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**Advance edited version**

Distr.: General  
25 September 2023

Original: English

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**Human Rights Council****Fifty-fourth session**

11 September–6 October 2023

Agenda items 2 and 10

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the High Commissioner  
and the Secretary-General****Technical assistance and capacity-building****Situation of human rights in Haiti\*****Note by the United Nations High Commissioner for Human Rights**

In its resolution 52/39, the Human Rights Council requested the United Nations High Commissioner for Human Rights to appoint a human rights expert tasked with monitoring, with the assistance of the Office of the United Nations High Commissioner for Human Rights and in collaboration with the United Nations Integrated Office in Haiti, the development of the human rights situation in Haiti, ensuring, in particular, the inclusion of a gender-based perspective and paying special attention to the situation of children and of trafficking in persons in all its work, and providing advice and technical assistance to the Government of Haiti, national human rights institutions and civil society organizations, to assist in their efforts to ensure respect for and the promotion and protection of human rights.

Moreover, in the same resolution, the Human Rights Council requested the High Commissioner to provide it, within the framework of an interactive dialogue with the participation of the independent human rights expert, with an interim report on the situation of human rights in Haiti for its consideration at its fifty-fourth session and a comprehensive report on the subject for its consideration at its fifty-fifth session.

The High Commissioner hereby transmits to the Human Rights Council the findings of the appointed expert on the situation of human rights in Haiti for its consideration at its fifty-fourth session.

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\* The present report was submitted after the deadline so as to include the most recent information.

## **Findings of the appointed expert on the situation of human rights in Haiti**

### *Summary*

The human rights situation in Haiti is dire but not hopeless. Armed gangs commit major abuses. The State, weakened by corruption and poor governance, offers limited protection. Prisons are inhumane and the judiciary largely dysfunctional. However, committed individuals both in State institutions and in civil society are making a difference. Strengthening performance and monitoring systems in all State institutions to ensure the integrity and competence of officials must be a priority. Addressing the special vulnerabilities of women, children and other groups in vulnerable situations is another. Weakening the power of the gangs over the population by offering young persons access to basic services and ensuring the enjoyment of their rights is essential to reduce the cycle of violence in Haiti.

## I. Introduction

1. On 12 April 2023, the United Nations High Commissioner for Human Rights designated William O'Neill as expert on the situation of human rights in Haiti. On 19 and 20 June 2023, the expert carried out his first official visit to Haiti and delivered his end-of-visit statement on 28 June 2023.<sup>1</sup> Following his visit, on 5 July 2023, the expert held a press conference in New York.<sup>2</sup> The report is a preliminary assessment of the human rights situation in Haiti.

## II. Insecurity and gang violence

### A. Gang phenomenon

2. Haiti ratified the International Covenant on Civil and Political Rights in 1991 and the International Covenant on Economic, Social and Cultural Rights in 2013. Haiti is also a State party to several human rights treaties.

3. Gangs are not new to Haiti. The nature and structure of gangs in Haiti have changed, however, from the earlier typology. Originally acting as militias for hire by politicians and businesspersons, gangs have morphed into largely self-sustaining and self-funded groups that control large swathes of territory, although some politicians and oligarchs maintain some influence.<sup>3</sup> Gangs have solidified their control of most of the Haitian capital and outlying areas. As early as June 2021, gangs cut off the entire southern peninsula by taking control of the major connecting road thereby controlling the movement of persons and goods.

4. Gangs have threatened the authority of the State on a scale never seen before, undermining its monopoly of the use of force and its responsibility to provide basic security to the people. Gangs have attacked and destroyed numerous police stations across Haiti. For example, in late January 2023 in the town of Liancourt in the Artibonite Valley, six police officers were killed after a series of attacks by a local gang. More than 32 Haitian National Police officers have been killed so far in 2023.

5. Since late 2021, gangs have overpowered the police and occupied, and partially destroyed, the Palace of Justice in Port-au-Prince. Judges, prosecutors, court clerks and others fled for their lives. The Village-de-Dieu gang reportedly seized court files and official vehicles. Key court files on some major criminal cases would have been lost.<sup>4</sup> In addition to these frontal assaults on State institutions, gangs have made life unbearable for those in the capital region and many other parts of the country.

6. Gangs benefit from chronic instability, weak State institutions, corruption and impunity, as well as the concomitant proliferation of sophisticated high-calibre firearms and ammunition trafficked into Haiti. The United Nations Office on Drugs and Crime reports that the number of sophisticated weapons coming into Haiti from the United States of America, the main source of firearms and ammunition, increased between 2021 and 2023.<sup>5</sup> The weapons and munitions arrive most frequently by sea from the port of Miami, and some are smuggled into Haiti through the Dominican Republic.<sup>6</sup> Not a single gun or bullet is manufactured in Haiti.

<sup>1</sup> See [www.ohchr.org/en/statements/2023/06/haiti-un-expert-william-oneill-concludes-official-visit](https://www.ohchr.org/en/statements/2023/06/haiti-un-expert-william-oneill-concludes-official-visit).

<sup>2</sup> See [www.ohchr.org/en/statements/2023/07/press-statement-un-human-rights-expert-haiti-william-oneill](https://www.ohchr.org/en/statements/2023/07/press-statement-un-human-rights-expert-haiti-william-oneill).

<sup>3</sup> Archie Bland, "Haiti crisis: how did it get to bad, what is the role of gangs, is there a way out?", *The Guardian*, 12 January 2023.

<sup>4</sup> Juhakenson Blaise, "Armed gang invades Haiti's main courthouse, further crippling justice system", *The Haitian Times*, 14 June 2023.

<sup>5</sup> United Nations Office on Drugs and Crime, "Haiti's criminal markets: mapping trends in firearms and drug trafficking" (Vienna, 2023).

<sup>6</sup> Ibid.

