

# HAITI 2019 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Haiti is a constitutional republic with a multiparty political system. Voters elected Jovenel Moïse as president for a five-year term in national elections held in November 2016, and he took office in February 2017. The most recent national legislative elections were held in 2016; international observers considered the elections free and fair. Prime Minister Jean Henry Ceant departed office in March after a vote of no confidence in the lower house of parliament. Legislative elections planned for October 2019 did not take place. As of December, parliament had not approved a new prime minister and cabinet, nor a budget for the 2018-19 fiscal year.

The Haitian National Police (HNP), an autonomous civilian institution under the authority of a director general, maintains domestic security. The HNP includes police, corrections, fire, emergency response, airport security, port security, and coast guard functions. The Ministry of Justice and Public Security, through its minister and the secretary of state for public security, provides oversight to the HNP. The Superior Council of the National Police, chaired by the prime minister, provides strategic guidance to the HNP. The Superior Council also includes the HNP director general, HNP chief inspector general, minister of the interior, and minister of justice. Civilian authorities generally maintained effective control over security forces.

Significant human rights issues included allegations of unlawful killings by police; excessive use of force by police; arbitrary and prolonged pretrial detention; harsh and life-threatening prison conditions; a judiciary subject to corruption and outside influence; physical attacks on journalists; widespread corruption and impunity; crimes involving violence or threats of violence targeting persons with physical, mental, and developmental disabilities; and sexual and gender-based violence and discrimination.

The government rarely took steps to prosecute government and law enforcement officials accused of committing abuses. There were credible reports that officials engaged in corrupt practices, and civil society groups alleged widespread impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were credible allegations of police involvement in arbitrary or unlawful killings. According to local human rights organizations, approximately 16 to 22 protesters were victims of extrajudicial killings by the HNP during antigovernment and anticorruption protests from September to November. Some allegations resulted in administrative discipline, but there were no reports of criminal proceedings.

On November 13-14, 2018, violent clashes between rival gangs in the La Saline neighborhood of Port-au-Prince resulted in a large number of deaths, disappearances, rapes, and home invasions. The estimated number of victims varied widely, although a report from the local human rights monitoring organization National Network for the Defense of Human Rights (RNDDH in French) dated December 20, 2018, reported 71 deaths, 11 rapes, and 150 homes damaged or destroyed. A UN Mission for Justice Support in Haiti (MINUJUSTH) report on the La Saline event stated some of the perpetrators wore shirts that either were or resembled the uniforms of the specialized regional response unit of the National Police (BOID). The report concluded the HNP did not intervene sufficiently to prevent or stop the attacks despite being informed of the violence from the outset. According to MINUJUSTH, witnesses reported three police officers were seen with the gangs during the attack. Two of the officers, Gregory Antoine and Jimmy Cherizier, were dismissed from the HNP in December 2018.

According to the RNDDH report, several witnesses implicated director general of the Ministry of the Interior Fednel Monchery and West Department delegate Joseph Pierre-Richard Duplan in the planning of the violence in La Saline. According to the report, Monchery and Duplan met with gang leaders a week prior to the attack and provided them with weapons, uniforms, and government vehicles that were used in the violence. An investigation by the Central Directorate of the Judicial Police (DCPJ), published on April 23, implicated Monchery and Duplan in planning and participating in the events and in committing assassination, armed robbery, rape, and extortion. The DCPJ recommended arrest warrants be issued for both men. The judge leading the investigation into the killings issued a travel ban for Monchery and Duplan in July. Duplan and Monchery were removed from their posts in September. As of November, none of the government officials and former HNP officers implicated in the killings had been arrested or charged for their role in the violence.

As of September no criminal proceedings were initiated against those implicated in a separate case, the 2017 deaths of two police officers and nine civilians during an antigang operation by the HNP's Departmental Crowd Control Unit and BOID in the Grand Ravine area of Port-au-Prince. Former HNP officer Jimmy Cherizier, implicated in the La Saline killings, was also allegedly involved in the Grand Ravine incident.

Local civil society organizations reported armed attacks in the Bel Air area of Port-au-Prince on November 4-7 that left between four and 15 persons dead. According to the RNDDH, the majority of the deaths occurred on November 6, when 13 persons were killed in an arson attack on a home in the area. Reports from the RNDDH and the nongovernmental organization (NGO) Fondasyon Je Klere implicated government authorities, BOID, HNP's specialized crowd control unit, and the former HNP officer Jimmy Cherizier (also implicated in the La Saline incident) in planning and participating in the violence. As of December the Port-au-Prince Prosecutor's Office was awaiting the findings of the DCPJ investigation before beginning prosecution.

MINUJUSTH and numerous civil society organizations reported gang violence in the Port-au-Prince metropolitan area and in Artibonite Department increased due to the protracted political crisis and deteriorating economic conditions. MINUJUSTH reported in June that the number of homicides doubled in comparison with 2018, with 523 reported cases from January to June, compared with 274 for the same period in 2018. The Episcopal Commission for Justice and Peace reported 447 violent deaths, including 350 gun deaths, from January to November. Civil society groups and the HNP reported 43 HNP officers were killed between January and November, compared with 17 in all of 2018. Civil society groups alleged that many gangs had close ties to political and economic elites who protected the gangs from arrest and prosecution. In February, President Moise relaunched the National Commission for Disarmament with the goal of dismantling armed gangs.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices, but there were several reports from domestic NGOs alleging that HNP officers beat or otherwise abused detainees and suspects. Detainees were subject to cruel, inhuman, and degrading treatment in overcrowded, poorly maintained, and unsanitary prisons and makeshift detention centers.

There were several incidents involving HNP abuse of protesters during antigovernment and anticorruption protests. Video of June 9-10 protests showed several members of the HNP Departmental Crowd Control Unit attacking with stones a protester lying on the ground near the Port-au-Prince residence of President Moïse. The case was referred to the HNP's Office of the Inspector General for investigation. In a separate incident, a local human rights organization reported that the head of the National Palace Guard, Dmitri Herard, shot and wounded two civilians in the Delmas 15 area of Port-au-Prince on June 10. Following this incident, several witnesses pursued Herard's vehicle toward his residence in Delmas 31. Upon arriving at the residence, Herard and other HNP officers on the scene opened fire on the group of civilians, resulting in two others being wounded.

