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**STATUS OF HUMAN RIGHTS IN THE REPUBLIC OF HAITI  
FOR THE 40<sup>TH</sup> SESSION OF THE  
UNIVERSAL PERIODIC REVIEW**

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## **Status of Human Rights in Haiti for the 40<sup>th</sup> Session of the Universal Periodic Review**

### **Introduction**

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to discuss the status of human rights in the Republic of Haiti (Haiti) for the 40<sup>th</sup> Session of the Universal Periodic Review (UPR).

### **Background**

2. Located in the Caribbean, with an estimated population of 11.1 million people<sup>1</sup>, Haiti is predominately Christian country with approximately 55% of the population identifying as Roman Catholic, 29% as Protestant, 2% as Vodou, 15% as other, and 10% as irreligious<sup>2</sup>. Legally, religious organizations must register with the government in order to obtain standing in legal disputes and receive a tax-exempt status<sup>3</sup>. Failure to register with the government, however, does not result in any penalty<sup>4</sup>.

3. Haiti's previous review was held on 7 November 2016<sup>5</sup>. After the review, Haiti received 213 recommendations, 189 of which Haiti supported. It was recommended that Haiti "[v]igourously investigate, prosecute, convict, and sentence traffickers, including those responsible for domestic servitude and child sex trafficking" as well as "[f]ully implement the Trafficking in Persons Act 2014 and ensure the continued work of the Committee against Trafficking in Persons"<sup>6</sup>. Haiti supported both of these recommendations. There were no recommendations made regarding freedom of religion.

### **Legal Framework**

4. Article 19 of Haiti's Constitution states the following:

The State has the absolute obligation to guarantee the right to life, health, and respect of the human person for all citizens without distinction, in conformity with the Universal Declaration of the Rights of Man<sup>7</sup>.

5. Additionally, under Article 261 of the Constitution, "The law ensures protection for all children. Any child is entitled to love, affection, understanding and moral and physical care grow its father and mother"<sup>8</sup>.

6. In 2014, Haiti passed the Antitrafficking Law to combat trafficking and protect victims.<sup>9</sup> Article 1.2 states the following:

The present law is intended to

- a. Prevent and combat trafficking in persons;
  - b. Set forth the rules of governing the investigation, prosecution, and punishment of trafficking in persons in all its forms;
  - c. Protect and assist the victims of such trafficking by maintaining full respect for and protecting their human rights;
  - d. Prosecute and ensure just and effective punishment of traffickers; and
  - e. Promote and facilitate national and international cooperation in order to meet these objectives<sup>10</sup>.
7. Additionally, Article 1 of Haiti’s Anti Trafficking Law defines human trafficking:
- “Trafficking in persons” (or “human trafficking”) means the recruitment, transport, harboring, or receipt of persons by means of a threat or use of force or other forms of coercion, by kidnapping, by fraud, by deception, by abuse of power or of a position of vulnerability or by giving and receiving payments or benefits to obtain the consent of a person having control over another person, for the purpose of exploitation<sup>11</sup>.
8. Furthermore, under Article 11, “Any person found guilty of trafficking in persons defined in article 1.1 commits a crime and shall be liable to imprisonment for a term of 7 to 15 years and a fine of between 200,000 and 1,500,000 gourdes”<sup>12</sup>. And, under Article 2, the law also establishes the National Antitrafficking Committee:
- An interministerial and sectoral body called the “National Antitrafficking Committee,” hereinafter referred to as “the Committee,” shall be established. The Committee shall be tasked with coordinating operative activities against human trafficking, preventing and combatting human trafficking in all its forms and ensuring the protection of victims. It is part of the Ministry of Social Affairs and Labor<sup>13</sup>.
9. In addition, Haiti has signed and ratified the International Covenant on Civil and Political Rights (ICCPR). Articles 7, 8, and 24 of the ICCPR address trafficking in persons, as well as forced child labour.

#### Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation<sup>14</sup>.

## Article 8

1. No one person shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3. (a) No one shall be required to perform forced or compulsory labour;<sup>15</sup>

## Article 24

Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, or the part of his family, society and the State<sup>16</sup>.

