



December 31, 2013

Human Rights Committee
UN High Commissioner for Human Rights
Attention: Kate Fox
Secretary of the Human Rights Committee
Sent via email kfox@ohchr.org

Dear Honorable Members of the Committee,

This letter is intended to update the Committee on issues since our last submission on April 27, 2012, (available at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HTI/INT_CCPR_NGO_HTI_105_9000_E.pdf). We thank you again for the opportunity to brief the commission members on these important human rights issues. We have limited the present submission to include information and questions on our most pressing concerns under many of the articles related to, among other things, electoral rights, threats against lawyers, forced evictions from earthquake displacement camps, the prosecution of Jean-Claude Duvalier, access to judicial remedies, and freedom of expression and assembly.

Introduction: Political Climate in Haiti

Political Instability and lack of elections: While Haiti has historically struggled to hold regular and timely elections, the current situation results from a political deadlock. Elections for one-third of the senate scheduled for November 2011 have yet to be held or scheduled, and 129 non-elected “municipal agents” have replaced elected mayors whose terms expired in 2012.¹

In May 2011, President Michel Martelly took office after initial and run-off elections with historically low voter turnouts (less than 23 percent in both rounds), and allegations of widespread voter fraud and the arbitrary exclusion of political parties.² As a result, President Martelly’s reign has been impacted by a lack of political support. President Martelly did not establish a Permanent Electoral Council (CEP) as required under the Haitian Constitution, consequently parliamentary and municipal elections scheduled for November 2011 have not been held. One-third of the Senate’s terms expired in May 2012 and President Martelly appointed non-elected officials to fill expired mayoral positions. Although President Martelly established a temporary council to run elections for the vacant Senate seats, the elections have not been held. This election crisis has further crippled the Parliament and has concentrated power in the executive branch.

¹ *The United States Government Should Support Fair Elections in Haiti*, Institute for Justice & Democracy in Haiti and TransAfrica Forum (Sept.19, 2013), available at <http://www.ijdh.org/wp-content/uploads/2013/10/Election-handout-Sept-19-2013.pdf>.

² *Haiti’s Fatally Flawed Election*, Center for Economic and Policy Research (Jan. 2011), available at <http://www.cepr.net/index.php/publications/reports/haitis-fatally-flawed-election> (hereinafter “CEPR report”).

Threats against lawyers and government Interference with the Judiciary: Since 2012, Haiti has seen an escalating pattern of threats, intimidation and false criminal charges against lawyers and judges, creating a chilling effect. The Inter-American Commission on Human Rights (IACHR) issued two sets of precautionary measures in 2012 and 2013 against the Haitian government to protect the life and physical integrity of two human rights lawyers, Mario Joseph and Patrice Florvilus.³

Prosecution of Jean Claude Duvalier: Despite Haiti's obligation under the ICCPR to try former dictator Jean Claude Duvalier for crimes against humanity, a Haitian judge responsible for investigating the case dismissed all charges of crimes against humanity in January 2012 on the basis that the claims were beyond Haiti's statute of limitation.⁴ The government prosecutor also recommended dropping the embezzlement and corruption charges, but the investigating judge let them stand. The case was brought to the Court of Appeals and six months of hearings concluded May 16, 2013. Duvalier's victims' lawyers are told that the Court of Appeals rendered a decision in the summer of 2013, but that the government's prosecutor has failed to notify the victims or publish the decision, violating Haiti's Code of Criminal Procedure, and indicating government obstruction of justice.

Extrajudicial Forced Evictions in IDP camps: Four years after the earthquake, an estimated 170,000 people still live in more than 300 displacement camps in and around Port-au-Prince, in the majority of cases in appalling conditions with no access to essential basic services such as clean water, toilets and waste disposal.⁵ While the dire sanitation conditions leave them exposed to the risk of cholera and other diseases, the lack of solid shelters makes them vulnerable to flooding and other adverse weather conditions especially during the hurricane season.

According to Amnesty International, although official numbers of internally-displaced persons (IDPs) have significantly gone down from the initial estimated 1.5 million in July 2010, most people who have been relocated from camps have not benefitted from durable housing solutions which ensure their right to adequate housing.⁶ Forced evictions is a major factor contributing to the reduction in the number of IDPs living in camps. According to International Office of Migration (IOM) statistics from September 2013, forced evictions accounted for 11 percent of those leaving IDP camps whilst another 45 percent of the remaining camp population is under threat of eviction.

ICCPR Violations by Article

Article 1.1 (Determination of Political Status) and Article 25 (Right to Political Participation)

³ Letter from Inter-American Commission on Human Right granting precautionary measures (Oct. 19, 2013), *available at* <http://www.ijdh.org/wp-content/uploads/2012/10/Cautionary-mesures-mario-joseph-REVISEDFrench.pdf>; *Human Rights Lawyers Urge International Human Rights Commission to Protect Threatened Haitian Lawyer*, Press Release from the Institute for Justice & Democracy in Haiti (Nov. 4, 2013), *available at* <http://www.ijdh.org/2013/11/topics/law-justice/press-release-human-rights-lawyers-urge-iachr/#.UtBvx9JDsrU>.

⁴ *Haiti: Human Rights Watch Monitor Duvalier Court Hearing*, Human Rights Watch (Feb. 19, 2013), *available at* <http://www.ijdh.org/haiti-human-rights-watch-to-monitor-duvalier-court-hearing/>.

⁵ *Haiti: Failure to deal with the consequences of the 2010 devastating earthquake*, Amnesty International (January 9, 2014), AI Index: AMR 36/002/2014, *available at* <http://www.amnesty.org/en/library/info/AMR36/002/2014/en>.

⁶ *Id.*

Election Crisis: The Haitian government has not established a Permanent Electoral Council (CEP) as required under the Haitian Constitution, consequently parliamentary and municipal elections scheduled for November 2011 have not been held.⁷ One-third of the Senate's terms expired in May 2012 and President Martelly appointed non-elected officials to fill expired 129 mayoral positions.⁸

In every election since April 2009, Haiti has not met its national and international commitments to hold fair elections expressing the will of the Haitian people. The Provisional Electoral Councils established by former President Rene Prèval through a process not recognized by the Haitian Constitution, systematically excluded several political parties in parliamentary and presidential elections in 2009, 2010 and 2011 without legal justification, including Haiti's largest political party.⁹ This systematic and repeated exclusion violates Haiti's domestic and international commitments to fair elections that reflect the will of the voters, the right of candidacy and freedom of association. The November 2010 elections, held nine months after the earthquake, were marred with voter disenfranchisement, disorganization, voting irregularities, fraud, and an arbitrary change in electoral results.¹⁰

Coupled with the delayed elections is controversy concerning the electoral council, who's make up was changed in a set of 2010 constitutional amendments. The amendments were controversial because members of Parliament stated those published were not the actual amendments adopted in session.¹¹ Amidst pressure from the U.S. and other governments, President Martelly formally adopted the contested amendments in 2012.

Since 2012, each CEP appointment has been fraught with controversy, including a rape accusation of a CEP employee by one appointee and the unlawful appointment of another official who exceeds the legal age to hold office.¹² Without one-third of the senate, the legislature was not able to appoint their three members. As a result the CEP has been nonfunctional and unable to hold elections.