The HNP took steps toward imposing systematic discipline on officers found to have committed abuses or fraud, but civil society representatives continued to allege widespread impunity. As of July the HNP inspector general had reviewed 276 complaints against officers. As a result the HNP disciplined 195 officers and dismissed 38 others; the dismissal recommendations included officers accused of human rights violations. MINUJUSTH and civil society groups reported that while HNP officers suspected of human rights violations at times faced administrative sanctions, there were no judicial proceedings against those officers.

According to the UN Integrated Offices in Haiti (BINUH), 53 persons were killed and 112 injured during antigovernment protests between September 15 and November 19, with 22 of the 53 deaths and 55 of the 112 injuries attributable to the HNP.

### **Prison and Detention Center Conditions**

Prisons and detention centers throughout the country were life threatening due to being overcrowded, poorly maintained, and unsanitary. MINUJUSTH reported that prisons and detention centers had an occupancy rate of 348 percent.

Physical Conditions: Overcrowding at prisons and detention centers was severe, especially at the National Penitentiary in Port-au-Prince and the prison in Cap-Haitien, where each prisoner had 4.2 square feet of space. In many prisons detainees slept in shifts due to the lack of space. Some prisons had no beds for detainees, and some cells had no natural light. In other prisons the cells often were open to the elements or lacked adequate ventilation. Many prison facilities lacked basic services such as plumbing, sanitation, waste disposal, medical services, potable water, electricity, adequate ventilation, lighting, and medical isolation units for patients with contagious illnesses.

Prison conditions generally varied by gender; female inmates had more space in their cells per person than their male counterparts.

As of August the Directorate of Prisons (DAP) held approximately 579 prisoners in makeshift and unofficial detention centers such as police stations in Petit-Goave, Miragoane, Gonaives, and some parts of Port-au-Prince. Local authorities held suspects in these makeshift facilities, sometimes for extended periods, without registering them with the DAP.

One person was killed and 10 women raped on November 7 during a riot at the Gonaives detention facility, a police station being used as a makeshift prison. According to several sources, the riot was sparked by inmates' anger over the lack of cooking supplies at the facility. The facility held 329 inmates, most of whom were awaiting trial, and reportedly it had only two corrections officers trained in handling individuals in custody. According to local human rights, seven of the 10 women who were raped were in prolonged pretrial detention; one had been in detention for 12 years.

Corrections authorities in Port-au-Prince maintained separate penitentiaries for adult men, women, and minors. In Port-au-Prince all male prisoners younger than 18 were held at the juvenile facility at Delmas 33, but due to the lack of documentation, authorities could not always verify the ages of detainees. At times authorities mistakenly detained minors believed to be 18 or older, whose ages they could not confirm, with adult inmates. Authorities moved the vast majority of these minors to juvenile detention centers within two months of verifying their ages. Outside the capital, due to lack of prison space, resources, and oversight, authorities sometimes did not separate juveniles from adult prisoners or separate convicted prisoners from pretrial detainees, as the law requires. As of September only four of the 38 juvenile detainees held at the Delmas 33 facility had been convicted of a crime. Approximately 137 minors in prolonged pretrial detention

were released in the past year due to efforts by the Port-au-Prince Chief Prosecutor's Office in collaboration with other partners.

There are specific provisions for juvenile offenders. Children younger than age 13 are not held responsible for their actions. Until age 16, children cannot be held in adult prisons or share cells with adults. Juvenile offenders (anyone younger than 18) are placed in re-education centers with the objective of having the offender successfully rejoin society. There were two rehabilitation centers, both in Port-au-Prince, called CERMICOL, which held offenders up to age 18.

International and local observers said prisoners and detainees continued to suffer from a lack of basic hygiene, malnutrition, poor quality health care, and water-borne illnesses. According to Health Through Walls, an NGO that provides medical services within the penitentiary system, approximately 160 inmates within the penitentiary system were acutely malnourished. Health Through Walls reported that unsanitary conditions and overcrowding led to high rates of tuberculosis and other communicable diseases. Because of poor security, severe understaffing, and a lack of adequate facilities in some detention centers, prison officials often did not allow prisoners out of their cells for exercise. In the National Penitentiary, prisoners spent approximately an hour per day outside of confinement, but in all other facilities, prisoners only had 15-20 minutes to bathe before returning to their cells.

Prisoners' access to adequate nutrition remained problematic. The HNP has contractual and fiscal responsibility for the delivery of food to prisons. Human rights observers reported that delays in fund disbursement and payments to contracted food suppliers reduced the number of meals fed to prisoners. Some prisons had kitchen facilities and employed persons to prepare and distribute food. Prison authorities generally gave prisoners one or two meals a day, consisting of broth with flour dumplings and potatoes, rice and beans, or porridge. None of the regular meals provided sufficient calories, according to medical standards. Authorities allowed regular deliveries of food to prisoners from relatives and friends.

As of August the corrections authority, the United Nations, and local human rights organizations reported a significant reduction in the number of deaths in detention. The UN Corrections Unit reported 45 deaths in detention from August 2018 to January 2019 and 19 deaths between March 1 and May 15, representing a death rate of 8.56 per 1,000 detainees, down from the rate of 12.9 indicated in its previous report. Health Through Walls reported that anemia from malnutrition

caused the majority of deaths in detention during the year. Exact causes of death were difficult to ascertain, as the government did not regularly perform autopsies on deceased detainees. A government commission was created in 2017 to investigate deaths due to prison conditions; however, as of September the commission had not published its findings.

Most detention facilities had only basic clinics and lacked medications. Few prisons had the resources to treat serious medical situations. Some very ill prisoners were treated at hospitals outside of prisons, but many hospitals were reluctant to accept prisoners as patients since there was no formal arrangement between the Ministries of Justice and Health regarding payment for treatment.

Administration: The country's independent human rights monitoring body, the Office of Citizen Protection (OPC), investigated credible allegations of inhuman conditions in prisons. The OPC regularly visited prisons and detention facilities throughout the country and worked closely with NGOs and civil society groups.