7. During his visit, the expert spoke to various stakeholders, including religious leaders, teachers, small business owners and health-care providers. They described how people are afraid to leave their homes, go to the market, send children to school, visit relatives, or go to work or worship. Gangs have invaded churches during worship and schools in session. One resident of Bel Air, speaking for many, said that: “The State is absent, there are no police or other officials operating there.”<sup>7</sup>

8. Travelling in a vehicle can be life-threatening. Gangs guard their territory. Checkpoints dot Port-au-Prince with heavily armed gang members stopping all vehicles. Gangs impose “taxes” and often steal all or part of any merchandise, which exacerbates the food crisis. Kidnappings are rampant. Gangs have come to rely on ransoms paid as a major source of their funding, allowing them to pay their members and to continue to buy weapons and ammunition. In the first quarter of 2023, kidnappings had increased 300 per cent compared with the same period in the previous year, according to the Federal Bureau of Investigation.<sup>8</sup>

9. Gangs hold kidnapping victims in harsh conditions in secret hideouts in the territories controlled by them. Women and girls are particularly exposed to sexual violence, including rape, repeatedly and by multiple perpetrators during captivity. Gangs have shown increasing brutality, mutilating and burning bodies in public and then sharing the horrific images on social media. As one poignantly told the expert, “We want to be just poor again.”

10. The expert is alarmed by the Bwa Kalé phenomenon whereby certain groups have formed allegedly to protect their neighbourhoods from gangs. In some instances, these groups have summarily executed people suspected of being gang members. The Bwa Kalé movement demonstrates the population’s lack of trust in the State, especially in the police and the courts. The expert has learned that some members of the police and the judiciary have been complicit with gangs.<sup>9</sup> Nevertheless, people should never take the law into their own hands.

### III. Humanitarian crisis and human rights violations and abuses

#### A. Poverty, inequality, lack of protection, respect and realization of economic social and cultural rights and corruption as contributing causes of the violence

11. Most Haitians lived on less than \$3 day before the current crisis. The discontent aroused by the non-fulfilment of many government promises and growing demands from the population for better management of public spending led to protests known as “peyi lòk” (shut down the country, in Haitian Creole) in 2018 and 2019. Those protests often became violent, especially when orchestrated for political ends. More recently, increased fuel prices in September 2022 led to violent protests, which paralyzed the country for weeks. The G9 gang’s occupation of the Varreux fuel terminal in late 2022 exacerbated an already dire humanitarian crisis.

12. During his visit, the expert met with several groups of young Haitians and civil society organizations working with the youth in marginalized areas. They all made the same observation: the State, which was already providing insufficient public services, especially in the most impoverished neighbourhoods, has now completely deserted these areas. They are no-man’s-lands, where public services and infrastructure are non-existent. The lack of

<sup>7</sup> Global Initiative against Transnational Organized Crime, “Gangs of Haiti: expansion, power and an escalating crisis” (Geneva, 2022), p. 15.

<sup>8</sup> Jacqueline Charles, “As kidnappings, gang violence surge in Haiti, FBI warns Americans, residents to stay away”, *Miami Herald*, 25 April 2023.

<sup>9</sup> Global Initiative against Transnational Organized Crime, “Gangs of Haiti”, pp. 18 and 19. José Gómez, Ambassador of France to Haiti, stated that “L’Etat Haïtien a été infiltré par des groupes affairistes, des groupes mafieux” in an interview with *Le Nouvelliste*, 23 September 2021. See also Vanda Felbab-Brown, “Haiti in 2023: political abyss and vicious gangs”, Brookings Institution, 3 February 2023.

opportunities for the youth has propelled many to join gangs, by default, often to escape poverty.

## B. Analysis of the current situation

13. According to the World Bank, nearly 90 per cent of Haitians live below the poverty line, with a third of them living in extreme poverty (\$2.15 a day).<sup>10</sup> On the Human Development Index, Haiti ranked 163rd out of 191 countries in 2021. At the national level, the percentage of the population with access to running water is limited to 11 per cent.<sup>11</sup> Only 42 per cent of health institutions offer the full range of basic services and these services often lack in quality.<sup>12</sup> One in two children will depend on humanitarian aid this year,<sup>13</sup> 45 per cent of children aged between 6 and 9 have never been to school, approximately 1 million children are at risk of dropping out, mainly for economic reasons, and nearly half of Haitians aged 15 and older are illiterate.<sup>14</sup>

14. Insecurity has exacerbated the humanitarian crisis that has reached new depths over the past few years. Gang violence and roadblocks in the capital have disrupted the circulation of goods and services. After an earthquake struck the south in 2021, humanitarian agencies faced enormous difficulties delivering vital assistance. Gangs demanded large sums of money and a portion of assistance before allowing trucks to pass. Delivery by air or sea was costly. Eventually gangs encircled the capital making all movement of persons and goods dangerous and expensive. Main roads to the south, north and east to the border with the Dominican Republic came under the control of gangs who threatened, extorted, kidnapped, raped and killed at will.

15. The number of persons in need of humanitarian aid in the country rose from 2.6 million in 2019 to 4.9 million in 2022 (43 per cent of the population), an 11 per cent increase compared with 2021.<sup>15</sup> In January 2023, as inflation reached 49.3 per cent, essential goods and services had become unaffordable to many, with the price of basic food items going up by as much as 87 per cent in the last year, forcing poor households to spend a large proportion of their income on food.<sup>16</sup> The Integrated Food Security Phase Classification results for March to June 2023 indicate a record 4.9 million persons in Haiti – approximately half of the country's population – currently facing acute hunger. In a joint report, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Integrated Office in Haiti (BINUH) highlighted how gang violence had limited access to basic services, hindering the enjoyment of economic, social and cultural rights in Brooklyn, one of the poorest neighbourhoods of Haiti, and partially contributed to the spread of cholera.<sup>17</sup>

16. Attacks against medical personnel and infrastructure have led some institutions, including those run by international non-governmental organizations, to temporarily suspend or downsize their activities. On 16 February 2023, the Albert Schweitzer hospital in Deschapelles in the Artibonite Valley, which serves an estimated 700,000 persons, was forced to suspend services due to violence. On 19 April 2023, Doctors Without Borders, who run the only quality health-care centre available in Cité Soleil, suspended all its emergency services due to security risks linked to gangs fighting around its hospital. On 9 March 2023,

<sup>10</sup> See [www.worldbank.org/en/country/haiti/overview](http://www.worldbank.org/en/country/haiti/overview).