To remedy the CEP crisis, President Martelly appointed a bicameral commission in October 2012, the *Collège Transitoire du Conseil Électoral Permanent* (CTCEP).¹³ The CTCEP first met in April 2013, and submitted a proposed electoral law to a Presidential commission July 1, 2013. After sitting on the proposed law for two months, the Presidential commission submitted it to the House of Deputies only days before its last session of the year, leading to controversy over whether the House actually approved the law. The Prime Minister declared after the session that the electoral law was adopted, but

⁷ *The United States Government Should Support Fair Elections in Haiti*, *supra* note 1.

⁸ *Id.*

⁹ *The International Community Should Pressure the Haitian Government for Prompt and Fair Elections*, Institute for Justice & Democracy in Haiti (June 2010), available at <http://ijdh.org/archives/13138>, at 2-6.

¹⁰ CEPR report, *supra* note 2; see also *Haiti's November 28 Elections: Trying to Legitimize the Illegitimate*, Institute for Justice & Democracy in Haiti (Nov. 2010), available at <http://ijdh.org/archives/15456>.

¹¹ Charlie Hinton, *Haiti's Constitutional Horror Show*, Counterpunch (Oct.5, 2012), available at <http://www.counterpunch.org/2012/10/05/haitis-constitutional-horror-show/>.

¹² *Id.*

¹³ *Haiti- Elections : Swearing in, installation, and élection of members of the Bureau of CTCP*, HaitiLibre.com (Apr. 30, 2013), available at <http://www.haitilibre.com/en/news-8385-haiti-elections-swearing-in-installation-and-election-of-members-of-the-bureau-of-ctcep.html>. See also *To rebuild Haiti, Restoring Democracy is a Must*, Bloomberg, Apr. 7, 2013, available at <http://www.bloomberg.com/news/2013-04-07/to-rebuild-haiti-restoring-democracy-is-a-must.html>.

House members say there was never an affirming vote.¹⁴

On September 11, 2013, protesters took to the streets of Port-au-Prince to protest the slow pace of scheduling elections. These protests will likely continue until elections are held to end the political deadlock.

Questions:

1. What steps has the Haitian government taken to insure that elections are held for the expired senate and mayoral seats?
2. What preparations have been made or will be made for the next set of elections to ensure that all eligible political parties may participate, and that all eligible voters are able to register to vote?
3. What steps has the Haitian government taken to prevent disorganization, voting irregularities, and fraud in future elections?
4. What will the government do in order to encourage free and full participation of all eligible political parties in future elections?
5. What is the government doing in order to establish an impartial and fair lawful permanent electoral council?

Article 2.1 and 2.3 (Equal Application of Rights/Effective Remedies for Violations)

Women's Access to Judicial System: Under ICCPR Article 2.3, Haitians have a right to effective remedies including a right to competent legal systems of the state after their rights are violated. Most Haitians have little to no access to the formal justice system. Court fees and lawyers are too expensive for the poor to afford. Proceedings are conducted in French, which most Haitians do not speak. Elitist legal training conditions lawyers, judges, and prosecutors to give preferential treatment to the powerful while they discount the causes, testimonies, and legal needs of the poor.¹⁵ Poor women are particularly marginalized by the limited access to the justice system due to deep-rooted gender discrimination and the added economic disenfranchisement they face.¹⁶

A reform to the penal code is pending before the Haitian parliament, which would include a precise definition of sexual assault, legalize some post-rape abortions, and criminalize marital rape.¹⁷ Despite the criminalization of rape in 2005, reporting rape often remains "an exercise in futility."¹⁸ For example,

¹⁴ Robenson Geffrard, *Le vote des députés jette la confusion*, Le Nouvelliste (Sept.11, 2013), available at <http://lenouvelliste.com/article4.php?newsid=121186>.

¹⁵ Authors' conversations with Haitian lawyers and observations in hearings before Haitian judges, 2010-2011; see also Brian Concannon, Jr., *Beyond Complementarity: The International Criminal Court and National Prosecutions, A View from Haiti*, 32 COLUM. HUMAN RIGHTS L. REV. 201, 212-13 (2000).

¹⁶ Lisa Davis & Blaine Bookey, *Fanm Ayisyen Pap Kase: Respecting The Right to Health of Haitian Women and Girls*, 13 HEALTH & HUM. RTS. J. 1 (2011), available at <http://hhrjournal.org/index.php/hhr/article/view/410/618>.

¹⁷ Ansel Herz, *Haiti Moves to Tighten Laws on Sexual Violence*, Inter Press Service, (Mar. 7, 2013), available at http://www.ijdh.org/haiti-moves-to-tighten-laws-on-sexual-violence/#.Uds_jxZXBZA.

¹⁸ *Annual Report On The Inter-American Commission On Human Rights 2010: Follow-Up Report On The Situation Of Human Rights In Haiti* 594 (Apr. 15, 2011), IACHR, available at <http://reliefweb.int/report/haiti/annual-report-inter-american-commission-human-rights-2010-follow-report-situation-human>.

a 2012 UN Report examined sixty-two rape cases filed in Port-au-Prince during a three-month period; over a year after they were filed with police, none of the cases had gone to trial.¹⁹

Police lack basic resources necessary to adequately respond to reports of sexual violence.²⁰ Victims often fail to report sexual assaults to police because an average bribe of 1,200 gourdes (US\$28) will be expected to receive the complaint.²¹

Haitian judges, prosecutors, and police routinely dismiss rape cases when the victim does not receive a medical certificate within 72 hours of the attack, although not legally required. Nonetheless, it has been reported that the General Hospital in Port-au-Prince stopped issuing medical certificates, considering it to be a non-essential service.²²

Many Haitian women are hesitant to report sexual assault because of impunity and prevailing social norms that blame victims for their own rape and impunity. After one victim was beaten and raped, a police officer asked her, “What did you do to make him violate you?”²³ Another example is the case of Marie-Danielle Bernardin. In November 2012, Josué Pierre-Louis, President of the National Electoral Council (CEP) and former Minister of Justice, was accused of rape by his secretary, Ms. Bernardin. The Haitian Government publicly supported Pierre-Louis and did little to protect the victim. Judge Fanfan lifted a travel ban on Pierre-Louis after receiving threats from another judge, who was never punished. To intimidate the victim, Minister of Justice Sanon, unexpectedly appeared at a hearing.²⁴ Ms. Bernardin dropped the charges stating that although the facts of the case had not changed, the inability to secure justice and protect herself and her family from violence led to her decision.²⁵

Notwithstanding these challenges, women’s groups have successfully pushed sexual assault cases through the justice system. In 2012 and 2013, the *Bureau des Avocats Internationaux*, a Haitian public interest law firm, obtained convictions in 10 out of 12 cases of sexual assault from after the January 12, 2010 earthquake.

Labor and employment remedies: The Haitian government has failed to effectively monitor and enforce the labor code. The International Labor Organization’s (ILO) Better Works Program has exposed major compliance violations in Haiti’s textile industry, including attacks on freedom of association and

¹⁹ *Biannual Report On Human Rights In Haiti: January-June 2012* (Oct. 2012), UNHCHR, available at http://www.ohchr.org/Documents/Countries/HT/MINUSTAH-OHCHRJanuaryJune2012_en.pdf.