Independent Monitoring: The corrections authority permitted the United Nations, local human rights NGOs, and other organizations to monitor prison conditions. These institutions and organizations investigated allegations of abuse and mistreatment of prisoners.

Improvements: The Port-au-Prince chief prosecutor took measures to increase the speed at which cases were processed in an effort to reduce pretrial detention. These measures included implementing a quota system wherein prosecutors are required to process at least 10 cases per month. As a result the number of detainees at the National Penitentiary, which held 35 percent of the country's prison population, dropped from 4,414 in the first quarter of the year to 3,714 in the third quarter.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, but it does not provide for the right of any person to challenge in court the lawfulness of his or her arrest or detention. The constitution stipulates that authorities may arrest a person only if the person is apprehended during the commission of a crime, or based on a warrant issued by a competent official such as a justice of the peace or a magistrate. Authorities must bring the detainee before a judge within 48 hours of arrest. By routinely holding prisoners in prolonged pretrial detention, authorities often failed to comply with these requirements.

Local human rights groups reported detainees were often held in detention after completing their sentences due to difficulty obtaining release orders from the prosecutor's office.

### **Arrest Procedures and Treatment of Detainees**

While authorities generally acknowledged the right to counsel, most detainees could not afford a private attorney. In October 2018 parliament adopted and President Moïse approved a law that establishes a National Legal Assistance Program to provide free assistance to criminal defendants and victims of crimes who cannot afford a lawyer. As of July 31, the government had conducted workshops in five legal jurisdictions to raise awareness of the law with key stakeholders. As of November the government had not passed a national budget to fund the program or appointed the five members of the National Legal Assistance Committee charged with overseeing the program.

Arbitrary Arrest: Independent reporting confirmed instances in which, contrary to law, police without warrants or with improperly prepared warrants apprehended persons not actively committing crimes. Authorities frequently detained individuals on unspecified charges. Human rights organizations reported politicians routinely influenced judicial decisions and used the justice system to target political opponents. Detainees reported credible cases of extortion, false charges, illegal detention, physical violence by HNP personnel, and judicial officials refusing to comply with basic due-process requirements.

Pretrial Detention: Prolonged pretrial detention remained a serious problem. The judicial system rarely observed the constitutional mandate to bring detainees before a judge within 48 hours. Many pretrial detainees had never consulted with an attorney, appeared before a judge, or been given a docket timeline. In some cases detainees spent years in detention without appearing before a judge. Prison population statistics did not include the large number of persons held in police stations around the country for longer than the 48-hour maximum initial detention period.

The government took some steps to reduce the total number of pretrial detainees as well as the length of time they spend in pretrial detention. Time spent in pretrial detention varied significantly by district. The chief prosecutor of Port-au-Prince instituted a quota system requiring that prosecutors process a minimum of 10 cases per month, which helped to reduce the backlog of cases and the prisoner



population. In Port-au-Prince strengthened coordination between the chief prosecutor and the chief judge of the First Instance Court helped increase the number of hearings and reduce the prisoner population at the National Penitentiary from an estimated 4,200 inmates in December 2018 to 3,687 in July. Between January and June, the government reduced the number of individuals in pretrial detention nationwide from 8,831 to 8,136 detainees in a total prison population of 10,969 inmates. According to the corrections authority, the national rate of pretrial detention declined from 75 to 72 percent.

In October 2018 the Minister of Justice formed a committee to develop a comprehensive plan to combat pretrial detention. Composed of representatives of the Ministry of Justice, HNP Penitentiary Administration, the Judicial Sector Strengthening Program, and MINUJUSTH, the committee developed short- and medium-term strategies to reduce pretrial detention. In January the Ministry of Justice launched the strategy in Port-au-Prince, Cap Haitien, and three other jurisdictions.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: There is no explicit habeas corpus law, although the constitution stipulates it is illegal for an individual to be detained more than 48 hours without being seen by a judge. The OPC's national and 12 regional offices worked to verify that law enforcement and judicial authorities respected the right to due process. When authorities detained persons beyond the maximum allotted 48 hours and OPC representatives learned of the case, they intervened on the detainee's behalf to expedite the process. The OPC was unable to intervene in all cases of unlawful detention.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, but senior officials in the executive and legislative branches exerted significant influence on the judicial branch and law enforcement. Local and international NGOs repeatedly criticized the government for attempting to influence judicial officials. Since executive-appointed prosecutors could prevent cases from being seen by judges, judges themselves faced less direct executive pressure in making decisions. Nonetheless, civil society organizations reported judges often feared ruling against powerful interests due to concerns for their personal security.

Delays in the appointment of judges crippled the justice system. In February, President Moïse appointed six new judges to the Cassation Court (Supreme Court) and appointed a new court president, rendering the court operational for the first

time since 2015. The government renewed five judicial mandates by July. An additional 71 expired mandates awaited renewal. A lack of judicial oversight gave judges little incentive to move criminal cases forward and contributed to a large backlog of criminal cases. In May, three judges' associations went on strike for several weeks to demand the government renew the mandates of judges with expired mandates, pay the salary arrears of prosecutors, and demonstrate respect for the judiciary.

The Superior Council of the Judiciary (CSPJ) is responsible for independently overseeing appointments, ethics, transparency, and accountability in the judicial system, and managing the judiciary's financial resources. Internal political divisions as well as organizational, funding, and logistical problems often hampered the CSPJ's efficiency.

Observers stated the CSPJ was ineffective in providing judicial accountability and transparency. The CSPJ dismissed seven judges during the year and suspended five others, pending a final decision on their status. As of June there were 1,120 judges awaiting vetting and certification. Local observers accused the CSPJ of functioning as a union for judges rather than focusing on oversight, transparency, and accountability. The CSPJ has disciplined only 40 judges since 2011. Since members of the CSPJ are elected by their peers, civil society groups claimed CSPJ members focused on re-election rather than on doing their jobs and were often reticent to discipline judges due to fear of retaliation and potential loss of their positions. MINUJUSTH reported the performance of the CSPJ was reduced by an unclear division of labor with the Ministry of Justice and Public Security, budgetary constraints, and interference from other branches of government.