<sup>11</sup> United Nations Haiti, *Analyse Commune de Pays: Haïti* (2022) (in French).

<sup>12</sup> Haiti, Ministry of Public Health and Population, "Haïti: évaluation des prestations des services de soins de santé (EPSS) 2017–2018" (2018), p. 8 (in French).

<sup>13</sup> United Nations Children's Fund, "Haiti: 1 in 2 children depend on humanitarian aid to survive this year", 28 January 2023.

<sup>14</sup> United Nations Haiti, *Analyse Commune de Pays: Haïti*, p. 61.

<sup>15</sup> United Nations Sustainable Development Cooperation Framework for Haiti 2023–2027.

<sup>16</sup> Institute for Justice and Democracy in Haiti and the Bureau des Avocats Internationaux, "Human rights and the rule of law in Haiti: key recent developments – December 2022 through May 2023" (2023), p. 9.

<sup>17</sup> OHCHR and BINUH, "The population of Cité Soleil in the grip of gang violence: investigative report on human rights abuses committed by gangs in the zone of Brooklyn from July to December 2022" (2023).

its general health-care services stopped for the same reason. On 6 July 2023, the organization suspended all treatments at the hospital due to an attack by gangs.

17. Violence and socioeconomic precarity have also prompted numerous health workers to leave the country, further increasing the lack of health services to the population. Hospitals face shortages of equipment and personnel due to the violence; the costs of importing essential drugs, surgical tools and oxygen tanks have skyrocketed. Corruption at the Customs Service in the capital adds to the delays and costs, according to interviews the expert conducted with medical providers.

18. The lack of access to basic services has been compounded by a series of natural disasters, such as the devastating earthquakes of 2010 and 2021 and the deadly Hurricane Matthew in 2016. Environmental degradation in Haiti (soil erosion, lack of zoning and land-use planning and deforestation) increases the population's vulnerability to natural hazards, with estimates showing at least 96 per cent of the population is exposed to protection risks.<sup>18</sup>

### **C. Governance and State failure to respect, protect and fulfil economic, social and cultural rights**

19. According to the International Covenant on Economic, Social and Cultural Rights, a State party has a duty to use its "maximum available resources with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means". The Committee on Economic, Social and Cultural Rights has stated that, while the Covenant provided for progressive realization, it also imposed obligations of immediate effect. State parties have a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights.<sup>19</sup> States must effectively prevent infringements of economic, social and cultural rights by private actors.<sup>20</sup>

20. Government spending on health care has oscillated at approximately 1 per cent of gross domestic product, which is below the 6 per cent that the World Health Organization considers necessary to reduce health-related disasters.<sup>21</sup> The chronic underresourcing of public services has created a two-tier system, with an important part of public services provided by private entities, further deepening the divide between a wealthy minority and an impoverished majority. Only 34 per cent of health services are public and 41 per cent of Haitians mention high costs as the main barrier to medical care.<sup>22</sup> The expert has also received information regarding persons dying in front of hospitals because they were not able to afford health care.

21. In 2023, the Government reduced funding for the education sector by 34 per cent.<sup>23</sup> Similarly, 85 per cent of schools are private and charge fees that exclude most children from low-income families.<sup>24</sup> Despite an important amount allocated to the National Directorate of Drinking Water and Sanitation (annual budget of \$11.4 million for the 2022/23 fiscal year), access to water and sanitation services is limited. People resort to private suppliers. Those in the poorest conditions are left with non-drinkable water, often collected from swamps or unsanitary wells, spreading waterborne diseases.

22. In Haiti, decades of poor governance and corruption have contributed to the current crisis. More than 90 per cent of Haitian public officials are not in compliance with the national

<sup>18</sup> United Nations Haiti, *Analyse Commune de Pays*, p. 33.

<sup>19</sup> Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990), paras. 1 and 10.

<sup>20</sup> Committee on Economic, Social and Cultural Rights, general comment No. 24 (2017), para. 14.

<sup>21</sup> United Nations Haiti, *Analyse Commune de Pays*, p. 57.

<sup>22</sup> *Ibid.*, p. 58.

<sup>23</sup> Institute for Justice and Democracy in Haiti and the Bureau des Avocats Internationaux, "Human rights and the rule of law in Haiti: key recent developments – December 2022 through May 2023", p. 11.

<sup>24</sup> See [www.hrw.org/world-report/2023/country-chapters/haiti](http://www.hrw.org/world-report/2023/country-chapters/haiti).

anti-corruption law.<sup>25</sup> The Transparency International Corruption Perceptions Index for 2022 ranks Haiti 171st out of 180 countries. The World Bank's worldwide governance indicators also rank Haiti as one of the lowest-ranking countries.<sup>26</sup> One leading Haitian analyst told the expert that: "Corruption is our number one enemy."

23. Corruption is a major impediment to the realization of economic, social and cultural rights as it diverts public spending to the detriment of the population. Endemic corruption has severely affected the delivery of public services. For example, there are allegations of fraud and corruption in the Social Assistance Fund, which is in charge of providing social assistance to groups in vulnerable situations. Several officials are currently under investigation by the Anti-Corruption Unit. Corruption also drives private investment away and impunity compounds the corruption problem.

24. During his visit, the expert met with representatives of the Anti-Corruption Unit. The Unit's director has led 30 investigations into corruption cases involving high-ranking officials despite limited resources and daily threats made against him and his colleagues. The expert appreciates those efforts to address corruption and support prosecutions, gathering evidence of corruption by high-ranking public officials in several cases in 2023. Similarly, in 2022, it found pervasive corrupt practices in several institutions, including the Haitian National Police, the national lottery, public universities and various municipal administrations. Other investigations found embezzlement of funds in the National Office for Migration and the Social Assistance Fund, as well as numerous irregularities in the management of funds allocated to the Ministry of Public Health and Population to fight the coronavirus disease (COVID-19) pandemic.<sup>27</sup> Yet there has been only one conviction in a corruption case in the last 10 years.

