

**Submission by the United Nations High Commissioner for Refugees**

**For the Office of the High Commissioner for Human Rights' Compilation Report**

**Universal Periodic Review:**

*2nd Cycle, 26th Session*

**HAITI**

**I. BACKGROUND INFORMATION**

Haiti acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*) in September 1984. Haiti has not acceded to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) or the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

Haiti is mainly a transit country, and is increasingly used as a smuggling and trafficking route. Notably, the number of refugees and asylum-seekers in Haiti has doubled between 2014 and 2015. As of 01 January 2016, there were three mandate refugees and 14 asylum seekers originating from different parts of the world.

Despite acceding to the *1951 Convention* in 1984, Haiti has not yet adopted a comprehensive legislative framework on asylum. While the Government has not objected to establishing a relevant legal framework, frequent staff reshuffling over the last three years, combined with a largely dysfunctional Parliament from 2013 – 2015 and no Parliament in 2015, prevented any progress in this regard.

While Haiti has not had a functioning Parliament since January 2015, the electoral process, which included legislative, presidential and local elections, began on 9 August 2015 and was expected to be completed by 27 December 2015. However, as of 22 January 2016, the elections had been postponed due to the growing number of violent protests and insecurity throughout Haiti.

The 50th Legislature was scheduled to begin work on 11 January 2016, however the first session of the National Assembly (two rooms reunited) only took place in February 2016. There are still 6 Senators (full room 30 Senators) and 26 Deputies (full room 118 Deputies) who need to be elected.<sup>1</sup> In the absence of an elected President on 07 February 2016 and as per the Article

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<sup>1</sup> Haiti presidential election runoff postponed again, *Al Jazeera*, 22 January 2016, available at: <http://www.aljazeera.com/news/2016/01/haiti-presidential-election-runoff-postponed-160122200939513.html>.

149 of the Haitian Constitution, a Provisional President was elected by the National Assembly on 14 February 2016, with the main objective of organizing elections by 24 April 2016.

On the issue of statelessness, UNHCR is actively advocating for Haiti's accession to both the *1954 Convention* and the *1961 Convention*. Accession is increasingly important in Haiti due to the Dominican Republic Constitutional Tribunal's decision 168-13 in 2013, which UNHCR estimates rendered 133,000 Dominicans of Haitian descent stateless.<sup>2</sup> These stateless people are now at risk of being deported, expelled, or compelled to leave the Dominican Republic for Haiti. The International Organization for Migration (IOM) referred to UNHCR, between June 2015 and February 2016, 3,612 families, including 6,891 individuals born in the Dominican Republic, who have entered Haiti, including as a result of deportation. Out of the 3,612 families, UNHCR was able to verify/register 776 families out of which 609 families were persons of concern (amounting to 2,409 persons of whom 1,186 were born in the Dominican Republic). The issue of statelessness has thus been at the centre of political tension between Haiti and the Dominican Republic.

Inadequate and ineffective birth and civil registration systems also remain a persistent challenge in Haiti, creating a substantial risk of statelessness for many children, particularly those in rural areas. According to the Director of the National Archives there are 2.5 to 3 million undocumented persons living in Haiti.

## II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

### Positive developments linked to 1st cycle UPR recommendations

**Linked to 1st cycle UPR recommendations no. 88.18:** “Accede to the *1954 Convention relating to the Status of Stateless Persons* as well as to the *1961 Convention on the Reduction of Statelessness* (Norway);” **and no. 88.19:** “Ratify the international instruments combating statelessness, and consider a reform of the civil status guaranteeing the rights of all Haitians, including those who live abroad (France).”

During the inter-ministerial Conference on Statelessness in 2011, Haiti pledged to ratify both the *1954 Convention* and the *1961 Convention*. The Prime Minister of Haiti reiterated that pledge at a Round Table on the Rule of Law during a UN General Assembly side event in September 2012. Moreover, the Government transferred to the Parliament (49th Legislature) the instruments for ratification on 08 September 2014, however the Parliament did not have time to ratify the texts. It is hoped that the 50th Legislature will be able to do so.