The law does not clearly assign responsibility for criminal investigations, which is divided among police, justices of the peace, prosecutors, and investigating magistrates. As a result authorities often failed to question witnesses, complete investigations, compile complete case files, or conduct autopsies. While the law gives investigative judges two months to request additional information on cases, judges often did not meet this requirement and frequently dropped cases or did not complete the cases within the two-month limit. This resulted in prolonged pretrial detention for many detainees.

The law requires each of the country's 18 jurisdictions to convene jury and nonjury trial sessions twice per year, usually in July and December, for trials involving major, violent crimes. During a jury trial session, the court can decide to postpone the hearing to the next session for any reason--often because witnesses are not

available. In these cases defendants return to prison until the next jury trial session. Human rights groups highlighted poor treatment of defendants during criminal trials, saying that defendants in some jurisdictions spent the entire day without food or water.

Corruption and a lack of judicial oversight severely hampered the judiciary. Human rights organizations reported several judicial officials, including judges and court clerks, arbitrarily charged fees to begin criminal prosecutions. These organizations also claimed that judges and prosecutors failed to respond to those who did not pay these fees. There were credible allegations of unqualified and unprofessional judges who received judicial appointments as political favors. There were also persistent accusations that court deans, who are responsible for assigning cases to judges for investigation and review, at times assigned politically sensitive cases to judges with close ties to the executive and legislative branches. Many judicial officials reportedly held full-time jobs outside the courts, although the constitution bars judges from holding any other type of employment except teaching.

### **Trial Procedures**

The constitution provides for the right to a fair and public trial, but the judiciary did not uniformly enforce this right. The judiciary follows a civil law system based on the Napoleonic Code, largely unchanged since 1835. The constitution denies police and judicial authorities the right to interrogate suspects unless legal counsel or a representative of the suspect's choice is present or the suspect waives this right. Authorities widely ignored constitutional trial and due process rights.

The constitution provides defendants a presumption of innocence, as well as the right to attend their trial, confront hostile witnesses, call witnesses, and provide evidence on their own behalf. Defendants cannot be compelled to testify or confess guilt. Judges often denied these rights. The perception of widespread impunity discouraged some witnesses from testifying at trials. Defendants have the right of appeal. Defendants also have the right to communicate with an attorney of their choice. Legal aid programs were limited, and those who could not pay for attorneys were not always provided one free of charge. While French and Haitian Creole are both official languages, with Haitian Creole being the most commonly spoken language, all laws and most legal proceedings are in French. Observers noted judges often spoke to defendants in Haitian Creole to facilitate comprehension.

The functioning of justice of the peace courts, the lowest courts in the judicial system, was inadequate. Judges presided based on their personal availability and often maintained separate, full-time jobs. Law enforcement personnel rarely maintained order during court proceedings, and frequently there was no court reporter. Defendants would often bribe judges to get their cases heard.

In many communities, especially in rural areas, elected communal administrators with no legal judicial authority took the place of state judges and asserted powers of arrest, detention, and issuance of legal judgments. Some communal administrators turned their offices into courtrooms.

### **Political Prisoners and Detainees**

There were no credible reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Victims of alleged human rights abuses may bring a civil or criminal complaint before a judge. Courts can award damages for human rights abuse claims brought in civil court, but seeking such remedies was difficult and rarely successful.

Human rights cases may be submitted directly through petitions by individuals or organizations to the Inter-American Commission on Human Rights, which in turn may submit the case to the Inter-American Court of Human Rights.

### **Property Restitution**

As of December the government had provided no compensation to seven families displaced in 2018, and a lawsuit filed on their behalf remained pending in court. The families were displaced in July 2018 when their houses in Port-au-Prince were demolished at the request of then prosecutor for Port-au-Prince Clame Ocnam Dameus without a court order. Dameus stated the houses were unlawfully constructed on state-owned land and represented a threat to the security of President Moïse and his family, who lived in the area. Former residents and civil society groups disputed the claim that the displaced residents illegally occupied state-owned land.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution grants broad freedom of expression to citizens and protection to journalists. Civil society observers noted those rights were not always upheld or respected.

Violence and Harassment: Journalists reported a deteriorating security climate for journalists and said some journalists were resorting to self-censorship to avoid being publicly targeted by political or gang leaders. Complaints against police for assaults and attacks on journalists increased, compared with 2018.

Gedeon Jean, director of the Research and Analysis Center for Human Rights, claimed that members of a security detail accompanying former president Michel Martelly assaulted and threatened to kill Jean in March. The incident occurred as he was leaving a radio station. A fervent critic of the former president, Jean filed a complaint with authorities on March 25. As of September it was unclear if the case had been assigned to an investigative judge.

In December 2018 a fire destroyed the headquarters of Radio Quisqueya. The station's co-owner was Lilianne Pierre Paul, a well known critic of the majority PHTK Party, who on several occasions had been publicly vilified by former president Martelly. Pierre Paul filed a complaint demanding that authorities investigate the "real causes" of the fire. The government offered assistance to rebuild the station, but Paul and her business partner declined the offer in order to maintain their journalistic independence. As of September the station had resumed programming.

On October 10, the body of journalist Nehemie Joseph was found in Mirebalais. Joseph had been working for Panic FM, a local radio station, and for radio Mega, located in Port-au-Prince. Eleven days later, the government fired Mirebalais prosecutor Faublas Romulus, who publicly declared knowing the perpetrators with "90 percent certainty" but failed to make any arrests.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authorization.

### **Academic Freedom and Cultural events**

There were no reports of the government restricting academic or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for freedoms of peaceful assembly and association, and the government generally respected these rights.

#### **Freedom of Peaceful Assembly**

Under the constitution, citizens have almost unlimited rights to peaceful gatherings. Police must be informed in advance of planned gatherings but cannot prevent the gatherings. The RNDDH reported that approximately 40 persons were killed and 82 injured during violent anticorruption and antigovernment protests in February. The report did not allege HNP responsibility for these deaths or injuries, and it also highlighted that 20 officers were among those injured. The RNDDH reported HNP officers were responsible for the deaths of four protesters during antigovernment protests in June.