25. That must change. The expert welcomes the recent positive results of the Customs Service in collecting record amounts of taxes and duties at the country's ports and airports following the dismissal of the previous director who has been charged with corruption. The amount collected for the month of April 2023 was the highest ever. The expert urges the authorities to exercise strict oversight of public spending to prevent corruption and to support all efforts by the judiciary to investigate and prosecute those suspected of corruption.

## **IV. Lack of accountability and oversight resulting in impunity**

### **A. State institutions**

#### **1. Haitian National Police**

26. The Haitian National Police faces multiple problems. There are not enough police officers to cover the country. With approximately 13,000 estimated active-duty officers and a population of approximately 11 million, Haiti has about half the number of police officers recommended by experts on police matters. The police lack basic equipment, including vehicles, communications, weapons and even uniforms. Morale is low. Police are poorly paid and often paid late. The Haitian National Police has lost many officers in the fight against the gangs. Several analysts who study the Haitian National Police told the expert that a large number have applied to leave the country under the new United States parole programme.

27. Some police officers have been implicated in colluding with gangs. Several former police officers, most notoriously Jimmy "Barbeque" Chérizier, are gang members. The Security Council imposed sanctions on Chérizier for actions threatening the peace and stability of the country.<sup>28</sup> According to numerous interlocutors the expert interviewed, gangs

<sup>25</sup> See [www.lenouvelliste.com/article/240958/moins-de-10-des-agents-publics-assujettis-a-cette-formalite-ont-fait-leur-declaration-de-patrimoine](http://www.lenouvelliste.com/article/240958/moins-de-10-des-agents-publics-assujettis-a-cette-formalite-ont-fait-leur-declaration-de-patrimoine) (in French).

<sup>26</sup> See <https://info.worldbank.org/governance/wgi/Home/Reports>.

<sup>27</sup> Institute for Justice and Democracy in Haiti and the Bureau des Avocats Internationaux, "Human rights and the rule of law in Haiti: key recent developments – June through November 2022" (2022), p. 4.

<sup>28</sup> Jacqueline Charles, "Security Council adopts sanctions against Haiti gangs, including leader known as 'Barbecue'", *Miami Herald*, 21 October 2022.

have obtained weapons and vehicles from the police and some officers have been accused of providing information to gangs about upcoming police operations. “It is difficult to fight gangs when police or political authorities are in collusion with them.”<sup>29</sup> The expert considers that there are well-founded allegations that gross human rights violations and abuses have occurred in Haiti.<sup>30</sup>

28. The Haitian National Police must vet all its members and remove from service any officers who have colluded with gangs or the Bwa Kalé movement. The expert has received alarming allegations that officers may have participated in executing suspected gang members. The expert supports the recent revival by the Inspector General of the Haitian National Police of the vetting process that had been suspended for many years. While the police must work hard to gain the population’s trust, the expert urges all Haitians to cooperate with it. When possible, suspected gang members should be handed over to the police. The expert calls on the police not to turn over arrested suspects to be killed by angry crowds. The presumption of innocence is a cornerstone of the rule of law, and no one should act as judge and executioner.

29. The expert has learned of positive examples of community support for the Haitian National Police from the southern peninsula. Medical organizations and civil society groups formed a “security unit” that worked with the Departmental Director of the Haitian National Police. After intensive consultations, including with the private security firms hired by some of the health-care providers, the Haitian National Police and civil society organizations identified security priorities and ways of collaborating. Those organizations provided medical treatment to the police. Over time, the Haitian National Police have benefited from information provided by the community and vice-versa.<sup>31</sup>

30. In the Department of the North, the Haitian National Police commander has earned the trust of the community. He organizes regular patrols so that people see the police out working for them. He demands proper accountability and investigates any complaint of police misconduct. This has led to successful law enforcement operations against gangs and security in the north allows for daily life to continue. That approach should be replicated everywhere in Haiti.

## 2. Justice system

31. The Haitian justice system faces multiple long-term challenges linked to corruption, political interference and lack of adequate human and material resources. It enjoys little trust from the population.<sup>32</sup> One reason people take justice into their own hands is that they fear the justice system will not hold gang leaders accountable and that they will be released. That fear is well founded as the few gang leaders who have been arrested have conducted gang activities from prison; some have “escaped” or have been released. In a report published in April 2023, the National Human Rights Defense Network found that courts in Port-au-Prince and Croix des Bouquets had taken no action against arrested gang members.<sup>33</sup> The expert’s interviews with judicial officials, lawyers and human rights experts revealed a highly dysfunctional justice system. Court clerks and magistrates have frequently gone on strike over wages and working conditions, contributing to the low numbers of cases processed in the courts.

<sup>29</sup> Global Initiative Against Transnational Organized Crime, “Gangs of Haiti”, p. 14, See the reports of the Secretary-General (among the latest, S/2022/117, S/2022/481 and S/2023/274) and OHCHR.

<sup>30</sup> Harvard Law School International Human Rights Clinic, *Killing with Impunity: State-sanctioned Massacres in Haiti* (2021). The authors of the study note that such massacres could amount to crimes against humanity.

<sup>31</sup> Haiti Health Network Advocacy Committee, “Haiti: a path to peace and positive change – can there be a solution within the Haitian constitutional democratic and sovereign framework to address the current humanitarian crisis?” (2023).

<sup>32</sup> World Justice Project, “The rule of law in Haiti: key findings from the general population poll 2022 (Washington, D.C., 2023).

<sup>33</sup> National Human Rights Defense Network, “Remarques sur la réalisation des audiences criminelles dans certaines juridictions de première instance du pays” (2023) (in French), para. 12.

32. Recent surveys convey dire assessments of the judiciary by the population. Haiti currently ranks 136th out of 140 countries in the World Justice Project Rule of Law Index. Only 2.9 per cent of citizens are satisfied with judges' performance and just 2.5 per cent are satisfied with the prosecutors' work. Only 3 per cent of those arrested are ever convicted of a crime.<sup>34</sup> The Head of the Corrections Section at BINUH stated that: "We have a justice chain that is completely broken."<sup>35</sup>

33. Legal practitioners told the expert that many judges, prosecutors, court clerks and bailiffs failed to show up for work. Some do not possess the requisite job qualifications. Seldom are judicial officers ever held to account for their misconduct. In one egregious case, a State prosecutor has publicly boasted of executing suspected gang leaders and has threatened a human rights advocate for criticizing him and yet he has never been disciplined.<sup>36</sup> Complaint mechanisms are weak, inspections rare and disciplinary actions even rarer. Impunity creates deep distrust in the judicial system.

