challenge (April 19, 2012) available at* <http://www.icrc.org/eng/resources/documents/interview/2012/haiti-health-detention-interview--2012-04-18.htm>.

<sup>49</sup> Mission des Nations Unies pour la stabilisation en Haïti, *Tèt Fè Mal*, (October 10, 2012) (by MinustahTV) *available at* <http://http://www.youtube.com/watch?v=NhgdAxnUI58#action=share> [hereinafter *Tèt Fè Mal*].

<sup>50</sup> *Tèt Fè Mal*, *supra* note 43.

<sup>51</sup> U.S. Dep't State 2013 Report, *supra* note 2.

<sup>52</sup> *Haiti – Sécurité : 42 des 329 détenus capturés depuis l'évasion*, Haiti Libre (Aug. 22, 2014), *available at* <http://www.haitilibre.com/article-11875-haiti-securite-42-des-329-detenus-captures-depuis-l-evasion.html>.

<sup>53</sup> Jacqueline Charles, *Authorities : Haitian fugitive Clifford Brandt captured along Haiti-DR border*, Miami Herald (Aug. 12, 2014) *available at* <http://www.miamiherald.com/2014/08/12/4286011/authorities-haitian-fugitive-clifford.html>.

<sup>54</sup> U.S. Dep't State 2012 Report, *supra* note 31.

<sup>55</sup> Gallón 2014 Report, *supra* note 1.

<sup>56</sup> ICCPR, art. 9; UDHR, art. 9 stating that “No one shall be subjected to arbitrary arrest, detention or exile.”

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- <sup>57</sup> ICCPR, art. 9(1) (stating that “No one shall be subjected to arbitrary arrest or detention”); art. 9(2) (stating that “Anyone who is arrested shall be informed... of the reasons for his arrest and... of any charges against him”); UDHR, art. 8.
- <sup>58</sup> ICCPR, art. 9(3) (stating that “Anyone arrested or detained... shall be brought promptly before a judge... and shall be entitled to a trial within a reasonable time”); art. 9(4) (stating that “Anyone who is deprived of his liberty... shall be entitled to take proceedings before a court”); UDHR, art. 8, 10.
- <sup>59</sup> ICCPR, art. 9(5) (stating that “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation”)
- <sup>60</sup> 1987 Const. art. 26.
- <sup>61</sup> Code d’instruction criminelle, Titre II – des ordonnances du juge d’instruction de l’exercice de leur appel, art. 7.
- <sup>62</sup> *Id.*
- <sup>63</sup> *Id.*; Institute for Justice & Democracy in Haiti, *Extreme Prison Overcrowding and Length Pre-trial Detention Continue in Haiti Despite International Court Order* (July 3, 2013).
- <sup>64</sup> Gallón 2014 Report, *supra* note 1; U.S. Dep’t State 2013 Report, *supra* note 2.
- <sup>65</sup> U.S. Dep’t State 2013 Report, *supra* note 2; Tèt Fè Mal, *supra* note 43.
- <sup>66</sup> Forst 2013 Report, *supra* note 4; *see* Gallón 2014 Report, *supra* note 1.
- <sup>67</sup> Gallón 2014 Report, *supra* note 1; Forst 2013 Report, *supra* note 4; U.S. Dep’t State 2013 Report, *supra* note 2.
- <sup>68</sup> Forst 2013 Report, *supra* note 4.
- <sup>69</sup> Gallón 2014 Report, *supra* note 1; Forst 2013 Report, *supra* note 4.
- <sup>70</sup> Gallón 2014 Report, *supra* note 1.
- <sup>71</sup> U.S. Dep’t State 2013 Report, *supra* note 2.
- <sup>72</sup> *Id.*; Forst 2013 Report, *supra* note 4.
- <sup>73</sup> ICCPR, art. 14(1) (stating that “All persons shall be equal before the courts and tribunals... everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”).
- <sup>74</sup> ICCPR, art. 14(3).
- <sup>75</sup> U.N. Security Council 2012 Report, *supra* note 3.
- <sup>76</sup> U.S. Dep’t State 2013 Report, *supra* note 2; Forst 2013 Report, *supra* note 4.
- <sup>77</sup> U.S. Dep’t State 2013 Report, *supra* note 2.
- <sup>78</sup> *Id.*; U.N. Security Council 2012 Report, *supra* note 3.
- <sup>79</sup> U.S. Dep’t State 2013 Report, *supra* note 2.
- <sup>80</sup> *Id.*; Gallón 2014 Report, *supra* note 1.
- <sup>81</sup> Gallón 2014 Report, *supra* note 1.
- <sup>82</sup> ICCPR, art. 14; ACHR, art. 8; *see* UDHR, art. 10.
- <sup>83</sup> 1987 Const. art. 5.
- <sup>84</sup> Inter-American Commission on Human Rights, *The Right of Women in Haiti to be Free from Violence and Discrimination*, OEA/Ser.L/V/II, Doc. 64 (2009). para 126.
- <sup>85</sup> Gallón 2014 Report, *supra* note 1.
- <sup>86</sup> 1987 Const. art. 24-3.
- <sup>87</sup> Christopher Stone, *A New Era for Justice Sector Reform in Haiti* (Harvard Kennedy School, Faculty Research Working Paper Series RWP10-033, 2010); Tèt Fè Mal, *supra* note 43.
- <sup>88</sup> Inter-American Commission on Human Rights, *The Right of Women in Haiti to be Free from Violence and Discrimination*, OEA/Ser.L/V/II, Doc. 64 (2009). para 122.
- <sup>89</sup> Those working within the prison system in Haiti openly recognize that for most people, “ils n’ont pas les moyens d’avoir un avocat.” Tèt Fè Mal, *supra* note 43; *see* Christopher Stone, *A New Era for Justice Sector Reform in Haiti* (Harvard Kennedy School, Faculty Research Working Paper Series RWP10-033, 2010).