Reporting from BINUH and RNDDH said police killed between 16 and 22 protesters from September 15 to November 19. The HNP opened investigations into eight alleged cases of police-involved killings, three of which were confirmed by the HNP Inspector General's Office as unlawful killings. One case was the killing of civilian Vladimir Fede on September 16. The officer believed to be the perpetrator evaded justice, while four other officers were suspended for failing to intervene to prevent the incident. BINUH reported 112 persons injured and 53 killed during this period, attributing 22 of the deaths to conflicts with HNP officers.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

#### **e. Internally Displaced Refugees**

Not applicable.

#### **f. Protection of Refugees**

Access to Asylum: The law provides for granting refugee status or asylum through Haitian missions or consulates abroad. Third-country nationals can petition for asylum through the local office of the UN High Commissioner for Refugees.

#### **g. Stateless Persons**

At least five state agencies play key roles in providing identity documents to Haitians. Bureaucratic obstacles and a lack of coordination between these agencies made obtaining official documentation complex and costly for most citizens. Due to these systemic deficiencies, many Haitians living abroad without other citizenship or permanent residency were effectively stateless or at risk of statelessness in their country of residence. The International Organization for Migration reported that 65 percent of Haitians who went through their four resource centers along the border with the Dominican Republic in 2018 had no official documentation.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: Legislative, municipal, and presidential elections were completed in 2016. While there were isolated allegations of voter fraud, the elections were generally regarded as credible by international and domestic observers. Although voter turnout was low, citizens generally accepted the elections, and public demonstrations against the election results were muted, compared with previous years. Legislative and local elections scheduled for October did not take place and as of December had not been rescheduled.

Political Parties and Political Participation: Some political parties exercised undue influence at the local level, including through threats to journalists and civil society organizations.

Participation of Women and Minorities: No laws limit the participation of women or members of minorities in the political process, but social norms and the threat of electoral violence discouraged women from voting and, to a much greater extent, from running for office. The constitution requires that at least 30 percent of elected officials be women, but both chambers of Parliament fell well short of this quota (3 percent in the Senate, 2.5 percent in the Chamber of Deputies). Local elections, in which candidates run in groups where women must be at least 30 percent of the candidates on the ballot, did reach the quota. Civil society organizations noted female political candidates had little access to campaign financing and that female participation in politics was hindered by cultural norms rejecting female participation in politics.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law criminalizes a wide variety of acts of corruption by officials, including illicit enrichment, bribery, embezzlement, illegal procurement, insider trading, influence peddling, and nepotism. There were numerous reports of government corruption, and a perception of impunity for abusers. The judicial branch investigated several cases of corruption during the year, but there were no prosecutions.

Corruption: The constitution mandates that the Senate (vice the judicial system) prosecute high-level officials and Parliament members accused of corruption, but the Senate has never prosecuted a high-level official for corruption.

On January 31 and May 31, the Audit Bureau issued reports on the government's spending of \$1.6 billion in Petro Caribe funds between 2008 and 2018. The two reports identified numerous current and former government officials and private-sector contractors involved in questionable disbursement of government funds, overbilling, collusion, favoritism, and embezzlement. The reports implicated past administrations for alleged misappropriation of public funds, as well as President Moïse for alleged misappropriation of contracts worth \$1.2 million prior to his presidency. Based on the Audit Bureau's report to the chief prosecutor, on February 4 then prime minister Jean-Henry Ceant announced a formal complaint against several former government officials. On March 13, the chief prosecutor



transferred the case to the judiciary, noting the involvement of several high-level officials in potentially corrupt actions. On July 15, the investigative judge assigned to the Petro Caribe case issued subpoenas for former prime ministers Jean Max Bellerive and Laurent Lamothe and several other high-level officials to answer questions regarding government spending of Petro Caribe funds.

In a separate case, in October 2018 a judge ordered the arrest of former HNP director general Godson Orelus in connection with his role in illegally smuggling arms and ammunition into the country in 2016. Orelus was charged with a number of crimes, including money laundering. After Orelus appealed the charges, a judge released him from custody in April, and an appellate court dropped the charges in May.

In November 2018 unknown assailants fired numerous gunshots into the home and vehicle of Dieunel Lumerant, the presiding judge in an arms-trafficking case involving then chief of the National Palace Security Vladimir Paraison. In January, Judge Lumerant fled the country due to fear for his safety.

Financial Disclosure: The law requires all senior government officials to file financial disclosure forms within 90 days of taking office and within 90 days of leaving office. Government officials stated the requirement was not always followed. There is no requirement for interim, periodic reporting during the officials' terms. Disclosure reports are confidential and not available to the public. The punishment for failure to file financial disclosure reports is withholding 30 percent of the official's salary, but the government has never applied this sanction.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally cooperated with human rights groups, although they disagreed at times on the scope of certain human rights problems and the most appropriate means of addressing human rights issues. The government generally consulted human rights groups, including the OPC, on legislative matters.

Government Human Rights Bodies: The OPC's mandates are to investigate allegations of human rights abuse and to work with international organizations, including MINUJUSTH, to implement programs to improve human rights. The

OPC's regional representatives implemented assistance programs throughout the country. Several civil society organizations commended the efforts of the OPC to engage the government and civil society organizations on human rights. Nonetheless, the OPC's activities were restricted by its small budget, limiting its ability to execute its mandate. In April the OPC published its report for 2017-18 that contained 22 recommendations to government authorities on human rights abuses. The OPC reported that as of May the government had taken action on one of the recommendations, which pertained to prolonged pretrial detention.

In April the government worked with a MINUJUSTH-funded consultant to develop a human rights action plan to implement recommendations from the UN Human Rights Council.

The Chamber of Deputies has a Justice, Human Rights, and Defense Commission, and the Senate has a Justice, Security, and Defense Commission that cover human rights issues.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law prohibits rape of men and women but does not recognize spousal rape as a crime. The penalty for rape is a minimum of 10 years of forced labor. In the case of gang rape, the maximum penalty is lifelong forced labor. Actual sentences were often less severe. The criminal code excuses a husband who kills his wife, her partner, or both found engaging in adultery in the husband's home, but a wife who kills her husband under similar circumstances is subject to prosecution.