10. Haiti is also a party to the Convention on the Rights of the Child (CRC). Under Article 35 of the CRC, “States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare”<sup>17</sup>.

### **Exploitation of Children in Haiti**

11. While approximately 30,000 children live in orphanages in Haiti, the government estimates that 80% of the children have at least one living parent<sup>18</sup>. Although this may appear strange, poverty-stricken parents often send their children to orphanages when they believe that have too little resources to provide for them<sup>19</sup>. Unfortunately, those who run the orphanages often exploit the children and deceive well-meaning foreigners to obtain financial support. Fils-Lien Ely Thelot, former president of the National Committee Against Human Trafficking (“the Committee”) stated that, “They are forced into labor . . . . And they’re allowed to live in squalor so that foreigners will give them money out of pity”<sup>20</sup>. Children rarely see the benefits of money given to these orphanages.

12. However, for orphanage owners, it is a money-making business. Foreign non-profits give approximately \$100 million each year to orphanages in Haiti<sup>21</sup>. To ensure that the funds continue to flow, orphanage owners engage in manipulative tactics to harvest children from their families. Georgette Mulheir, the executive director of Lumos, an international charity raising awareness to the “institutionalizing” of children, described the problem:

[Orphanages] pay people called ‘child finders’ who go out into the community and essentially put pressure on parents to give them their children . . . . They will tell parents, ‘you are poor, you can’t afford your child’s education. Give them to the orphanage. We’ll make sure they have an education, have healthcare, have opportunities that you could never give them’<sup>22</sup>.

13. Haitian children are also exploited through the practice of “restavek”<sup>23</sup>. Unlike children who are exploited by orphanages, restaveks are children who serve as unpaid domestic servants<sup>24</sup>. To find children, women from urban areas will approach poorer women who transport goods to the market and ask if they have children who are available to “help around the house”<sup>25</sup>. In reality, these women serve as intermediaries between poor, vulnerable families and host families. One intermediary woman explained how she lies to parents in order to take their child:

The mother can ask me ‘Is she a good person?’ I say ‘yes’ to her just so she’ll agree to give me her child even though sometimes I don’t even know the person the child will be going to live with. But to secure the parents’ trust, I’ll say anything at all<sup>26</sup>.

14. Host families force these children to perform laborious tasks often for 14 hours a day, and the children receive no pay or education<sup>27</sup>. Living in squalor, they are forced to sleep on concrete floors, dress in rags, and submit to verbal and physical abuse.

15. This practice is clearly prohibited by Haiti’s anti-trafficking law. As previously stated, Haitian law defines human trafficking as “the recruitment, transport, harboring or receipt of persons by means of . . . coercion . . . by fraud, by deception . . . or by giving and receiving payments or benefits to obtain the consent of a person having control over another person, for the purpose of exploitation”<sup>28</sup>. Under the for the false pretense of better education, healthcare, and quality of living, these traffickers exploit children to gain free labour.

16. Hampered by a lack of resources, local authorities are unable to properly investigate and prosecute cases of human trafficking. Fils-Lien Ely Thelot described the difficulty of combatting human trafficking:

We don’t have an office, we don’t have employees, we don’t have the means to go out in the field and push investigations, we don’t have any direct contact with any of the official authorities that are supposed to accompany us when we go out in the field . . . . So it is extremely hard and frustrating to get the results people are expecting from us<sup>29</sup>.

17. In 2020, Haiti finally allocated 20 million Haitian gourdes (\$185,000 USD) to the National Committee Against Human Trafficking to carry out its mission<sup>30</sup>. This was the first time the government funded the Committee since its creation in 2015<sup>31</sup>. Current Committee President André Ibréus outlined eight ways these funds will be used to combat human trafficking:

- 1) Hire lawyers to provide legal services to trafficking in person victims
- 2) Conduct an awareness-raising campaign, including billboards, radio and television broadcasts, T-shirts and leaflets
- 3) Train work inspectors, local authorities, and law enforcement at the borders on trafficking in person indicators
- 4) Design standard operating procedures for anti-trafficking work,

- 5) Create a website and social media accounts
- 6) Establish a hotline
- 7) Document trafficking cases,
- 8) Establish shelters for survivors<sup>32</sup>

## Conclusion

18. We are encouraged by the recent steps Haiti has taken to allocate resources to combat the exploitation and trafficking of children. It is critical that Haiti continues to provide funding and resources for the Committee Against Human Trafficking as this provides much needed training for authorities to properly investigate and prosecute these orphanages and child finders. Additionally, awareness campaigns must be implemented to educate parents about these dangerous schemes to prevent parents from unknowingly giving their children to traffickers.