34. Yet, even with violence and a lack of resources, determined, dedicated and brave individuals have managed to make a significant impact. The new prosecutor for Port-au-Prince informed the expert that his office processes a certain number of cases on a weekly basis that he will report on publicly on a monthly basis. He has visited police lock-ups and ordered the release of a number of detainees arbitrarily arrested and detained. This type of transparency, oversight, integrity and accountability is what is needed throughout the entire judiciary.

35. Some legal assistance bureaux have succeeded in freeing several dozen detainees by advocating for judges and prosecutors to be diligent. The expert met with lawyers from the legal assistance bureau in Cap-Haïtien who described how, with limited means, they had successfully brought habeas corpus appeals that resulted in the release of 40 detainees from a severely overcrowded prison. Similarly in Gonaïves, dedicated lawyers from the legal assistance bureau had secured judgments resulting in the release of 30 detainees.

36. However, "Lwa se papie, bayonet se fe" (law is paper, a bayonet is steel) is an apt Haitian proverb. Courts are inaccessible due to violence and, where accessible, barely function. This has led to a backlog of cases. The courts' dysfunction negatively affects the penitentiary system.

### 3. Prisons and detention centres

37. Prisons in Haiti are inhumane.<sup>37</sup> According to figures from BINUH, at the end of June 2023, Haitian prisons held 11,810 persons, which is more than three times their maximum capacity; 84.56 per cent are pretrial detainees. They have never been tried and some have been waiting for periods much longer than any sentence that might be imposed, assuming that they are guilty. This is a decades-old problem in Haiti. A Special Rapporteur on human rights in Haiti in 1990 stated that reducing the high rate of pretrial detainees should be a top priority for the Government. However, the number has remained at approximately 80 per cent for most of the following 33 years. Prolonged pretrial detention creates serious overcrowding in Haitian prisons and even in police lock-ups.

38. The situation of Haitian detainees epitomizes the continued erosion of the rule of law. The year 2022 saw an increase in the number of deaths to 219, compared with 147 in 2021. The situation was further exacerbated by the cholera outbreak, which was allegedly linked to 42 deaths among the prison population during the reporting period. According to the authors of a study published in December 2022, men in prisons survive on a starvation diet of less

<sup>34</sup> United Nations Development Programme, "UNDP Justice Programme: fact sheet – February 2023" (2023).

<sup>35</sup> Widlore Mérandcourt and Amanda Coletta, "He was sentenced to a year in prison. He had been held for more than nine", *The Washington Post*, 11 August 2023.

<sup>36</sup> Jon Lee Anderson, "Haiti held hostage", *The New Yorker*, 17 July 2023.

<sup>37</sup> OHCHR and BINUH, "'N ap mouri': rapport sur les conditions de détention en Haïti" (2021) (in French).

than 600 calories a day.<sup>38</sup> Deaths from hunger have decreased due to increased advocacy work with authorities, including by BINUH, which has led to the State providing two meals a day since September 2022.

39. The expert visited the National Penitentiary in Port-au-Prince and the Central Prison in Cap-Haïtien. The detainees are crammed into small cells, in stifling heat, with limited access to water and toilets. They must endure a suffocating smell and, in the capital, mounds of rubbish, including human excrement, add to the squalor. The detainees must take turns sleeping because there is not enough room for them to lie down at the same time. The expert interviewed detainees who were accused of petty theft, such as stealing a pair of shoes, a phone or cosmetics, yet who had been in prison for years awaiting trial.

40. The situation reported in other prisons in Haiti reveals similar cruel, inhuman and degrading treatment. In Jérémie, the detainees lack sanitation, adequate food and health care. The vast majority have never appeared before a judge in months or even years. The prison is overcrowded, with 470 detainees occupying space meant to hold 60 or 70 prisoners.<sup>39</sup> A 48-year-old man was imprisoned in 2020, accused of stealing a small bag of rice. He contracted tuberculosis while in prison and he has yet to see a doctor or a judge. He represents thousands of other individuals whose lives depend on the State meeting its human rights obligations. Onsite investigations showed that prisons in the north of the country suffer from the same problems of overcrowding and inhumane conditions.<sup>40</sup> Several Haitian human rights advocates told the expert that they ascribed some of the overcrowding in the prisons to the Haitian National Police practice of “arrimage”, which involves the police arresting persons gathering in public on suspicion of belonging to a criminal group. Such arrests can be deemed arbitrary under international law.

## B. Impunity and poor oversight

41. One common thread running through the country’s rule of law institutions – the Haitian National Police, the judiciary and the penal system – is impunity. Countless reports on the human rights situation in Haiti by the United Nations, human rights organizations and journalists have identified the failure to hold people accountable for their crimes and for failing to perform their jobs as a prime reason for human rights violations.<sup>41</sup> The cycle of violence never ends because rarely is anyone held to account. That applies to well-known cases like the assassination of President Moïse, the La Saline massacre, the assassination of the head of the Port-au-Prince Bar Association, Monferrier Dorval, and many other cases. Then there is the impunity State officials enjoy for crimes, abuse of power, corruption and failing to perform their duties. The State must address both types of impunity through actions and results. It must hold accountable both those responsible for crimes and its own officials in the police, courts and prison system to provide security for and deliver justice to the population.

42. The expert urges the Inspector General of the Haitian National Police to address corruption and abuse of power as a priority. The relaunching of the vetting programme is a good start. The process must be transparent and impartial. Removing officers who have violated their oaths to serve and protect will not only help preserve the institution but also help earn the trust of the population that every officer is honest, competent and has the requisite integrity to do this demanding job. The expert commends the Inspector General’s

<sup>38</sup> Jacqueline Charles, “Starvation rations: inmates are dying inside Haiti’s overcrowded prisons from lack of food”, *Miami Herald*, 20 December 2022.