The law does not classify domestic violence against adults as a distinct crime. Women's rights groups and human rights organizations reported domestic violence against women remained commonplace. Judges often released suspects arrested for domestic violence and rape.

In July, Judge Jean Baptiste Louis Jean acquitted Pastor Onold Petit of the rape of a 14-year-old girl despite DNA evidence confirming that Petit was the father of the child the girl conceived as a result of the assault. The OPC intervened in the case, citing allegations of corruption and irregularities, and called on the CSPJ to intervene. The CSPJ removed Jean from his post in July pending a disciplinary hearing, and the verdict in the rape case was appealed. Civil society organizations

continued to denounce the laxity with which sexual assault cases are handled in the Grand' Anse Department, noting there were 118 pending cases. The OPC representative in Grand' Anse reportedly received threats from government officials, including from Senator Jean Rigaud Belizaire, who accused the OPC of interfering in the judicial process.

Victims of rape and other forms of sexual violence faced major obstacles in seeking legal justice, as well as in accessing protective services such as women's shelters. While women were more likely to report cases of sexual and domestic violence than in the past, civil society organizations reported many victims failed to report such cases due to a lack of financial resources. Due to familial responsibilities, victims were usually unable to dedicate the time necessary to follow through with legal proceedings. According to some civil society organizations, many local nonprofit organizations that provided shelter, medical and psychological services, and legal assistance to victims had to reduce services due to a lack of funding. There were reports that in rural areas, criminal cases, including cases of sexual violence, were settled outside of the justice system. According to MINUJUSTH and other judicial observers, prosecutors often encouraged such settlements.

Sexual Harassment: The law does not specifically prohibit sexual harassment, although the labor code states that men and women have the same rights and obligations. Observers indicated sexual harassment occurred frequently. There were no programs to address sexual harassment.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: Women did not enjoy the same social and economic status as men, despite the constitutional amendments requiring that women's participation in national life and in public service (i.e., political candidates, elected officials, and civil servants) be at least 30 percent of the positions.

By law men and women have equal protections for economic participation. In practice, however, women faced barriers to accessing economic inputs and securing collateral for credit, information on lending programs, and other resources.

## **Children**

Birth Registration: Citizenship is derived through an individual's parents; either parent can transmit citizenship. Citizenship can also be acquired through a formal request to the Ministry of the Interior. The government did not register all births immediately. Birth registry is free until age two. Approximately 30 percent of children between the ages of one and five lacked birth certificates or any other official documentation. Children born in rural communities were less likely to be documented than those in urban areas.

Education: Constitutional provisions require the government to provide free and compulsory education for all children up to grade nine (when students are approximately age 16); nonetheless, the government did not effectively enforce these provisions. When transitioning to secondary school, children older than age 13 must join a special group that attends school during the evening shift.

Child Abuse: The law prohibits domestic violence against minors. The government lacked an adequate legal framework to support or enforce existing mechanisms to fully promote children's rights and welfare. The government made some progress in institutionalizing protections for children.

Early and Forced Marriage: The legal age of marriage is 18 years. No data were available regarding early and forced marriage, but early and forced marriage were not widespread customs.

Sexual Exploitation of Children: The minimum age for consensual sex is 18 years, and the law has special provisions for rape of persons who are 16 years of age or younger. The law prohibits the corruption of youth younger than age 21, including prostitution, with penalties ranging from six months to three years of imprisonment for offenders. The law for human trafficking prescribes prison sentences of seven to 15 years' imprisonment and a fine ranging from 200,000 to 1.5 million Haitian Gourdes (HTG) (\$2,070 to \$15,500). The penalty for human trafficking with aggravating circumstances, which includes cases involving the exploitation of children, is up to life imprisonment.

MINUJUSTH reported the HNP investigated 136 cases of sexual and gender-based violence between January and June. Of the 140 victims in those cases, 57 were minor girls and eight were minor boys. Several civil society groups reported impoverished children were often subjected to sexual exploitation and abuse. According to these groups, children were often forced into prostitution or transactional sex to fund basic needs such as school-related expenses. Recruitment

of children for sexual exploitation and pornography is illegal, but the United Nations reported criminal gangs recruited children as young as 10 years of age.

Institutionalized Children: The Ministry of Social Affairs and Labor's Institute of Social Welfare and Research (IBESR) has official responsibility for monitoring and accrediting the country's orphanages and residential care centers. According to the international NGO Lumos, an estimated 25,000 children lived in the more than 750 orphanages in the country. An estimated 80 percent of those children had at least one living parent.

In October 2018 the IBESR announced that only 35 (revised to 29 as of March 2019) of the more than 750 orphanages it inspected complied with the minimum standards for childcare. The IBESR study identified 3,019 potential trafficking victims within the orphanage system. The IBESR attempted to close the orphanages with the most egregious violations but could only do so as quickly as they could find new placements for the affected children. It closed eight orphanages between April 2018 and March 2019 and relocated 52 minors from those facilities. The government accredited 121 families for its newly developed foster care program to make children less vulnerable to trafficking or being revictimized. Local and international antitrafficking organizations noted the government had not provided adequate resources for transitional centers or other temporary housing and care facilities.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The Jewish community numbered fewer than 100 persons, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The constitution stipulates that persons with disabilities should have the means to provide for their autonomy, education, and independence. The law requires all public buildings and spaces to be accessible to persons with disabilities. The law prohibits discrimination in employment practices against persons with disabilities, requires the government to integrate such persons into the state's public services, and imposes a 2 percent quota for persons with disabilities in the workforces of private-sector companies. This quota was not met, and the government did not enforce these legal protections.

Local disability rights advocates continued to state that persons with disabilities faced significant obstacles to voting. Persons with disabilities had difficulty obtaining a national identification card, a requirement to vote, because the National Identification Office was inaccessible to persons with disabilities.

Individuals with disabilities faced significant social stigma because of their disability. Persons with mental, developmental, or physical disabilities were marginalized, neglected, and abused in society. The Office of the Secretary of State for the Integration of Handicapped Persons (BSEIPH) in the Ministry of Social Affairs and Labor is the lead government agency responsible for assisting persons with disabilities and ensuring their civil, political, and social inclusion.