Furthermore, after the launch of UNHCR's global Campaign to End Statelessness in November 2014, the Government and the remaining members of the Parliament of Haiti again committed to ratifying both the *1954 Convention* and the *1961 Convention*.

**Linked to 1st cycle UPR recommendations no. 88.83:** “Increase efforts to combat all forms of human trafficking (Slovenia);” **no. 88.84:** “Adopt an adequate legal framework in line with its commitments under the Palermo Protocol to combat human trafficking (Norway);” **and no. 88.88:** “Introduce legislation to prohibit trafficking in children (Djibouti).”

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<sup>2</sup> *Sentencia TC/0168/13*, Dominican Republic: Constitutional Court, 23 September 2013, available at: <http://www.refworld.org/docid/526900c14.html>.

Haiti adopted a *Law on Human Trafficking*, in line with the *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (the Palermo Protocol)*, in June 2014. More recently, a Presidential Order establishing a National Committee to combat human trafficking was published on 12 August 2015. However, the National Committee will require technical assistance to meet its objectives to combat trafficking in persons in Haiti.

### **Additional achievements and positive developments**

#### *Draft nationality legislation*

Following the Haitian Parliament's adoption of constitutional amendments<sup>3</sup> that ended the "one nationality" principle and indirectly allowed for the recognition of dual or multiple nationalities, the Government decided to replace the old *Decree Law on Nationality of 1984* with new nationality legislation. The Ministry of Justice and Public Security established an inter-ministerial committee which drafted a law on nationality that is compliant with relevant international standards, including both the *1954 Convention* and the *1961 Convention*.

This draft law on nationality has been under consideration by the Council of Ministers since September 2014. UNHCR hopes that the current or the newly appointed Government will promptly transfer this draft law to Parliament for adoption.

#### *Birth and civil registration legislation*

On 4 June 2014, Haiti adopted the *Law on Paternity, Maternity, and Filiation*. This new legislation will help to close gaps in birth and civil registration which could otherwise lead to risks of statelessness, including by ensuring that children born outside of marriage are able to be registered. While the adoption of this law is a major step towards ensuring equal access to birth and civil registration, the Government should ensure that the new law is well publicized among civil registration officers and effectively implemented, particularly in rural areas.

## **III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS**

### **Challenges linked to outstanding 1st cycle UPR recommendations**

#### **Issue 1: Ratification of the 1954 Convention and the 1961 Convention and adoption of the draft Nationality Law**

**Linked to 1st cycle UPR recommendations no. no. 88.18:** "Accede to the 1954 Convention relating to the Status of Stateless Persons as well as to the 1961 Convention on the Reduction of Statelessness (Norway);" **and no. 88.19:** "Ratify the international instruments combating statelessness, and consider a reform of the civil status guaranteeing the rights of all Haitians, including those who live abroad (France)."

It is essential that the new Parliament ratifies both the *1954 Convention* and the *1961 Convention*. Ratification will increase the likelihood that the draft Nationality Law will be adopted. This will consequently allow the Child Protection Code to conform to the draft

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<sup>3</sup> The amendments were adopted in May 2011 and published in June 2012.

nationality law. Ratification will also permit much needed reforms in the Haitian civil registration system, of which nine recommendations were made during the 1<sup>st</sup> cycle UPR.

The ratification of both the *1954 Convention* and the *1961 Convention* was on the agenda of the last session of the 49th Legislature. The last session was held on 8 September 2014, however, a vote did not take place. Both the *1954 Convention* and the *1961 Convention* were also on the agenda for two extraordinary sessions, which were scheduled for early 2015. These additional sessions were ultimately cancelled due to a lack of quorum.

Despite the delays, the establishment of the 50th Legislature renews hope that the current Government, or the newly appointed Government, will ratify both the *1954 Convention* and the *1961 Convention*. Ratifying these Conventions may permit Haiti to be the first country to fulfil one of the Brasilia Plan of Action conclusions that were adopted in December 2014 during the Cartagena +30 Conference.