<sup>39</sup> “Deteriorating conditions in the Jérémie, Haiti prison: a call to action to preserve due process and human life” (Center for Gender and Refugee Studies, University of California College of Law, San Francisco, Haiti Justice Partnership and the Catholic Law School of Jérémie, 2023).

<sup>40</sup> Ligue Haïtienne des Droits de l’Homme, “Rapport sur la détention illégale et arbitraire à travers les prisons civiles: Cap-Haïtien, Grande Rivière du Nord, Fort-Liberté, Gonaïves, Hinche et Petit-Goâve – 30 décembre 2022–30 janvier 2023” (Cap-Haïtien, 2023).

<sup>41</sup> Amnesty International, *Amnesty International Report, 2022/23: the State of the World’s Human Rights* (London, 2023), p. 183; and OHCHR, “Haiti: international community must act now to avert tragedy – Türk”, statement by the United Nations High Commissioner for Human Rights, 3 November 2022.

investigations into allegations of abuses committed by some police officers and urges the office to announce the results of these investigations as soon as possible. The Inspector General must also work closely with the Haitian prison authorities. Corruption is rampant and prison officials are rarely held responsible for failing to show up for work or for poor performance. The expert learned that, while the Office for the Protection of Citizens visits prisons, State prosecutors, who are charged under Haitian law to inspect prisons every month to insure that there are proper conditions and humane treatment, seldom perform this duty.

43. None of those measures requires large funding or highly technical skills. The question is not one of resources but of political will and commitment. The expert calls on the Haitian authorities to demonstrate the requisite political will through specific, measurable and time-bound actions that will improve the quality of the work done by the Haitian National Police and the prison authorities, which in turn will lead to improvements in respecting human rights and enhancing the rule of law.

44. The judicial system also suffers from weak oversight and accountability mechanisms. The Superior Council of the Judiciary is supposed to oversee the proper functioning of the judicial branch. It vets judges and has the power to de-certify those who lack integrity, are corrupt, fail to perform or have abused power. In January 2023, the Superior Council de-certified 28 judges, which was applauded by many human rights organizations. Some judges have contested this decision and have appealed their cases. Some reports indicate that certain officials in the executive branch are not pleased with the de-certification process. The expert urges all State authorities to respect the independence of the judiciary and the decisions of the Superior Council.

45. The Minister of Justice and Public Security also has an inspection unit that is charged with overseeing the performance of prosecutors, court clerks, bailiffs and other judicial officials. However, according to judicial officials, lawyers and human rights monitors interviewed by the expert, that unit has rarely functioned properly resulting in minimal systematic follow-up to accusations of misconduct. A leading Haitian human rights lawyer told the expert that there is no one holding judicial officials to account when they fail to perform their duty and there is a lack of political will to make monitoring systems and reporting of abuse procedures function properly.

46. The expert is especially concerned by threats and attacks on judicial officials working on high-profile corruption cases. In May 2023, Investigating Judge Jean Wilner Morin escaped an assassination attempt when gunmen fired 13 bullets at his car. Mr. Morin is investigating several high-profile corruption cases involving the former head of the General Customs Administration and the former head of the Social Assistance Fund.

47. The expert applauds the recent steps by brave Haitian jurists to continue to root out corruption and calls upon the Superior Court of Accounts to bring to justice those responsible for this scourge.

## **V. Violence against women and girls**

### **A. Analysis of the current situation**

48. Women and girls are severely affected by the consequences of violence. Since the beginning of 2022, gangs have increasingly targeted populations living in areas controlled by their rivals. Between 1 January and 15 August 2023, at least 2,439 persons were killed (282 women and 50 children), 902 injured (230 women and 23 children) and 951 kidnapped (307 women and 12 children). Women and girls are more likely to live in poverty, especially in rural areas. Ongoing gang violence, fuel shortages and roadblocks have aggravated the situation.

49. According to the United Nations Children's Fund (UNICEF), almost 3 million children "desperately need protection and support" in Haiti.<sup>42</sup> More than 500,000 children

<sup>42</sup> See <https://news.un.org/en/story/2023/06/1137752>.

live in gang-controlled neighbourhoods where they are recruited by gangs. While numbers are difficult to assess, OHCHR in Haiti estimates that between 30 and 50 per cent of gang members are minors who are often coerced into joining gangs because they fear reprisals for their family or themselves. Moreover, attacks against schools by gang members increased ninefold in the past year.<sup>43</sup> Gang violence pushed half a million children out of the classroom in Port-au-Prince in 2022.<sup>44</sup> The violence against children has reached a level warranting the Special Representative of the Secretary-General for Children and Armed Conflict to add Haiti to its “watch list” for the coming year.

50. It is challenging to provide data related to sexual and gender-based violence in Haiti, mainly due to underreporting. According to civil society organizations, there is direct evidence that more than half and as many as 70 per cent of women and girls have experienced some form of gender-based violence.<sup>45</sup> Civil society organizations with which the expert met during his visit indicated that sexual violence was pervasive and had sharply increased within the past few years. Most victims are reluctant to report the abuses suffered or to seek assistance for fear of retaliation or of being excluded from their community. In the report published in October 2022, OHCHR and BINUH highlight that sexual violence has reached alarming levels, with gangs using rape as a weapon of terror and subjugation against the population.<sup>46</sup>

51. Displaced women and girls are in an even more vulnerable situation. As of April 2023, out of 127,977 persons displaced as a result of gang violence (the true number is likely to be much higher), 49 per cent are children and 58 per cent are women.<sup>47</sup> Internally displaced women are more likely to be killed, raped or used as sexual slaves by gang leaders. The situation of displaced pregnant and lactating women is particularly critical as the maternal mortality rate in Haiti is the highest in Latin America and the Caribbean.<sup>48</sup> Displaced and unaccompanied children face discrimination and risk exploitation and recruitment by gangs. According to OHCHR and BINUH, women and girls with disabilities are more exposed to being killed, raped and left behind during forced evictions. Haitian deportees (numbering 15,171 between January and August 2023) are also exposed to a significant risk of sexual exploitation and abuse. Women and girls seeking job opportunities are often exploited for sex tourism in the Dominican Republic.