²⁰ Stuart Smith, *No Prosecution for Haitian Rape Cases*, Impunity Watch, (Jul. 2, 2012), available at <http://impunitywatch.com/no-prosecution-for-haitian-rape-cases/>.

²¹ Athena R. Kolbe Et Al, *The Economic Costs Of Violent Crime In Urban Haiti: Results From Monthly Household Surveys* (2012), available at http://www.hicn.org/wordpress/wp-content/uploads/2012/08/economic_costs_violent_crime_in_urban_haiti.pdf.

²² U.N. Independent Expert on the Situation of Human Rights in Haiti, *The Report Of The Independent Expert On The Situation Of Human Rights In Haiti* 28 (May 3, 2010), UN Doc. A/HRC/14/44, (Rapport de l’expert indépendant sur la situation des droits de l’homme en Haïti) (by Michel Forst), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/132/04/PDF/G1013204.pdf?OpenElement>.

²³ Kolbe & Muggah, *Haiti’s Silenced Victims*, N.Y. Times, (Dec.8, 2012), available at http://www.nytimes.com/2012/12/09/opinion/sunday/haitis-silenced-victims.html?pagewanted=all&_r=0.

²⁴ *Government of Haiti Supports Alleged Rapist Josue Pierre-Louis*, Haiti Observer, (Dec. 23, 2012), available at <http://www.haitiobserver.com/blog/tag/josue-pierre-louis/government-of-haiti-supports-alleged-rapist-josue-pierre-lou.html>.

²⁵ *Fallout of the Rape Case Against Josue Pierre-Louis*, The Sentinel, (Jan. 30, 2013, 7:24 AM), <http://www.defend.ht/politics/articles/judicial/3755-fallout-of-the-rape-case-against-josue-pierre-louis>.

collective bargaining, occupational safety and health standards, and worker hours, including forced overtime.²⁶ In October 2013, its factory monitoring program found all 23 factories surveyed to be “non-compliant” with the law, meaning that at least 90 percent of experienced workers should be making 300 gourdes (US\$7) a day.²⁷ An investigation by the Workers’ Rights Consortium based in Washington DC indicated that bosses in these same textile factories also regularly cheated their workers out of overtime pay, essentially making them work for free.²⁸ Exclusion from the courts, including the Labor Court, prevents workers from enforcing their labor and employment rights, making them vulnerable to exploitation and illegal firing.²⁹ Sexual harassment is not prohibited under Haiti’s labor code, though such conduct constitutes discrimination based on gender, which is prohibited under Article 2.1.³⁰

Extrajudicial Forced Evictions in IDP camps: Exclusion from the courts also allows self-proclaimed landowners to illegally evict thousands of residents from IDP camps without proving legal ownership of the land. To legally evict under Haitian law, a landowner must show proof of legal title in court and serve a summons on each individual who occupies the disputed land.³¹ In addition, the Haitian Constitution limits the right to private property if it is “contrary to the general public interest.”³² The vast majority of camp evictions by-pass the legal system and rely on methods of force or coercion.

In November 2010, the Inter-American Commission on Human Rights recommended that the Haitian government adopt a moratorium on expulsions and that IDP residents have access to legal recourse before a tribunal.³³ In March 2013, the Inter-American Commission on Human Rights again issued precautionary measures in favor of an IDP camp community (Camp Grace Village), who were victims of a violent forced eviction. The precautionary measures urged the Haitian government to “adopt measures necessary to avoid the use of excessive force in all expulsions” and to “implement effective security measures” to protect the camp. The Haitian government has failed to implement these recommendations and families facing eviction have little to no legal recourse.

In April 2013, Amnesty International published the report “*Nowhere to go. Forced evictions in Haiti’s displacement camps*”, which documented a pattern of forced evictions of internally displaced families from camps built both on public and private land.³⁴ According to Amnesty, the Haitian Government responded to Amnesty’s report with two public statements distancing it from those forced evictions and

²⁶ *Better Work Haiti: Garment Industry 1st Biannual Report under the HOPE II Legislation*, International Labour Office, International Finance Corporation, Geneva (Oct.19, 2010). Also see *2007 Annual Survey of violations of trade union rights*, available at <http://survey07.ituc-csi.org/getcountry.php?IDCountry=HTI&IDLang=EN>.

²⁷ *Better Work Haiti, Garment Industry 7th Biannual Synthesis Report Under the Hope II Legislation*, (Oct 16, 2013) available at http://betterwork.org/global/wp-content/uploads/HOPE-II-FINAL_merged1.pdf.

²⁸ Randal C. Archibold and Steven Greenhouse, *Group Says Haitian Garment Workers Are Shortchanged on Pay*, The New York Times (Oct. 15, 2013), available at http://www.nytimes.com/2013/10/16/world/americas/group-says-haitian-garment-workers-are-shortchanged-on-pay.html?_r=0.

²⁹ Anten Ouvriye, et al., *Labor Rights, Submission to the United Nations Universal Periodic Review* (Mar. 2011), available at <http://ijdh.org/archives/17948>.

³⁰ *Id.*

³¹ Haitian Code of Civil Procedure, articles 35-37 and 64.

³² Haitian Constitution, article 36-3 (1987).

³³ Institute for Justice & Democracy in Haiti, et al., *Petition for Precautionary Measures Submitted to the IACHR* (Nov. 2010), available at <http://ijdh.org/archives/17712>. See also, *IACHR Expresses Concern Over Situation in Camps for Displaced Persons in Haiti* (Nov. 18, 2010), available at <http://ijdh.org/archives/15413/>.

³⁴ *Nowhere To Go’ Forced Evictions in Haiti’s Displacement Camps*, Amnesty International (Apr. 23, 2013), available at <http://www.amnestyusa.org/research/reports/nowhere-to-go-forced-evictions-in-haiti-s-displacement-camps>.

promising thorough investigations into these allegations, but as of January 2014, “nobody has yet to be brought to justice, victims have not received any remedy for the violations of their rights and there is no evidence that such investigations are being carried out.”³⁵ Moreover, further forced evictions have taken place since those statements were made.

Prosecution of Jean Claude Duvalier: Despite Haiti’s obligation under the ICCPR to try former dictator Jean Claude Duvalier for crimes against humanity, on January 30, 2012, a Haitian judge responsible for investigating the case dismissed all charges of crimes against humanity on the basis that the claims were beyond Haiti’s statute of limitation.³⁶ The government prosecutor also recommended dropping the embezzlement and corruption charges, but the investigating judge let them stand.³⁷ The victims of human rights abuses under Duvalier’s regime appealed the dismissal of the crimes against humanity charges, arguing that there is no statute of limitations for crimes against humanity under international law.³⁸ Jean Claude Duvalier also appealed the embezzlement and corruption charges.³⁹ Six months of hearings by the Court of Appeal concluded on May 17, 2013, but a decision has not been formally released.⁴⁰ Duvalier’s victims’ lawyers are told that the Court of Appeals rendered a decision in the summer of 2013, but that the government’s prosecutor has failed to notify the victims or publish the decision, violating Haiti’s Code of Criminal Procedure, and indicating government obstruction of justice.⁴¹ This prosecution has the potential to end a long era of impunity, improve the performance of Haiti’s judiciary, and deliver justice to the hundreds of thousands who were victims of the former “President-for-life.”⁴²

The prosecution of Jean Claude Duvalier has gained international support from the UN High Commissioner of Human Rights, Navi Pillay, as well as the Inter-American Commission on Human Rights (IACHR), Human Rights Watch, and Amnesty International.⁴³ The UN and the IACHR have expressed concerns over the judge’s invocation of statute of limitations on the crimes against humanity, which

³⁵ *Haiti: Failure to deal with the consequences of the 2010 devastating earthquake*, Amnesty International Public Statement (Jan. 9, 2014) AI Index: AMR 36/002/2014 available at <http://www.amnesty.org/en/library/info/AMR36/002/2014/en>.