Local disability rights organizations reported that the Village of Hope, a deaf community in the town of Leveque in the West Department, suffered from repeated acts of burglary and forced eviction by criminals. Local activists said government authorities, despite being aware of the situation, took no action to protect the community.

The BSEIPH had several departmental offices outside the capital, and it effectively lobbied the government to pass legislation to benefit persons with disabilities. Nonetheless, its efforts were constrained by a limited budget, and there was little progress towards creating a strategic development plan. The BSEIPH provided persons with disabilities with legal advice and job-counseling services. It regularly convened meetings with disability rights groups in all its regional offices.

Some disability rights activists said that social services available to persons with disabilities were inadequate and that persons with disabilities had a significant challenge accessing quality medical care. Hospitals and clinics in Port-au-Prince frequently did not have sufficient space, human resources, or public funds to treat persons with disabilities.

## **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

No laws criminalize sexual orientation or consensual same-sex conduct between adults, but there are no antidiscrimination laws to protect lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons from discrimination based on sexual orientation or gender identity.

In October, four members of an LGBTI organization, including its executive director, suffered significant injuries following an assault. As a result of the assault, the organization's executive director fled the country. In November, three members of the LGBTI rights advocacy group KOURAJ were harassed and threatened in public by a group of individuals waving bottles and sticks. Charlot Jeudy, the head of KOURAJ, was found dead at his home in Port-au-Prince on November 25. Despite some speculation of foul play, the circumstances of his death remained unclear as of December.

There were no reports of police officers actively perpetrating or condoning violence against LGBTI individuals. Some LGBTI groups reported the HNP and judicial authorities were inconsistent in their willingness to document or investigate LGBTI persons' claims of abuse. HNP academy instructors taught police officers to respect the rights of all civilians without exception. The curriculum specifically trained new officers on crimes commonly committed against the LGBTI community. As a result some civil society leaders noticed a marked improvement in the efforts of the HNP's Gender and Community Police Units to address the needs of the LGBTI community.

The HNP Sexual and Gender-Based Violence (SGBV) unit remained understaffed. The unit had satellite offices at Fort National and Delmas 33. The HNP assigned officers who had received SGBV training to serve as regional SGBV representatives in all 10 departments. These officers had minimal links to the SGBV unit in Port-au-Prince.

Local attitudes, particularly in Port-au-Prince, remained hostile toward LGBTI individuals who were public and visible about their sexual orientation or gender identity and expression. Some politicians, societal leaders, and organizations actively opposed the social integration of LGBTI persons and discussion of their rights. LGBTI advocacy groups in Port-au-Prince reported a greater sense of insecurity and less trust of government authorities than did groups in rural areas.

## **HIV and AIDS Social Stigma**

Stigma against persons with HIV or AIDS was strong and widespread. UNAIDS reported 70 percent of persons would not use the same toilet as someone with HIV, and 67 percent would not employ or recommend for employment someone whom they know with HIV.

The *Demographic and Health Survey 2016-17*, published in 2018, reported 57 percent of women and 52 percent of men who heard about HIV said they would deny school entrance to HIV-positive children, and 65 percent of women and 62 percent of men said they would not buy vegetables from persons with HIV.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law establishes and regulates labor relations. It provides for the right of some workers, excluding public-sector employees, to form and join unions of their choice, and to strike, with restrictions. The law allows for collective bargaining and states employers must conclude a collective contract with a union if that union represents at least two-thirds of the workers and requests a contract. Strikes are legal if, among other requirements, they are approved by at least one-third of a company's workers. The law prohibits firing workers for union activities but is unclear on whether employers can be fined for each violation. Employers should reinstate workers fired for any illegal reason, including for union activity. Article 251 sets very low fines for trade union dismissals and does not provide for reinstatement as a remedy.

The law restricts some workers' rights. It requires that a union obtain prior authorization from the government to be recognized. The law limits legal strikes to four types: striking while remaining at post, striking without abandoning the institution, walking out and abandoning the institution, and striking in solidarity with another strike. Public-utility service workers and public-sector enterprise workers may not strike. The law defines public-utility service employees as essential workers who "cannot suspend their activities without causing serious harm to public health and security." A 48-hour notice period is compulsory for all strikes, and strikes may not exceed one day. Some groups were able to strike despite these restrictions by being present at their workplace but refusing to work.



One party in a strike can request compulsory arbitration to halt the strike. The law does not cover freelance workers or workers in the informal economy.

The government made efforts to enforce labor laws, although its efforts were not completely effective. Government officials, unions, and factory-level affiliates also continued to expand their dialogue. The labor court is located in Port-au-Prince and is under the supervision of the Ministry of Social Affairs and Labor. It adjudicates private-sector workplace conflicts. Outside of Port-au-Prince, plaintiffs have the legal option to use municipal courts for labor disputes. The law requires ministry mediation before filing cases with the labor court. In the case of a labor dispute, the ministry investigates the nature and causes of the dispute and tries to facilitate a resolution. In the absence of a mutually agreed resolution, the dispute is referred to court.

During the year the labor ombudsperson for the apparel sector and the Ministry of Social Affairs and Labor provided mediation services to workers and employers in Port-au-Prince, Caracol Industrial Park, and Ouanaminthe. Due to limited capacity and procedural delays in forwarding cases from the ministry to the courts, the mediation services of the apparel sector's labor ombudsperson and the conciliation services of the ministry were often the only practical option for workers' grievances regarding better pay and working conditions. The labor ombudsperson intervened to improve relationships between employers, workers, and trade union organizations, either upon formal request by workers, unions, or employers' representatives, or based on labor-related human rights allegations reported by the International Labor Organization's Better Work Haiti (BWH) program.

The penalties for violations were not sufficient to deter violations, and authorities did not impose or collect them. During the year the government required some factories to remedy labor violations, including violations related to freedom of association. The government did not effectively enforce the law.

Antiunion discrimination persisted, although less than in previous years. Workers continued to report acts of suspension, termination, and other retaliation by employers for legitimate trade union activities.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but the government did not effectively enforce the law in all sectors of the economy. The labor

ombudsperson did not record any instances of intimidation or employer abuse. Penalties for violations of forced labor laws were insufficient to deter violations.