## B. State failure to protect

52. The Government’s numerous challenges to address the situation of women and girls in Haiti is undeniable. Nevertheless, it has been exacerbated by the State’s lack of appropriate measures to prevent and protect women and girls from human rights violations and abuses. Support programmes are understaffed, underfunded and lack efficiency. For the fiscal year 2022/23, the Institute for Social Welfare and Research, the public institution in charge of improving the economic and social living conditions of the population while paying special attention to children and women, allegedly only received \$1.1 million, accounting for 0.04 per cent of the total budget.

53. The expert met with a representative of the Institute for Social Welfare and Research in Cap-Haïtien, who briefed him on the difficulties in addressing the dire situation of children in the Department of the North. Many children in need of assistance have been repatriated,

<sup>43</sup> See [www.alterpresse.org/spip.php?article29040](http://www.alterpresse.org/spip.php?article29040) (in French).

<sup>44</sup> See [www.unicef.org/lac/en/press-releases/haiti-gang-violence-pushes-half-a-million-children-out-classroom-in-port-au-prince](http://www.unicef.org/lac/en/press-releases/haiti-gang-violence-pushes-half-a-million-children-out-classroom-in-port-au-prince).

<sup>45</sup> Austrian Red Cross and ACCORD (Austrian Centre for Country of Origin and Asylum Research and Documentation), *Haiti: COI Compilation* (Vienna, 2023), p. 50.

<sup>46</sup> OHCHR and BINUH, “Sexual violence in Port-au-Prince: a weapon used by gangs to instil fear” (2022).

<sup>47</sup> International Organization for Migration, “Haïti: suivi de mouvement de populations – évaluation de la situation de déplacement dans la Zone Métropolitaine de Port-au-Prince (Round 3)” (2023) (in French).

<sup>48</sup> See <https://news.un.org/en/story/2022/10/1129527>.

in particular from the Dominican Republic.<sup>49</sup> There is no juvenile court judge in Cap-Haïtien. In addition, the chronic lack of resources and public services allocated to child protection has led hundreds of girls to fend for themselves. Most try to survive in the streets or are placed in overcrowded orphanages, where they are exposed to human rights violations and abuses. According to estimates, 30,000 children live in the 754 orphanages across the country, only 5 per cent of such institutions meet the minimum standards.

54. In their joint report on sexual violence, OHCHR and BINUH found that national and international efforts to protect the rights and respond to the needs of victims of sexual violence, mostly women and girls, have been weak and inadequate. In the absence of proper referral pathways, victims are left without the integrated responses that should offer them and their families medical, psychological, legal and socioeconomic services and reintegration support. While police stations are supposed to have sexual and specific gender-based violence desks and a dedicated unit to combat sexual violence, significant operational, logistical and resource impediments hamper the effectiveness of the police to investigate sexual violence. Similarly, corruption of public services and impunity for cases of sexual violence and trafficking against women and girls is widespread. Civil courts in Port-au-Prince and Croix-des-Bouquets did not issue any convictions for trafficking in persons from 2014 to 2021.<sup>50</sup> Out of 759 complaints filed between 2016 and 2018, no complaints for acts of trafficking in persons were registered by the complaints department of the Prosecutor's Office of Port-au-Prince.

55. Following the publication of the report, and despite the Government's explicit commitment to tackle sexual violence to address the gaps highlighted in it, women and girls continue to lack access to adequate health care. Impunity for sexual violence remains the norm. According to a civil society organization supporting victims, cases of sexual violence have more than doubled between May 2022 and May 2023. During his visit, the expert met with victims of sexual violence. They reported being collectively raped, beaten and burned with pieces of hot plastic by gang members. The victims received basic medical care thanks to the support of civil society organizations. None intended to press charges, mainly due to their distrust of the judicial system, as well as fear of reprisals. They told the expert that they "feel completely abandoned by the State". Those words echo those of a survivor from Cité Soleil who told Human Rights Watch investigators that: "They rape us because they are in control, because they have guns, because there is nobody to defend us. There is no police or State."<sup>51</sup>

56. The conditions of detention in prisons and those of internally displaced persons illustrate the State's failure to prevent, protect and fulfil its obligations. In detention centres, the absence of sufficient dedicated facilities for women and girls exposes them to a heightened risk of violence. There is only one prison exclusively for women in Haiti. On 26 January 2023, 16 women and one girl were raped during an armed prison break at the Gonaïves civil prison, under the alleged passive complicity of the security personnel.

## VI. Conclusions and recommendations

57. **An eminent Haitian anthropologist wrote that life for most Haitians was one of "sans" (without) – without a future, a job, health care, education, housing, food, security, justice or clean water – a life without hope. Our goal should be to give Haitians hope and a chance to live a dignified life. "Tout moun gen yon rol" (everyone has a role) should be the theme of every human rights initiative. All Haitians need to put their heads and hands together in the traditional Haitian way to move the country out of this crisis.**

<sup>49</sup> International Organization for Migration, "Migrants' repatriation and reception assistance in Haiti" (January 2023).

<sup>50</sup> Austrian Red Cross and ACCORD (Austrian Centre for Country of Origin and Asylum Research and Documentation), *Haiti: COI Compilation*, p. 71.

<sup>51</sup> Human Rights Watch, *"Living a Nightmare": Haiti Needs an Urgent Rights-based Response to Escalating Crisis* (2023).

58. While insecurity and lack of resources are real, it does not impede the State to respect its human rights obligations, including to exercise due diligence and do everything in its capacity to protect all persons. The State must do more to protect human rights. It should seek the advice and support of the United Nations as needed. However, implementation also depends on political will as much as increasing resources or reducing the violence. Increasing accountability for human rights violations and abuses, fighting corruption and impunity and implementing efficient governance will be the key to success.