³⁶ *Baby Doc avoids human rights abuse charges in Haiti*, The Guardian (Jan. 30, 2012), available at <http://www.guardian.co.uk/world/2012/jan/31/baby-doc-duvalier-charges-haiti>.

³⁷ *Id.*

³⁸ *Haiti: Human Rights Watch Monitor Duvalier Court Hearing*, Human Rights Watch (Feb. 19, 2013), available at <http://www.ijdh.org/haiti-human-rights-watch-to-monitor-duvalier-court-hearing/>; also see IJDH, *IJDH Conference Call on Duvalier Trials with Staff Attorney Nicole Phillips* (Feb. 2013), available at http://www.ijdh.org/ijdh-conference-call-on-duvalier-trials-with-staff-attorney-nicole-phillips/#.UgA1yFTn_IU.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Haiti: Human Rights Watch Monitor Duvalier Court Hearing*, supra note 38.

⁴² Reed Brody, *'Baby Doc' Duvalier: His Victims Won't Forget*, The Miami Herald (Jan. 27, 2011), available at <http://www.hrw.org/news/2011/01/27/baby-doc-duvalier-his-victims-wont-forget>.

⁴³ *Justice in Haiti: Double standards*, The Economist (Mar. 1, 2013), available at http://www.ijdh.org/justice-in-haiti-double-standards/#.UfhGvFTn_IU; also see Amber Charles, *Justice Delayed? Jean Claude Duvalier and the Case for Prosecution*, IJDH, available at http://www.ijdh.org/justice-delayed-jean-claude-duvalier-and-the-case-for-prosecution-intlawgrlls/#.UfhIX1Tn_IV; *Haiti: Duvalier Ruling Disappoints Justice, Decision Flouts Duty to Investigate Grave Human Rights Crimes*, Human Rights Watch (Jan. 31, 2012), available at <http://www.hrw.org/news/2012/01/31/haiti-duvalier-ruling-disappoints-justice>; *Haiti urged to bring Jean-Claude Duvalier to justice*, Amnesty International (Sept. 22, 2011), available at <http://www.amnesty.org/en/news-and-updates/report/haiti-urged-bring-jean-claude-duvalier-justice-2011-09-22>.

denies the rights to truth, justice and reparations to the victims.⁴⁴ The High Commissioner of Human Rights has reminded Haiti of its absolute obligation to investigate Duvalier's well documented serious human rights violations and to prosecute those responsible for them.⁴⁵

Cholera: A cholera outbreak began in October 2010, ten months after Haiti's tragic earthquake, and "has become one of the largest cholera epidemics in modern history" according to the Pan-American Health Organization (PAHO).⁴⁶ As acknowledged by the UN's Special Envoy to Haiti, Bill Clinton, United Nations troops (MINUSTAH) introduced the cholera bacterium "into the waterways of Haiti, into the bodies of Haitians" and, as such, were the "proximate cause" of the epidemic.⁴⁷ Overwhelming evidence demonstrates that the epidemic resulted from the UN's use of inadequate and outdated protocols that failed to prevent its peacekeepers from bringing cholera into Haiti, as well as its reckless disposal of waste into Haiti's largest river system. UN culpability was recently detailed in reports released by Yale University Law School and school of Public Health, and by the UN's own Panel of Experts on the Haiti cholera epidemic.⁴⁸

However, "the world body actively discouraged and even impeded journalists and public health investigators attempting to trace the causes of the pestilence."⁴⁹ To date, at least 8,531 Haitians have died from the disease and more than 696,922 people have been infected.⁵⁰ The UN has a moral, if not legal, obligation to help solve a crisis it inadvertently helped start.⁵¹

International law requires the UN to provide a way for parties to bring claims.⁵² In fact, "the same convention the United Nations cites as bestowing legal immunity [Section 29 of the Convention on the Privileges and Immunities of the United Nations] says that the organization must 'make provisions for appropriate modes of settlement' for claims that arise from its missions."⁵³ The UN facially honored this obligation in 2004 when it entered into the status-of-forces agreement (SOFA) with Haiti that "required the U.N. mission to set up a commission to hear claims that the Haitians might have against U.N.

⁴⁴ *Former Haitian leader must face charges for human rights abuses, says UN*, UN News Center (Jan. 31, 2012), available at <http://ijdh.org/archives/24560>; see also *Press Release: LACHR Urges the Haitian Authorities to Investigate, Try and Punish the Grave Violations to Human Rights* (Feb. 1, 2012), available at <http://ijdh.org/archives/24662>.

⁴⁵ *Press Release: UN Human Rights chief offers Haitian authorities assistance in Duvalier case* (Feb. 1, 2011), available at <http://ijdh.org/archives/18126>.

⁴⁶ *Haiti cholera death toll nears 7,000: expert*, Medicalxpress.com (Jan. 6, 2012) (quoting Jon Andrus, PAHO).

⁴⁷ *Clinton : UN Soldier Brought Cholera to Haiti*, USA Today (Mar. 7, 2012), available at <http://www.usatoday.com/news/world/story/2012-03-07/haiti-cholera/53402748/1>.

⁴⁸ Transnational Development Clinic, Yale Law School, Global Health Justice Partnership Of The Yale Law School And The Yale School Of Public Health & Association Haïtienne De Droit De L'environnement, *Peacekeeping Without Accountability: The United Nations' Responsibility For The Haitian Cholera Epidemic* 4 (2013), available at http://www.law.yale.edu/documents/pdf/Clinics/Haiti_TDC_Final_Report.pdf.

⁴⁹ Armin Rosen, *How the UN Caused Haiti's Cholera Crisis- and Won't be Held Responsible*, The Atlantic (Feb. 26, 2013) available at <http://www.theatlantic.com/international/archive/2013/02/how-the-un-caused-haitis-cholera-crisis-and-wont-be-held-responsible/273526/>.

⁵⁰ Le Ministère de la Sante Publique et de la Population Rapport de Cas (Jan. 4, 2014) available at http://mspp.gouv.ht/site/downloads/Rapport%20Web_04.01_Avec_Courbes_Departementales.pdf.

⁵¹ Louise C. Ivers, *A Chance to Right a Wrong in Haiti*, The New York Times (Feb. 22, 2013) available at http://www.nytimes.com/2013/02/23/opinion/a-chance-to-right-a-wrong-in-haiti.html?_r=0.

⁵² Charayna Krishnaswami & Muneer I. Ahmed, *U.N. Hypocrisy in Haiti*, The Washington Post Opinions (Mar. 21, 2013) available at http://articles.washingtonpost.com/2013-03-21/opinions/37904120_1_cholera-outbreak-peacekeeping-force-avocats-internationaux.