### **Recommendations:**

UNHCR recommends that the Government of Haiti:

- a. Include the ratification of both the *1954 Convention* and the *1961 Convention* in the agenda of the new Parliament;
- b. Transfer the draft Nationality Law to Parliament for adoption; and,
- c. Encourage the adoption of the draft Nationality Law.

### **Additional protection challenges**

#### **Issue 2: Reform of the civil registration system**

We wish to note that institutions involved in civil registration in Haiti, and the process of registration itself, are not fully functional. This creates a heightened risk of statelessness for any Haitians who are unregistered. According to the Director of the National Archives there are 2.5 to 3 million undocumented inhabitants in Haiti. Also, there are 140 Communes in Haiti, 570 Communal Sections and only 186 civil registration officers. While 55 per cent of the population lives in rural areas, over 90 per cent of the civil registration offices are located in urban centers.

Haitians living abroad, in particular those who live in the Caribbean Islands, Bahamas, Turks and Caicos Islands, Suriname, French Guyana (French Overseas Department - DOM) and the Dominican Republic, may face even greater risks of statelessness. As a result of the poor civil registration system, many Haitians who have left have done so without registration or documentation. The gravity of these risks was brought into sharp relief by the aforementioned decision of the Dominican Republic's Constitutional Court which, in effect, denaturalized Dominicans of Haitian descent and rendered them stateless.

The current civil registration system is prone to errors, often leading to material inaccuracies even in cases where birth certificates are issued. Furthermore, there are many overlapping institutions involved in civil registration in Haiti, creating a convoluted process that prevents many Haitians from registering or obtaining other necessary identity or travel documents.

The process to be issued a national ID, through the Office of National Identification (ONI), requires two witnesses to confirm the place and date of birth of the applicant and a birth certificate is needed. However, fraudulent birth certificates can be bought on the black market.

The ONI staff are also reluctant to accept witnesses put forward for this purpose, in a perceived effort to maintain high standards on the issuance of ID cards. Even where these requirements are met, ID cards are not issued to children and can only be obtained by Haitians upon reaching 18 years of age. This creates significant risks for children, particularly those who live in border regions or and may be detained when crossing the border, including cases where they do so in order to attend school.

In addition, the Haitian National Archives, which is an institution reporting to the Ministry of Culture, is the competent body to issue the Extracts of Birth Certification of the National Archives. The National Archives are located in Port-au-Prince and there is no field presence. In order to apply for a passport, a birth certificate extract from the National Archives is needed. This extract is a costly document (700 Gourdes, approximately 14 USD). Additionally, the National Archives are supposed to receive the civil registers at the end of January of each year, however, the registers are currently not being transferred in a timely manner and it may take years before they reach the National Archives.

**Recommendations:**

UNHCR recommends that the Government of Haiti:

- a. Adopt improved civil registration legislation and procedures, aligned with the draft Nationality Law;
- b. Issue ID card to minors; and,
- c. Ensure that civil registration is conducted in a reliable and effective manner and is free of charge and accessible to all.

**Issue 3: Adoption of a national legislative framework on asylum**

Haiti has not adopted asylum legislation since the ratification of the *1951 Convention* in 1984. Haiti is mainly a transit country, but the number of persons seeking asylum has increased in recent years. In light of border regulations in third countries, in certain cases asylum-seekers may have no other choice but to seek asylum in Haiti. Without a legal framework on asylum, these individuals in need of international protection may not be adequately identified and may face serious risks of criminalization, arbitrary or indefinite detention and/or expulsion. The Government has been responsive and recognizes the need to adopt a legislative framework on asylum, however, a framework has not been adopted yet due to the political instability.

In the context of mix-migratory flows it is also critical that Haiti be part of and support the establishment of a regional consultative process on migration. Haiti's participation in a consultative process is instrumental, as it will allow Haiti to effectively have its views heard on plans to address regional migration.

**Recommendations:**

UNHCR recommends that the Government of Haiti:

- a. Adopt a comprehensive legislative framework on asylum; and,
- b. Support the establishment of a Regional Consultative process on Migration.