59. As regards the Haitian authorities, the expert recommends that:

(a) The State must immediately relieve prison overcrowding. With this aim in mind:

(i) Judges should review the legality of the deprivation of liberty of those in pretrial detention. Pretrial detention should be exceptional and based on an individualized determination that it is reasonable and necessary;

(ii) Judges must reconsider alternatives to pretrial detention if delays cannot be avoided. Persons who are not released pending trial must be tried as expeditiously as possible, consistent with their rights of defence;

(iii) The Haitian National Police should stop the practice of mass arrests under the rubric of “arrimage”. All deprivation of liberty by law enforcement officials must strictly comply with international human rights law and standards. Persons arrested or detained on a criminal charge should be brought promptly before a judge or other officer authorized by law to exercise judicial power and should be entitled to trial within a reasonable time or to release;

(iv) Legal assistance bureaux must be established in all 10 departmental capitals and must be provided with adequate resources to enable timely and quality legal services to detainees who cannot afford legal representation. Providing assistance to those in pretrial detention, including on the legality of the detention, should be a priority;

(b) The State must ensure that prisoners are provided with daily food in a quantity and quality sufficient to satisfy the dietary needs of individuals. An effective oversight mechanism should be in place to ensure that persons deprived of liberty have timely access to food, clean drinking water, hygiene items and medication. Prosecutors and prison administrators must conduct regular inspections of all detention centres and take appropriate measures;

(c) The Superior Council of the Judiciary must thoroughly consider complaints of judicial misconduct, strictly observing the time frame established by law and always without unreasonable delay. The Superior Council should continue its certification process of all judges while ensuring due process. Competent authorities, including the Inspection Unit of the Ministry of Justice, must also conduct regular evaluations of all prosecutors, court clerks and bailiffs to ensure their integrity and competence. The Superior Council and the Office of the Prosecutor should establish clear policies to ensure efficiency and accountability in that regard, including performance benchmarks;

(d) Entities in charge of investigating corruption, such as the Anti-Corruption Unit, must have sufficient resources, independence and protection to be able to fully discharge their functions and conduct their investigations. Measures should be adopted to ensure the independence and impartiality of judicial authorities in charge of considering cases of corruption, including ensuring the effective independence of the Superior Court of Accounts. Investigations and judicial proceedings must be carried out expeditiously and consistently with international human rights law;

(e) The Haitian National Police must complete the vetting of current officers by a certain date. The Haitian authorities, including the Inspector General of the Haitian National Police, should seek international advice and cooperation aiming at strengthening the Office of the Inspector General. The Office should set performance

indicators in investigating complaints of police misconduct and disciplining officers found to have abused power or committed abuses, including determining clear, objective and transparent criteria for the prioritization of cases;

(f) The security policies of Haiti must be developed and implemented through a human rights-based approach. The Haitian National Police should adopt departmental security plans based on the security group model in the Grande-Anse. Working closely with civil society, the Haitian National Police should create safe areas to resist gang incursions from urban areas. That would encourage greater decentralization and allow goods and people to move more freely, depriving the armed groups of income and recruits;

(g) The Haitian National Police should integrate human rights standards into its regulations, protocols and manuals; as well as in training for staff;

(h) The State must immediately improve good governance based on human rights, including ensuring that the principles of transparency and accountability guide public expenditure and public administration more generally. The State should implement accounting and auditing standards, systems of risk management and internal control, as well as corrective action in cases of failure to comply with such requirements. Similarly, the State should provide unimpeded access to information, notably thanks to the adoption of a legal and policy framework that complies with international human rights law and standards. The Customs Service's current performance is a positive example that should be supported and replicated in other parts of the administration;

(i) The State should allocate its maximum available resources to achieve progressively the full realization of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights. To address the consequences of violence and poor governance, the Haitian authorities, with support from the international community, should:

- (i) Buttress the right to education, especially by providing primary schools that are free of charge;
- (ii) Provide progressively increasing access to clean drinking water with time-bound targets;
- (iii) Increase the number of community kitchens and locate them in areas that are safely accessible and also increase funding for school meals;
- (iv) Ensure the accessibility, availability and quality of health care, particularly in rural areas and for marginalized individuals and groups and lower-income socioeconomic groups;

(j) The Haitian authorities should create a civil/community service that offers job training, literacy courses and compensation to Haitian youth enrolled in the service;

(k) The State must increase its efforts to prevent sexual violence and to support medical, psychosocial, legal and economic services for survivors. In particular, it should:

- (i) Increase advisory, technical and operational support to the Haitian National Police and the judiciary, including training on human rights law and standards, as well as a gender and age-sensitive victim-centred approach;
- (ii) Establish sufficient accommodation centres for survivors and strengthen the service provided by those that already exist. The Ministry of Justice and Public Security, with the support of the international community, should establish a judicial task force to address impunity for crimes of sexual violence and process files within a reasonable time frame;
- (iii) Implement targeted awareness campaigns to prevent cases of sexual violence and set vocational training programmes that enable the empowerment of women and girls.

60. As regards the international community, he expert recommends that:

(a) A specialized force of international police to combat organized crime, armed gangs and international trafficking in arms, drugs and persons should be deployed to assist the Haitian National Police. Any such force must observe and adhere to international human rights laws and standards. There should be an independent oversight body charged with monitoring and reporting on the performance and conduct of the force. Any support from the United Nations to the multinational force will also need to be in strict compliance with the human rights due diligence policy on United Nations support to non-United Nations security forces;

(b) States that have in their possession relevant information and evidence in relation to events that may constitute corruption-related offences should support the Haitian authorities in charge of investigating and prosecuting corruption cases, such as the Anti-Corruption Unit and the Superior Court of Accounts. That includes providing them with the necessary information and evidence, in accordance with the applicable legal framework, including international human rights law;

(c) An immediate arms embargo should be declared, with exceptions for equipment for the Haitian National Police;

(d) Aid programmes should prioritize enhancing the oversight capacity of Haitian institutions with the aim of building a culture of accountability and integrity and include time-bound results;

(e) Humanitarian actors should align their objectives towards a better and more agile delivery of humanitarian assistance, within the scope of strict respect for humanitarian principles in particular when it comes to engaging with non-State armed actors;

(f) International experts in investigating and prosecuting gang violence, financial crimes and organized crime, corruption and gender-based violence should be deployed to provide assistance to their Haitian counterparts.

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