⁵³ *Id.*

peacekeeping forces.”⁵⁴ However, the UN failed to honor this obligation subsequent to the cholera outbreak by refusing to set up an independent committee (Standing Claims Commission) to review the Haitian government’s claims. This claims process is critical because the 1946 convention requires the United Nations to hold itself accountable when its peacekeepers do wrong.⁵⁵

The Haitian Government has done very little to hold the UN accountable or ensure that the UN set up this claims procedure, leaving the Haitian citizens without a claims process or access to an effective remedy, and prompting victims to file a private lawsuit for damages and injunctive relief against the UN in a United States court in October 2013.⁵⁶ Haitian citizens deserve access to proper recourse through judicial remedies. The Haitian Government has agreed to MINUSTAH’s mandate in Haiti every year since 2004 and signed the SOFA with the UN that requires the creation of a claim commission to hear Haitians’ claims against the UN. The state has a responsibility under Article 2 of the ICCPR to hold wrongdoers accountable under domestic law and offer a judicial remedy. The Haitian government has recently pushed to establish the independent review committee into the cholera claims, which is an encouraging step forward.

Questions:

1. Given the unequal bargaining power between workers and employers, what is the government doing presently to enforce the labor code and ensure that impoverished laborers have access to legal remedies for labor and employment violations by their employers?
2. What steps is the Haiti government taking to strengthen the labor ministry to ensure accountability worker’ rights are protected and promoted, and to ensure legal redress and not impunity in the face of violations?
3. What steps has the government taken to update the labor code to prohibit sexual harassment in the workplace and afford victims of gender discrimination with adequate legal recourse and remedies?
4. What is the Haitian government doing to ensure that residents of IDP camps threatened with eviction are provided access to legal recourse and remedies before a tribunal or an equivalent grievance mechanism so that their legal rights are protected?
5. What steps has the Haitian government taken to comply with the Precautionary Measures issued by the Inter-American Commission in November 2010 that recommends offering access to legal recourse of Haitians displaced by the earthquake and living in IDP camps?
6. What steps has the Haitian judicial system taken to guarantee greater access to the court system to Haitians, including the provision of legal aid for the poor and making sure that all proceedings are language accessible.
7. How has the Haitian government ensured that it upholds its obligation to provide an impartial and fair judicial process and effective remedy to victims alleging crimes against humanity against Jean-Claude Duvalier?
8. What steps are being taken by the Haitian government, including the Ministry of Justice, to ensure that the appeal of the dismissal of crimes against humanity against Jean-Claude Duvalier is handled fairly and without any political interference?

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Rick Gladstone, *Rights Advocates Sue the U.N. Over the Spread of Cholera in Haiti*, The New York Times (Oct. 8, 2013), available at <http://www.nytimes.com/2013/10/09/world/americas/rights-advocates-suing-un-over-the-spread-of-cholera-in-haiti.html?hp& r=2&>.

Article 6 (Right to Life)

Cholera: While cholera is easily preventable and treated, at least 8,531 Haitians have died from the disease and more than 696,922 people have been infected.⁵⁷ According to PAHO, Haiti is one of the most underserved countries in the world in terms of water and sanitation infrastructure.⁵⁸ These infrastructural weaknesses have made Haiti particularly susceptible to water-borne diseases like cholera. Cholera will likely persist in Haiti and kill hundreds of people a year absent the development of water and sanitation systems.⁵⁹ The Haitian government must take action to construct water and sanitation systems to protect the right to life of poor Haitians.

On January 12, 2012, the presidents of Haiti and the Dominican Republic, joined by UN agencies PAHO, World Health Organization and UNICEF and the U.S. Center for Disease Control, appealed to donor countries to honor pledges and provide funds for water and sanitation infrastructure.⁶⁰ However, funding has been running out and the program has been deemed as largely unsuccessful.⁶¹ The Haitian Government, in partnership with the Pan-American Health Organization, UNICEF, and U.S. Centers for Disease Control, has determined that it will take ten years and cost \$2.2 billion to eliminate the cholera that the UN brought to Haiti.⁶² To date only approximately \$207,000 million of the \$2.2 billion has been raised.

Extrajudicial Forced Evictions in IDP camps: The forced evictions in IDP camps by means of attacks or other acts of violence especially when perpetrated by State agents constitute a clear and blatant violation of the right to life. There have been reports of violence and threats of violence by the Haitian police in dozens of IDP camps, which have been the subject of two sets of precautionary measures granted by the Inter-American Commission on Human Rights.⁶³ Camp residents have reported gun shots, police brutality, physical and verbal threats and harassment all with the purpose of evicting displaced Haitians from their respective camps. For example, on April 15, 2013, officers from the Delmas

⁵⁷Le Ministère de la Sante Publique et de la Population Rapport de Cas (Jan. 4, 2014) *available at* http://mspp.gouv.ht/site/downloads/Rapport%20Web_04.01_Avec_Courbes_Departementales.pdf.

⁵⁸ Dr. Luiz Augusto Cassanha Galvão, Congressional Briefing, *Cholera and the Human Right to Health In Post-Earthquake Haiti* (Apr. 18, 2012).

⁵⁹ Deborah Sontag, *In Haiti, Global Failures on a Cholera Epidemic*, The New York Times (Mar. 31, 2012), *available at* <http://www.nytimes.com/2012/04/01/world/americas/haitis-cholera-outraced-the-experts-and-tainted-the-un.html?pagewanted=all>.

⁶⁰ *Experts Call for Major Investment in Water and Sanitation to End Cholera in Haiti and the Dominican Republic*, Pan-American Health Organization (Jan. 12, 2012), *available at* <http://new.paho.org/blogs/haiti/?p=2182>.

⁶¹ Benedict Moran, *Unease Over UN Bid to Eradicate Haiti Cholera*, Aljazeera (Dec. 12, 2012), *available at* <http://blogs.aljazeera.com/blog/americas/unease-over-un-bid-eradicate-haiti-cholera>.

⁶² *Cholera Victim's Response to UN Letter* (May 7, 2013), *available at* <http://www.ijdh.org/cholera-victims-response-to-un-letter/#.UdI-dJWtMb1>.

⁶³ *LACHR Expresses Concern Over Situation in Camps for Displaced Persons in Haiti* (Nov. 18, 2010), *available at* <http://ijdh.org/archives/15413/>; see also *LACHR tells Haitian Government to Stop Violent Evictions from Earthquake Displacement Camp, Provide Clean Water*, Institute for Justice & Democracy (Mar. 27, 2013), *available at* <http://www.ijdh.org/2013/03/topics/housing/iachr-tells-haitian-government-to-stop-violent-evictions-from-earthquake-displacement-camp-provide-clean-water/#.UtBs3dJDSrU>.