**Human Rights Liaison Unit  
Division of International Protection  
UNHCR  
March 2016**

# ANNEX

## Excerpts of Recommendations from the 1st cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

### HAITI

We would like to bring your attention to the following excerpts from the 1st cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Haiti.

#### I. Universal Periodic Review

Recommendation <sup>4</sup>	Recommending State/s	Position <sup>5</sup>
<b>Discrimination against women</b>		
88.60. Place emphasis on implementing strong policies to effectively fight all forms of stereotypes and discrimination against girls and women, thereby ensuring their right to social and economic security;	Trinidad and Tobago	Supported
88.61. Adopt effective measures to prevent discrimination against women, including by ensuring equal access to education and employment opportunities;	Slovenia	Supported
88.62. Develop strategies, containing both legal and social measures, to eliminate discriminatory stereotyping of the roles of women and violence against them;	Thailand	Supported
<b>Gender-based violence</b>		
88.35. Ensure that the rights of women and girls are protected during the recovery process, including protecting them from violence;	Australia	Supported
88.42. Provide greater protections and assistance for member of vulnerable groups and uphold the rights of vulnerable groups by combating gender-based violence, child labour, statelessness, and human trafficking more broadly;	United States	Supported
88.74. Take continued action to combat violence against women and girl children;	Sri Lanka	Supported
88.75. Undertake new actions to put an end to violence against women and girls and do its utmost to eliminate discriminatory practices;	Luxembourg	Supported

<sup>4</sup> All recommendations made to Haiti during its 1st cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Haiti" (08 December 2011) [A/HRC/19/19](#).

<sup>5</sup> Haiti's views and replies can be found in: *Addendum* (29 February 2012) [A/HRC/19/19/Add.1](#).

8.76. Intensify the efforts for the prevention, punishment and eradication of all forms of violence against women, with a special attention to their greater vulnerability in the aftermath of the earthquake;	Argentina	Supported
88.77. Undertake a serious and credible study on the extent of violence against women, particularly the impact of humanitarian crisis on the issue, with a view to develop meaningful strategies to curb and eradicate violence against women;	Maldives	Supported
88.78. Take all the measures necessary, in particular by reinforcing the current structures, to play a leadership role to prevent and combat violence against women and children, including sexual abuses, especially in the displacement camps;	Canada	Supported
88.79. Make progress in implementing the initiatives to prevent sexual and gender violence, especially among the displaced population, which have been developed by the Ministry of Gender and Women's Rights;	Colombia	Supported
88.80. Take further measures to ensure that the police and justice system deals diligently with gender-based violence and that the country promotes better training for police officers in responding to victims of sexual violence;	Norway	Supported
88.81. Ensure that the police are trained to deal impartially with women reporting gender based violence, and that all such complaints are fully investigated and prosecuted;	United Kingdom	Supported
88.82. Provide better training to police when dealings with girls victims of sexual violence;	Djibouti	Supported
<b>Ratification of the CAT</b>		
88.6. Sign and ratify the Convention against Torture and ICESCR; and ratify CED;	Spain	Supported
88.13. Ratify the Convention against Torture;	Norway	Supported <sup>6</sup>
88.14. Sign and ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;	Belgium	Supported
88.15. Ratify the Convention against Torture and its Optional Protocol to and set up a National Preventive Mechanism accordingly;	Maldives	Supported
<b>Trafficking in persons</b>		
88.83. Increase efforts to combat all forms of human trafficking;	Slovenia	Supported
88.84. Adopt an adequate legal framework in line with its commitments under the Palermo Protocol to combat human trafficking;	Norway	Supported
88.85. Adopt the bill on Trafficking of Children;	Honduras	Supported

<sup>6</sup> **Addendum:** “The Government has, furthermore, provided 500 million gourdes for the “Kay Pam” (my house) programme of bank loans for housing. A programme started in 2011 to build 3,000 housing units for earthquake victims is still running. (88.132).”