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<sup>1</sup> *Haiti Population 2021 (Live)*, WORLD POPULATION REVIEW, <https://worldpopulationreview.com/countries/haiti-population>.

<sup>2</sup> *Haiti*, WORLD FACTBOOK (24 Mar. 2021), <https://www.cia.gov/the-world-factbook/countries/haiti/>.

<sup>3</sup> *Haiti*, HUMANIST INTERNATIONAL (13 Aug. 2020), <https://fot.humanists.international/countries/americas-caribbean/haiti/>.

<sup>4</sup> *Id.*

<sup>5</sup> *Universal Periodic Review – Haiti*, UNHRC, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/HTIndex.aspx>.

<sup>6</sup> Thematic List of Recommendations – UPR of Haiti A/HRC/34/14-Para. 115, <https://lib.ohchr.org/HRBodies/UPR/Documents/Session26/HT/MatriceRecommendationsHaiti.docx>.

<sup>7</sup> Constitution of Haiti art. 19, [https://www.constituteproject.org/constitution/Haiti\\_2012.pdf?lang=en](https://www.constituteproject.org/constitution/Haiti_2012.pdf?lang=en).

<sup>8</sup> *Id.* art. 261.

<sup>9</sup> Antitrafficking Law,

[https://www.healthpolicyproject.com/pubs/787\\_HaitiAntiTraffickingLawFINALEnglishFECLAF.pdf](https://www.healthpolicyproject.com/pubs/787_HaitiAntiTraffickingLawFINALEnglishFECLAF.pdf).

<sup>10</sup> *Id.* at art 1.2

<sup>11</sup> *Id.* at art. 1.1.1.

<sup>12</sup> *Id.* art. 11.

<sup>13</sup> *Id.* art. 2

<sup>14</sup> International Covenant on Civil and Political Rights, 16 Dec. 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 7.

<sup>15</sup> *Id.* art. 8.

<sup>16</sup> *Id.* art 24.

<sup>17</sup> Convention on the Rights of the Child, 20 Nov. 1989, G.A. Res. 44/25, art. 35, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

<sup>18</sup> Lisa Cohen, *How Traffickers Exploit Children in Haiti's Orphanages*, CNN (2 Mar. 2018), <https://www.cnn.com/2017/11/20/health/haiti-orphanages/index.html>.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Restavek*, RESTAVEK FREEDOM, <https://restavekfreedom.org/issue/>.

<sup>24</sup> *Id.*

<sup>25</sup> Fiona de Hoog Cius, *Hundreds of Thousands of Haitian Children Suffer in Slavery – and Women. Play a Key Role In Perpetuating the System*, THE CONVERSATION (8 May 2019), <https://theconversation.com/hundreds-of-thousands-of-haitian-children-suffer-in-slavery-and-women-play-a-key-role-in-perpetuating-the-system-115398>.

<sup>26</sup> *Id.*

<sup>27</sup> *Slavery in Haiti*, FREE THE SLAVES, <https://www.freetheslaves.net/where-we-work/haiti/>.

<sup>28</sup> Antitrafficking Law, *supra* note 9, art. 1.2.

<sup>29</sup> Lisa Cohen, *supra* note 18.

<sup>30</sup> Smith Maxine, *Haiti Government Pledges Financial Support to Fight Child Trafficking*, FREE THE SLAVES (14 Sep. 2020), <https://www.freetheslaves.net/haiti-government-pledges-financial-support-to-fight-child-trafficking/>.

<sup>31</sup> *Id.*

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