33 police station went to IDP camp ACRA Adoken, shot at residents, and arrested two men living in the camp, one of whom died in police custody.⁶⁴

ICCPR Article 6's positive obligation to protect and preserve the right to life of its citizens requires the government of Haiti to take proactive measures to prevent these attacks and to provide basic human rights to families and communities living in the displacement camps. UN independent expert on the situation of human rights in Haiti, Michel Forst, called for a national urban planning strategy that would enable the displaced to return to communities guaranteeing normal living conditions and respect for their economic and social rights.⁶⁵

Despite the requests by the UN and Inter American Commission, forced evictions continue to be carried out or condoned by governmental authorities. However, for most camp residents, there is nowhere to go and the Haitian Government has refused to take action to prevent the illegal evictions, even when illegally perpetrated by Haitian national police officers.

Questions:

1. What steps has the Haitian government taken to build its water infrastructure? What steps has the government taken to improve its medical care to treat waterborne diseases?
2. What has the Haitian government done to prevent violence against IDP camp residents facing threats of eviction, in particular, women, girls, the elderly, and other vulnerable populations?
3. What steps has the Haitian government taken to work with and support the efforts of the UN agencies PAHO, World Health Organization and UNICEF and the U.S. Center for Disease Control to provide water and sanitation infrastructure in Haiti?

Article 10 (Treatment of Individuals Deprived of their Liberty)

Prison conditions: Haiti's prison conditions rank among the worst in the Western Hemisphere — detention centers are overcrowded, poorly maintained and unsanitary, periodically lacking in food and water as well as basic medical services and medical isolation units for contagious patients.⁶⁶ On May 6, 2008, the Inter-American Court issued a decision in *Yvon Neptune v. Haiti*, ordering the government to develop a plan to bring its prisons, which it found to be "inhumane," in line with minimum international standards within two years.⁶⁷ To date, little has been done to comply with the Court's order as the prison population continues to surge. In December 2012, there were 8,860 persons in total in the country's 17 prisons, as compared with 1,935 in 2004.⁶⁸

⁶⁴ *Report: Eviction Threats, Arson, Assault and Assassination in Camp Acra Adoken*, Defenders of the Oppressed (DOP), (Apr. 15 2013).

⁶⁵ U.N. Independent Expert on the Situation of Human Rights in Haiti, *Press Release of The UN Independent Expert Michel Forst on the situation of human rights in Haiti* (Feb. 8, 2012) (by Michel Forst), available at <http://minustah.org/?p=34074>.

⁶⁶ *Yvon Neptune v. Haiti, Merits, Reparations, and Costs, Judgment*, Inter-Am. Ct. H.R. (ser. C) No. 180 (May 6, 2008).

⁶⁷ *Id.*

⁶⁸ 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/14/44/Add.1 (May 31, 2010) (by Michel Forst)

Prisons and detention centers remain severely overcrowded, especially in the National Penitentiary, the Petite-Goave jail, and the prisons in Jeremie, Les Cayes, Port de Paix, and Hinche.⁶⁹ Prior to the earthquake, some 8,500 persons were reportedly being held in detention facilities designed to hold just 2,450 inmates by most international standards.⁷⁰ As of 2012, the Department of Corrections (DAP), which is part of the HNP, estimated that there were approximately 9,400 prisoners in the country's jails. By local standards, available prison facilities were operating at 300 percent of their capacity; however, international observers suggested that overcrowding was significantly worse if judged by more stringent international standards.⁷¹

Prison facilities are rodent-infested, unlit, and poorly ventilated, with temperatures regularly reaching over 40 degrees Celsius.⁷² The International Committee of the Red Cross (ICRC) indicates that in crisis situations, prisoners should be allotted 2 square meters per person *at an absolute minimum*. Yet the average living space per prisoner averages at 0.60m², and only 34m² in Anse Prison in Vaux.⁷³ This means that prisoners must take turns sleeping on the floor, and many are left standing.⁷⁴ In certain cases, especially following the cholera outbreak, the conditions have resulted in an arbitrary deprivation of life because prisoners have been infected and died while in custody because they were not protected from contraction of the disease or given proper care once infected.⁷⁵ In the first month of the cholera epidemic, the HNP announced that 19 prisoners nationwide had died from the disease.⁷⁶

In some prisons, incidents of HIV/AIDS, malaria and drug-resistant tuberculosis remain a serious problem. Other common diseases include scabies and beriberi.⁷⁷ UN observers indicated that approximately 70 percent of prisoners and detainees suffered from a lack of basic hygiene, malnutrition, poor quality health care, and water-borne illness.⁷⁸ Furthermore, there are insufficient programs to improve prison conditions and provide legal assistance to prisoners in Haiti. With regard to space, the government has proposed a plan to create 5,700 new places in prison.⁷⁹

⁶⁹ 2012 Country Reports on Human Rights Practices- Haiti, U.S. Dep't State (2013) (hereinafter "2012 Country Report"), available at <http://www.refworld.org/topic,50ffbce528c,50ffbce52e0,517e6e2cb,0,USDOS,,.html>.

⁷⁰ 2008 Country Report On Human Rights Practices: Haiti, U.S. Dep't State (2009), available at <http://www.state.gov/g/drl/rls/hrrpt/2008/wha/119163.htm>.

⁷¹ 2012 Country Report, supra 69.

⁷² *Prolonged Pretrial Detention In Haiti*, Anne Fuller Et Al., Vera Inst. Of Justice (2002), available at http://haiticci.undg.org/uploads/Vera%20Institute_2002.pdf; see also *August v. Ridge*, 395 F.3d 123, 129 (3d Cir. 2005).

⁷³ 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).

⁷⁴ Amnesty Int'l, Report 2009: HAITI (2009), available at <http://thereport.amnesty.org/en/regions/americas/haiti>.

⁷⁵ *Haiti: ICRC Steps Up Work to Fight Cholera*, Int'l Comm. of the Red Cross (Nov. 26, 2010), available at <http://www.icrc.org/eng/resources/documents/update/2010/haiti-update-2010-11-26.htm>. Human rights lawyers investigating cholera in Hinche, Mirebalais, and Saint Marc reported that two prisoners had died in each prison as of January 2011. One American deportee held in a police holding cell died of cholera on January 29, 2011. Eric N. Marcus, M.D., *Haiti: A Deportation Death Sentence?*, HUFFINGTON POST, March 16, 2011.

⁷⁶ *World Report 2012: Haiti*, Human Rights Watch (Jan. 2013), available at <http://www.hrw.org/world-report-2012/haiti>.

⁷⁷ 2012 Country Report, supra 69.

⁷⁸ Id.

⁷⁹ 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 (Feb. 7, 2013) (by Michel Forst).

Questions:

1. What steps is the Haitian government taking to ensure that the prison system offers prisoners the opportunity for rehabilitation and reformation?
2. Given the well-documented adverse mental health effects of overcrowded confinement, how many prisoners with diagnosed mental health problems are currently held in such confinement and what measures are being taken to monitor, address and protect prisoners in long term imprisonment from mental health problems?
3. What is the government doing to assure that prisons are operated in accordance with standards that respect human dignity, and guarantees the right to life, health, and respect of the human person for all citizens without distinction as required under the Haitian Constitution?
4. What is the government doing to carry out the reform of the criminal justice system articulated in the Action Plan for Recovery and Development?
5. What is the government doing to ensure compliance with the 2008 binding judicial decision in *Yvon Neptune v. Haiti* by the Inter-American Court on Human Rights that ordered the Haitian government to develop a plan to bring its “inhumane” prisons in line with minimum international standards within two years?