88.86. Pass implementing legislation before the Parliament for the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children;	Australia	
88.87. Intensify its efforts to combat all forms of trafficking in women and girls through, inter alia, the adoption of the bill on all forms of trafficking, ensuring that the new law provides for the prosecution and punishment of perpetrators of such acts and the effective protection of victims;	Uruguay	Supported
88.88. Introduce legislation to prohibit trafficking in children;	Djibouti	Supported
88.89. Enact legislation that criminalizes all forms of trafficking in persons and provides appropriate prescribed penalties;	United States	Supported
88.90. Intensify bilateral and multilateral cooperation with neighbouring countries to combat acts of trafficking in women and girls;	Uruguay	Supported
88.91 Continue its efforts to combat child domestic labour and trafficking in children;	Burkina Faso	Supported
<b>Statelessness</b>		
88.18. Accede to the 1954 Convention relating to the Status of Stateless Persons as well as the 1961 Convention on the Reduction of Statelessness;	Norway	Noted <sup>7</sup>
88.19. Ratify the international instruments combating statelessness, and consider a reform of the civil status guaranteeing the rights of all Haitians, including those who live abroad;	France	Noted <sup>8</sup>
<b>IDPs</b>		
88.130. Implement policies to guarantee the rights of displaced persons and provide durable solutions for return, integration and/or resettlement;	Switzerland	Supported <sup>9</sup>
88.131. Continue its talks with all the parties involved in the process of the elaboration and implementation of the plan of relocation of the persons displaced following the seism in order to avoid forced evictions;	Canada	Supported

<sup>7</sup> **Addendum:** “Given the implications that some of the recommendations have for the State, and its capacity for implementing them, the Government has decided to reject 14 of them. They can be divided into four main groups: The first concerns accession to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. Haiti will consider the appropriateness of acceding to these two conventions in the future. The reason for this decision is the concern to strengthen the country’s security structures and ensure effective control of the various border posts and the country’s territorial waters. (88.18 and 88.19)”

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

<sup>9</sup> **Addendum:** “The Government’s 16/6 programme was launched on 17 August 2011. Its aim is the rehabilitation of 16 districts, to provide housing for people living in 6 camps in various municipalities of Port-au-Prince. The project is intended to provide decent long-term housing for displaced persons. Grants have been given to some beneficiaries either to rent housing or to repair their own houses that were damaged by the earthquake. The programme is run in partnership with the international community. (88.130).”



88.132. Develop a comprehensive plan encompassing all camps in order to address the problem of internally displaced persons;	Spain	Supported <sup>10</sup>
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## II. Treaty Bodies

### Human Rights Committee

Concluding Observations, (21 November 2014), [CCPR/C/HTI/CO/1](#)

#### **Non-discrimination and equality between men and women**

8. Notwithstanding article 17, paragraph 1, of the Constitution, setting a quota of 30 per cent of women at all levels of national life, especially in public services, the Committee notes that the figures are still low as regards the number of women elected or appointed to positions of responsibility, including in the police and in the justice system. The Committee further notes that the stereotyping of women remains rooted in Haitian society, particularly as regards household financial management and the image of women in some school textbooks (arts. 3, 25 and 26).

**The State party should endeavour to achieve the targets set in article 17, paragraph 1, of the Constitution and should measure its progress by means of statistics, and in particular should take steps to ensure that more women obtain positions in the civil service, including the most senior positions. The State party should continue its awareness campaigns to reduce the traditional stereotyping of women.**

#### **Discrimination based on sexual orientation**

9. While noting the willingness of the State party to eliminate discrimination against lesbians, gays, bisexuals and transgender (LGBT) persons, the Committee notes with concern a significant number of displays of hostility towards LGBT persons and other actions including acts of violence and attacks on the institutions that defend their rights, all of which are closely bound up with the persistence of stereotypes with respect to these groups (arts. 2 and 26).