Article 14 (Equality Before the Courts)

Corruption: Corruption in the court system also impacts equal access. Those with money are able to bribe judges, prosecutors and police, and those with higher political influences, essentially buying justice.⁸⁰ Threats, intimidation and harassment against lawyers and other human rights defenders is increasing in Haiti and has had a chilling effect on lawyers challenging corruption and impunity in this government under the current government.

On July 2, 2013, Judge Jean Serge Joseph of the Court of First Instance (district court) in Port-au-Prince made a preliminary judgment in a case against President Martelly’s wife and son, regarding accusations of corruption, money laundering, abuse of authority, and squandering of funds from the Public Treasury, ordering Prime Minister Lamothe and other top officials to testify.⁸¹ On July 11, 2013, in a meeting attended by President Martelly, Prime Minister Lamothe, the Minister of Justice and of Public Security, and the President of the Port-au-Prince Trial Court, Judge Joseph refused to overturn the July 2 order and was allegedly threatened, insulted, and struck in the face.⁸² Two days later, Judge Joseph died under suspicious circumstances.⁸³ A special committee of the Haitian Senate issued a report recommending an investigation into the threats against Judge Joseph, but the government has failed to investigate the matter.

Human rights attorneys Mario Joseph and Patrice Florvilus, as well and the two lawyers who filed the case against Martelly’s family, André Michel and Newton St. Juste, have received repeated death threats and harassment. After a report in September 2012, from a former prosecutor that the Minister of

⁸⁰ The Organization of American States, *Haiti: Failed Justice Or The Rule Of Law? Challenges Ahead For Haiti And The International Community* (2005), available at <http://www.cidh.org/countryrep/HAITI%20ENGLISH7X10%20FINAL.pdf>.

⁸¹ Mario Joseph, Managing Attorney at Bureau Des Avocats Internationaux, *Letter to the President of the Inter-American Commission on Human Rights, RE: Reiteration of the request for investigations into continuous and serious human rights violations in Haiti* (Aug 5, 2013).

⁸² *Id.*

⁸³ *Id.*

Justice ordered the arrest of several attorneys and the closure of attorney Mario Joseph's office, the IACHR adopted precautionary measures "to guarantee the life and physical integrity of Mr. Mario Joseph".⁸⁴

Attorney Patrice Florvilus, who heads the *Defenseurs des Opprimés* (Defenders of the Oppressed) in Haiti, received precautionary measures in December 2013 from the IACHR after he received threats, intimidation, and harassment from police and judicial officials in retaliation for his legal representation of police brutality victims.⁸⁵ Attorney Florvilus also received a summons to the criminal prosecutor from Reynold Georges, lawyer for ex-dictator Jean-Claude Duvalier and President Martelly's family, charging him with arson and association with criminals, crimes he did not commit. Although the prosecutor did not appear in court and attorney Georges agreed to drop the charges, the charges have not been withdrawn and the case remains open.

Questions:

1. What are the Ministry of Justice and other relevant Haitian agencies doing to combat corruption in the judicial systems that impacts Haitians' equal access to the court system?
2. What steps have been taken to insure the safety of judges and attorneys who prosecute controversial cases?
3. Is or has the Haitian government conducted an investigation into the allegations of threats by members of President Martelly's administration against Judge Jean Serge Joseph in relationship to his ruling in a case involving President Martelly's family.

Article 19 (Freedom of Expression)

Intimidation and Threats against the Press:

Continuing patterns of threats, intimidation, assaults, and stonewalling significantly infringe on journalists' rights under Haitian and international law to freedom of expression and access to public information. These rights are essential for civic participation, democratic oversight of government management, and protection of democracy.

By example, the government agent Departmental Unit for the Maintenance of Order agents ransacked and broke equipment of journalists covering the President's visit to Gonaives on May 22, 2011.⁸⁶ Two months later, on July 27, 2011, President Martelly accused the press for being responsible for projecting the negative image of Haiti and asked them to shut up.⁸⁷

⁸⁴ Letter from Inter-American Commission on Human Right granting precautionary measures (Oct. 19, 2013), *available at* <http://www.ijdh.org/wp-content/uploads/2012/10/Cautionary-mesures-mario-joseph-REVISEDFrench.pdf>; *Human Rights Lawyers Urge International Human Rights Commission to Protect Threatened Haitian Lawyer*, Press Release from the Institute for Justice & Democracy in Haiti (Nov. 4, 2013), *available at* <http://www.ijdh.org/2013/11/topics/law-justice/press-release-human-rights-lawyers-urge-iachr/#.UtBvx9JDsrU>.

⁸⁵ *Id.*

⁸⁶ *Haiti-press power: The AJH outraged by the "coarse" Martelly attitude toward journalist*, AlterPresse (Oct. 11, 2011), http://www.alterpresse.org/spip.php?article11702#.UdIjIz4__k0.

⁸⁷ *Id.*

Additionally, the President has threatened to use force against those who speak ill of the country, including the press.⁸⁸ One journalist said that, after being critical of the President, he was subject to serious death threats from the Director of the Ministry of Youth and Sports.⁸⁹ On February 12, 2013, National Security Police assaulted journalists for broadcasting information regarding the beating of carnival-goers by police.⁹⁰ On June 4, 2013, a reporter was assaulted by parliament security agents after filming an argument between parliament guards and a radio director who was denied entry into the session.⁹¹

Defamation lawsuits: Another disconcerting trend is the increase in defamation lawsuits threatened or filed by the Haitian government. In February 2012, First Lady Sofia Martelly sued newspaper *Haiti Liberté* for defamation after it reported on a clash between President Martelly's security detail and University of Haiti students.⁹² In February 2013, the Minister of Justice and Public Safety told the media that in order to preserve Haitian rule of law, he had the duty to remind them that "Haitian law severely punishes defamation, threats, and incitement to violence."⁹³ Three journalists were subsequently summoned before the court on defamation charges on April 27, 2013.⁹⁴

Failure to investigate and prosecute attacks: Five Haitian journalists were killed from 2000-2012, reportedly as a direct result of their reporting.⁹⁵ In 2013, two journalists were killed outside their personal residences in drive-by-shootings.⁹⁶ The International Press Institute and UNESCO have urged the Haitian government to fully investigate these murders.⁹⁷ In April 2011, a journalist was shot and seriously injured by the former Mayor of Thomonde's bodyguard.⁹⁸ As of November 2012, the bodyguard had not been arrested and Mayor Delva was accused of hiding and protecting him.⁹⁹ The government has failed to allocate sufficient resources to ensure that these cases be investigated and prosecuted.

⁸⁸ *Id.*

⁸⁹ Antonal Mortimer, *Concern for Civil Liberties, especially freedom of expression and the press*, Plateforme des Organisations Hattiennes des Droits Humanes, available at http://www.pohdh.org/article.php?id_article=216&var_recherche=watson+phanorde+etzer.

⁹⁰ *Two Journalists Beaten by President Martelly's Security*, The Sentinel (Feb. 16, 2013), available at <http://www.defend.ht/news/articles/media/3789-journalists-beaten-by-president-martelly-s-security>.

⁹¹ Eddy Laguerre, *Deux journalistes portent plainte contre des agents sauvages du Parlement*, Le Matin (Jun. 8, 2013), available at <http://www.lematinhaiti.com/contenu.php?idtexte=36048>.

⁹² 2012 Country Report, supra note 69.

⁹³ *La Presse et d'autres secteurs passibles de sanctions pénales, avertit le pouvoir*, Radio Kiskeya (Feb. 11, 2013), available at <http://radiokiskeya.com/spip.php?article9426>.

⁹⁴ *Haiti-Presse: Augmentation des agressions sur les journalistes en 2013, selon la Pobdb*, AlterPresse (Jun. 10, 2013), available at http://www.alterpresse.org/spip.php?article14688#.UcIgmT4__k1.

⁹⁵ Committee to Protect Journalists, website (last accessed Jan. 10, 2014), available at <http://cpj.org/killed/americas/haiti/>.

⁹⁶ Jan Beyer, *Haitian Editor-in-Chief Killed in Drive-By Shooting*, International Press Institute (Mar. 27, 2013), available at <http://www.freemedia.at/press-room/public-statements/singleview/article/haitian-editor-in-chief-killed-in-drive-by-shooting.html>; *Haiti: Veteran Journalist Pierre-Richard Alexandre fatally shot*, The Sentinel (May 21, 2013), available at <http://www.defend.ht/news/articles/crime/4317-veteran-journalist-pierre-richard-alexandre-fatally-shot>.

⁹⁷ *Id.*; *UNESCO Director-General deploras murder of Haitian radio journalist Pierre Richard Alexandra*, UNESCOPRESS (May 25, 2013), available at http://www.unesco.org/new/en/media-services/single-view/news/director_general_deploras_killing_of_haitian_radio_journalist_pierre_richard_alexander/.

⁹⁸ *See Haiti/Justice: Wendy Phele continue de réclamer justice (Haiti/Justice: Wendy Phele continues to demand justice)* (Jun. 26, 2012), available at <http://radiovision2000haiti.net/public/haitijustice-wendy-phele-continue-de-reclamer-justice/>.

⁹⁹ Chanel Louis, *Procès bâclé de Wendy Phele (Wendy Phele trial botched)*, Le Nouvelliste (Nov. 8, 2012), available at <http://www.lenouvelliste.com/article4.php?newsid=110589>.

Government Stonewalling of Press: The Martelly administration has demonstrated a continuing tactic of “stonewalling” whereby journalists, particularly those critical of the current government, are precluded from gaining access to public information. Despite a February 2012 protest of over thirty grassroots organizations and hundreds of demonstrators demanding Martelly respect journalists, the right to a free press continues to be challenged.¹⁰⁰ For example, certain journalists were excluded from the prom of queens, held February 9, 2013, at the Palace of King Henry I, in favor of TNH, the Haitian state broadcaster.¹⁰¹ Additionally, journalists were banned from filming the inauguration of the new Superior Court for Auditors and Administrative Disputes in March 2013.

Questions:

1. What steps has the Haitian government taken to protect Haitians’ freedom of speech and expression, including the right to disseminate information orally and in print through the media of her or his choice?
2. What is the Haitian government doing to protect journalists from retribution for their expression of opinions through their work?
3. What steps are being taken to ensure transparency and citizen’s access to public documents, in particular, journalists?

Article 22 (Freedom of Association)

Freedom of Assembly: Protestors in Haiti complain that the government has demonstrated a pattern of restricting the exercise of the right to freedom of peaceful assembly, often by using excessive force to break up peaceful demonstration. A few examples are listed below.

- Twenty-one protesters were arrested for their participation in an anti-government demonstration in Port-au-Prince on December 16, 2012.¹⁰²
- On June 19, 2012, David Oxygène was arrested during a protest asking for work and better social policies for Haiti’s poor.¹⁰³ After it became clear that there was insufficient evidence to support the charges against him, he was release from prison over two months later.¹⁰⁴ Oxygène stated that he had been warned prior to his arrest that he would be imprisoned if he continued to protest against the Martelly government policies.
- On December 18, 2010, a police officer shot unarmed 18-year old Ramon Robert execution style after he was told to fall to his knees during a demonstration. Witnesses identified the officer but despite a complaint filed by the victim’s family, the state never investigated or prosecuted the case.

¹⁰⁰ *Haiti Press: Protestors Demand President Martelly to Respect Haitian Journalists*, Defend.ht (Feb. 7, 2012), available at <http://www.defend.ht/news/articles/community/2612-haiti-press-protesters-ask-martelly-to-respect-haitian-journalists>.

¹⁰¹ *L’ANMH proteste contre des velléités de rétablissement de la censure et de remise en question de certain acquis démocratiques*, AlterPresse (Feb. 15, 2013), available at <http://www.radiokiskeya.com/spip.php?article9431>.

¹⁰² *Haiti: 21 Protesters Arrested, Organizers Give 24-Hours for their Release*, The Sentinel (Dec. 18, 2012), available at <http://www.defend.ht/news/articles/community/3617-21-protesters-arrested-organizers-give-24-hours-for-their-release>.

¹⁰³ Fran Quigley, *Throwing Activists into Crowded Jails: How Haiti’s Government is Silencing the Opposition*, AlterNet (Sept. 17, 2012), available at <http://www.alternet.org/world/throwing-activists-crowded-jails-how-haitis-government-silencing-opposition>.

¹⁰⁴ *Id.*

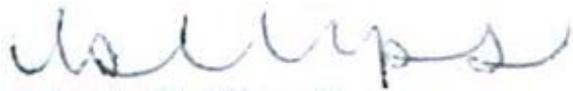
- In July 2011, police killed four persons who protested the evictions from Parc La Visite.¹⁰⁵
- On October 8, 2012 a 19-year-old man was killed when police opened fire on protesters.¹⁰⁶
- On the same day, in Fort Liberté, people protested asking for a shipping port in the coastal town.¹⁰⁷ The mayor deployed police who dispersed the protesters with teargas and gunshots.¹⁰⁸
- On October 4, 2012 in Petit-Goâve, Martelly's security guards beat protesters, burned motorcycles, and fired teargas that killed an elderly woman.¹⁰⁹

Questions:

1. What steps are being taken to protect protestors' freedom of expression?
2. What steps are being taken to minimize law enforcement's use of excessive violence in peaceful protests?

We thank you again for your consideration of this report and the proposed questions herein.

Sincerely,



Nicole M. Phillips, Esq.
Staff Attorney, IJDH

¹⁰⁵ 2012 Country Report, *supra* note 69.

¹⁰⁶ John Marion, *Martelly government cracks down on Haitian protests*, World Socialist Website (Oct. 16, 2010), available at <http://www.wsws.org/en/articles/2012/10/hait-o16.html>.

¹⁰⁷ Yves Pierre-Louis, *Has the Mobilization against Martelly Reached a Point of no Return?*, Haiti Liberté (Oct. 16, 2012), available at <http://www.haiti-liberte.com/archives/volume6-13/Has%20the%20Mobilization.asp>.

¹⁰⁸ *Id.*

¹⁰⁹ *Protesters Heckling President and US Ambassador Visit Beaten by Police* (Oct. 7, 2012), available at <http://beforeitsnews.com/international/2012/10/protesters-heckling-president-and-us-ambassador-visit-beaten-by-police-2445678.html>.