**The State party should ensure that all forms of discrimination against LGBT persons are recorded and that all acts of violence against them are accounted for and punished, and that the victims are compensated for such violations. In order to combat stereotypes based on sexual identity, the State party should launch a national awareness campaign, addressing first the forces of law and order and judicial personnel and later the general public.**

#### **Prohibition of torture and cruel, inhuman or degrading treatment**

12. The Committee notes that article 293 of the Criminal Code provides penalties for the physical torture of an arrested or detained person. The Committee regrets to say that

<sup>10</sup> *Addendum*: “The Government has, furthermore, provided 500 million gourdes for the “Kay Pam” (my house) programme of bank loans for housing. A programme started in 2011 to build 3,000 housing units for earthquake victims is still running. (88.132).”

such a definition is not consistent with the Covenant or the Committee's jurisprudence in this area, in particular because it includes no reference to psychological torture. With regard to alleged cases of torture or other ill-treatment, the Committee is concerned about the lack of action on recommendations made by the General Inspectorate of the National Police and the lack of systematic information regarding any investigations that have been carried out and the penalties imposed (arts. 2 and 7).

**When drafting the new criminal code which the Government has undertaken to adopt by the end of 2014, the State party should include a definition of torture that covers all the elements, including psychological torture, as reflected in the Committee's general comment No. 20 on the prohibition of torture, or other cruel, inhuman or degrading treatment or punishment. It should also ensure that the new criminal code adequately provides for the prosecution and conviction of perpetrators of such acts, and their accomplices, in accordance with the seriousness of the offence.**

### **Violence against women**

13. The Committee is concerned about the low level of protection from violence against women, in particular rape. While noting the progress made in enabling victims of rape to obtain a medical certificate free of charge, it notes with regret that a medical certificate is required to initiate criminal proceedings for rape. It further notes that the law criminalizing such acts and other acts of violence against women has not yet been adopted. The Committee notes that shelters have been established, although they appear to be few in number and difficult to reach, especially in rural areas (arts. 2, 3 and 7).

**The State party should accelerate the adoption of specific legislation on violence against women with a view to strengthening the legal framework for protection against domestic violence, sexual harassment, rape, including marital rape, and other forms of violence suffered by women. The legislation should also include a provision stating that a victim's testimony is sufficient to initiate criminal investigations into an act of rape. The State party should also take measures to ensure that all women victims of violence have access to assistance, including legal assistance, and are able to find refuge in shelters.**

### **III. Special Procedures**

#### **Report of the Special Rapporteur on the human rights of internally displaced persons**

Mission to Haiti (8 May 2015) [A/HRC/29/34/Add.2](#)

#### **Access for IDPs to basic services, including health**

42. Since 2012 in particular, a continuing decline in access for IDPs in camps to basic services, in the context of the reduction in international humanitarian funding and NGO presence, has further weakened the situation of those IDPs most in need.

The Special Rapporteur particularly deplores declining support in meeting the remaining needs of IDPs and welcomes the efforts made by government (including DINEPA) and non-government actors to maintain increased cooperation within the Water, Sanitation and Health sector (WASH), which has helped those most in need. Their involvement is all the more important in the light of the efforts made to link protection and WASH issues and strengthen IDP resilience, including through community - based involvement.

43. In 2014, the sanitary situation in camps worsened; 43 per cent of IDP camps were reported to have no latrines at all; in camps with latrines, the ratio is 106 persons per latrine; and 25 per cent of IDP camps have no sewage disposal system. None of the IDP camps has garbage/waste management systems and 57 per cent of IDP camps have been built on slopes

44. The difficulties related to poor access to water and sanitation directly impact hygiene and health conditions in camps, including in relation to the cholera epidemic.

Lack of adequate reproductive health care is another aggravating factor, along with an increase in incidents of violence inside households and within the IDP community as a whole. Those deplorable conditions and the lack of prospects mentioned by some IDPs met during the Special Rapporteur's visit explain the increase in violence, health deterioration, poor access to education, and impediments to other basic needs of IDPs, especially those of women.

45. The Special Rapporteur was alerted to the severe food insecurity which, while having been reduced from 1.5 million people affected in early 2013 to 600,000 by the end of 2013, remains high.

A survey jointly organized by IOM/ACF on IDPs living in Carrefour, Port-au Prince, in March–April 2014, revealed that those IDPs who had lived for the past four years in IDP camps faced increased social exclusion, isolation and feelings of uncertainty, with limited prospects for the future. The survey also shows that the global malnutrition rate has reached 12.50 per cent among IDPs. In addition, only 3 per cent of the women interviewed by IOM and ACF reported good breastfeeding practices and only 3 per cent of households surveyed by the same NGOs reported adequate hygiene practices.

46. During his visit, the Special Rapporteur observed the critical health situation of a number of IDPs in the camps he visited. There is a lack of health structures for camps, either due to IDPs' lack of financial resources to access private health care facilities and/or to pay for medicine prescribed in public health centres. However, according to the ACF study, in the event of an emergency, communities organize themselves and financially support the purchase of medicine for, and transportation to, the nearest health facilities. IDP communities were found to have a good knowledge of preventative measures against cholera, which remains an issue despite a decrease in the number of declared cases in the past year, but lacked awareness of other disease prevention measures. For instance, only a quarter of households visited possessed mosquito nets which are useful in preventing the debilitating chikungunya mosquito-borne virus.

47. The Special Rapporteur was impressed by the priority given by the IDPs whom he met to the education of their children. In Maurice Bonnefil, the Special Rapporteur met with a young woman who had two children and who spent all she earned to ensure they would have access to a private school outside the IDP camp. According to ACF, in certain camps, children

do not go to school owing to their parents' lack of financial resources or to a lack of available free schools in the vicinity of those camps.

### **Conclusions and recommendations:**

78. Almost five years after the earthquake, the Special Rapporteur welcomes the efforts made by the Government with the support of the international community to address and end internal displacement in Haiti. Despite the reduction in the number of IDPs in camps and the closing of most of the camps, durable solutions have yet to be found for most IDPs. He cautions that closing camps does not mean that durable solutions have been found. Secondary displacement is the more likely consequence of such measures, which merely results in shifting the problem elsewhere.

**Informed by the Guiding Principles on Internal Displacement and the IASC framework on durable solutions, the Special Rapporteur addresses the following recommendations to:**

**82. The Government of Haiti:**

- (a) Insofar as IDPs in urban settings are often invisible and live among the urban poor, carry out a country-wide profiling and needs-based assessment to identify IDPs and their location and better address their needs. Making a fair assessment of what is required to attain durable solutions and of whether camp closures have led to durable solutions in some respects; it should include an assessment of measures taken so far, such as of the impact of the 16/6 programme, other rental subsidy schemes, camp integration initiatives and any other initiative (including sites and services) aimed at reaching durable solutions for IDPs;**
- (b) Ensure the full participation of IDPs in all decisions that affect them, including in drafting laws and policies that address durable solutions for them; undertake broad consultation with communities and neighbourhoods to address their broader concerns (including protection concerns) with regard to return or local integration for IDPs, or settlement in another neighbourhood and how such measures can be best implemented in practice, in cooperation with host communities and the rest of the displacement-affected urban population.**

**83. The international community, United Nations agencies, other humanitarian and development actors, as relevant,**

- (a) Strengthen cooperation between humanitarian and development actors and with national authorities to ensure coherence in the response given to IDPs' needs; work jointly towards greater coherence and cooperation in finding durable solutions for IDPs;**
- (b) Strengthen the coordinated response to the remaining humanitarian needs of IDPs in and outside camp settings, with regard to, for example, sanitation.**

### **Report of the Independent Expert on the situation of human rights in Haiti**

Mission to Haiti, (9 February 2015) ([A/HRC/28/82](#))

## **Conclusions and recommendations**

87. The Independent Expert reaffirms the conclusions contained in his first report, in particular his perception and belief that the human rights situation in Haiti is extremely grave but can be surmounted if five basic conditions are met: strong political will on the part of the Government and the international community, active involvement by civil society, consensus on the priority problems to be addressed, focused coordination of work and perseverance in efforts to attain the stated goals.

88. The Independent Expert reiterates the numerous recommendations made concerning Haiti over the past three decades by human rights experts and bodies of the United Nations and the inter-American system. He has selected from among their analyses and recommendations five key areas that should be given priority and be the focus of future efforts.

89. The five areas are closely interlinked among themselves and with the deep inequalities present in Haitian society. They relate to the fragile situation of the economic, social and cultural rights of the vast majority of the population; inhumane conditions in prisons, especially for persons being held in prolonged pretrial detention; the absence of legal guarantees in many spheres of life owing to the very weak rule of law; the blatant impunity of those who committed human rights violations in the past; and the harsh conditions endured by the many victims of natural catastrophes and other humanitarian crises, such as the earthquake of January 2010, the cholera epidemic that broke out in October 2010 and the prospect of statelessness.

90. The critical situation of human rights in Haiti can obviously not be solved overnight, but the five areas mentioned above must be addressed promptly inasmuch as they are a source of ongoing and serious violations. This can be achieved through the follow actions:

- (a) The State should set a reasonably short time frame for eradicating illiteracy, which afflicts roughly one half of the adult population. Although reducing inequality takes time, in particular when structural programmes that go beyond mere social assistance are involved, literacy is a crucial necessity for living with dignity and for exercising most rights, in particular the right to education, which in turn gives access to such other rights as the right to work, to food, to housing and to health;
- (a) Reducing prison overcrowding, ensuring proper sanitation in prisons, providing food to inmates and, especially, processing the cases of and defining the legal status of persons being held in prolonged pretrial detention should all be seen to promptly, on the basis of studies already conducted by the Prisons Administration;
- (b) Strengthening the rule of law by consolidating institutions is a complex undertaking and requires time, but it is of the utmost urgency to clearly establish and guarantee the right of Haitians to vote and to be elected. In this regard, it is encouraging to see that in December 2014 the President welcomed the recommendations made by a consultative commission that he had set up to resolve the elections impasse. That led to the appointment of a new Prime Minister on 25 December, as a first step towards forming a government that would include opposition parties. As of this writing, other urgent measures recommended by the commission were in the process of being implemented;

- (c) **With the death of the former dictator Jean-Claude Duvalier, it is all the more important to set up the national commission for reparation that was to have been established in 1995, as recommended by the National Truth and Justice Commission created for victims of the 1991 coup. This is important as well for the victims of other large-scale, systematic and serious human rights violations committed in the past, whether under the regime of the Duvaliers and the military governments or in connection with acts of violence perpetrated by groups supporting or opposing President Aristide. Aside from overseeing material reparations and judicial declarations of responsibility, the commission could contribute in the medium and long term to defining educational activities aimed at re-establishing the right to memory, which would help to improve the human rights situation in the country immeasurably;**
- (d) **Resources must be increased considerably to guarantee the right to housing and decent living conditions for the displaced persons still living in camps set up after the January 2010 earthquake;**
- (e) **A reparations commission should be established for the victims of the cholera epidemic in order to catalogue the damage suffered and the corresponding indemnification, identify those responsible and halt the epidemic, among other actions;**
- (f) **The issue of statelessness covers a vast area and is dealt with by the Office of the United Nations High Commissioner for Refugees as the competent specialized body of the United Nations. The Human Rights Council should call upon the authorities of the Dominican Republic to ensure the rights of residents of Haitian origin as ordered by the Inter-American Court of Human Rights in its judgement of 28 August 2014;**
- (g) **Special attention needs to be accorded to the rights of women in all the above-mentioned areas. The Independent Expert supports the recruiting of an expert to assist with preparing the report of Haiti to the Committee for the Elimination of Discrimination against Women.**

91. **The Independent Expert encourages the Government to give due consideration to these recommendations, and to those transmitted by the Human Rights Committee, in preparing the action plan to promote and protect human rights in Haiti that is currently being prepared by the Interministerial Committee on Human Rights.**

92. **The urgent actions recommended in the preceding paragraphs are necessary for three reasons: first, to put an end to serious human rights violations that will otherwise continue to be perpetrated against thousands of individuals; second, to convey to the people of Haiti and the international community the commitment to providing redress for human rights violations; and third, to open the way for implementation of other human rights recommendations made over the past three decades. The Independent Expert reaffirms his readiness to assist in this effort.**