There were reports that forced or compulsory labor occurred, specifically instances of forced labor among child domestics, or *restaveks* (see section 7.c.). Children were vulnerable to forced labor in private and NGO-sponsored residential care centers, construction, agriculture, fisheries, domestic work, and street vending. Other children vulnerable to forced labor were internally displaced persons, including those displaced by Hurricane Matthew; members of female-headed, single-parent, or large families; and LGBTI youth left homeless and stigmatized by their families and society (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The worst forms of child labor, including forced child labor, continued to be problematic and endemic, particularly in domestic service. There are no legal penalties for employing children in domestic labor. The law requires employers to pay domestic workers older than 15, but employers of domestic workers use “food and shelter” as unregulated compensation for workers age 15 and younger.

Children younger than 15 commonly worked in the informal sector to supplement family income. Children often worked in domestic work, subsistence agriculture, and street trades such as selling goods, washing cars, serving as porters in public markets and bus stations, and begging. Children also worked with parents on small family farms, although the high unemployment rate among adults kept significant numbers of children from being employed on commercial farms.

Working on the streets exposed children to a variety of hazards, including severe weather, vehicle accidents, and crime. Abandoned and runaway *restaveks* (see below) were a significant proportion of children living on the street. Many of these children were exploited by criminal gangs for prostitution or street crime, while others became street vendors or beggars.

The most recent study by the Ministry of Social Affairs and Labor, published in 2015, estimated 286,000 children were working in indentured domestic servitude (*restaveks*), a form of trafficking in persons. *Restaveks* were often victims of psychological, physical, and sexual abuse. The IBESR and the HNP's specialized

Child Protection Bureau protect the welfare of children. Their efforts were limited by small budgets and insufficient personnel. Restaveks were exploited by being forced to work excessive hours at physically demanding tasks without commensurate pay or adequate food, being denied access to education, and being subjected to physical and sexual abuse. Girls were often placed in domestic servitude in private urban homes by parents who were unable to provide for them, while boys more frequently were exploited for farm labor. Restaveks who did not run away from families usually remained with them until the age of 14. Many families forced restaveks to leave before age 15 to avoid paying them wages as required by law. Others ignored the law, often with impunity.

The minimum age for employment in industrial, agricultural, or commercial companies is 16 years. The minimum age for work does not apply to work performed outside a formal labor agreement. Children age 12 and older may work up to three hours per day outside of school hours in family enterprises, under supervision from the Ministry of Social Affairs and Labor. The law allows children age 14 and older to be apprentices; children 14 to 16 may not work as apprentices more than 25 hours a week. The law states it is illegal to employ children younger than age 16, but it was unclear whether the provision supersedes older statutes that create the sectoral exceptions mentioned above. In addition it was unclear whether there is a minimum age for domestic workers.

The law prohibits anyone younger than 15 years of age from performing any work that is likely to be hazardous; interferes with their education; or is harmful to their physical, mental, spiritual, moral, or social health and development, including the use of children in criminal activities. The law prohibits minors from working under dangerous or hazardous conditions, such as in mining, construction, or sanitation services, and it prohibits night work in industrial enterprises for children younger than 18. The law doubles penalties for employing underage children at night. Prohibitions related to hazardous work omit major economic sectors, including agriculture. No apparel factories were reported noncompliant with respect to child labor during the year. A BWH report covering April 2018 to March 2019 found one case of noncompliance for child labor because one factory failed to request proper identification for some workers during the hiring process.

Persons between the ages of 15 and 18 seeking employment must obtain a work authorization from the Ministry of Social Affairs and Labor unless they work in domestic service. The law has penalties for failure to follow procedures, such as failing to obtain authorization to employ minors between 15 and 18, but it does not provide penalties for the employment of children. The penalties were not

sufficient to protect children from labor exploitation. The government did not effectively enforce the law.

The IBESR is responsible for enforcing child labor laws. Resource constraints hindered the IBESR's ability to conduct effective child labor investigations, but the IBESR and the Brigade for the Protection of Minors (BPM), a unit within the HNP, responded to reports of abuse in homes and orphanages where children worked. The government does not report on investigations into child labor law violations or the penalties imposed. Although the government and international donors allocated supplemental funds for the IBESR to acquire a new administrative space and hire more staff, the IBESR lacked the programs and legislation needed to eliminate the worst forms of child labor.

The National Tripartite Committee, organized by the government to help develop national policy on child labor, updated the list of hazardous work for children younger than 18 in accordance with the International Labor Organization. The hazardous work list remained unratified by Parliament.

The BPM is responsible for investigating crimes against children. It referred exploited and abused children to the IBESR and partner NGOs for social services. The BPM has the authority to respond to allegations of abuse, and to apprehend persons reported as exploiters of child domestic workers. The BPM did not investigate restavek cases because there are no legal penalties it could impose on persons who exploited children in these cases. There is no law with specific protections for child trafficking victims.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings/>.

#### **d. Discrimination with Respect to Employment and Occupation**

The constitution provides for freedom of work for all citizens and prohibits discrimination based on sex, national or geographic origin, religion, opinion, or marital status. For public-sector employment, the constitution states that women should occupy 30 percent of the positions. The labor code does not define employment discrimination, although it sets out specific provisions with respect to the rights and obligations of foreigners and women, such as the conditions to obtain a work permit, foreign worker quotas, and provisions related to maternity leave. The law does not prohibit discrimination based on disability, language, sexual orientation or gender identity, social status, or HIV-positive status.

The government took some steps to enforce the laws through administrative methods, such as through the Ministry of Women's Conditions and the Office of the Secretary of State for the Integration of Persons with Disabilities. In the private sector, several industries including public transportation and construction, which had been male-oriented, began employing female workers at the same pay scale as men. Despite these improvements, gender discrimination remained a major concern. There was no governmental assessment or report of work abuses. BWH's assessment of 28 factories between April 2018 and March 2019 identified one case of noncompliance related to gender discrimination. Following the assessment, the factory where the case occurred terminated the offender.

#### **e. Acceptable Conditions of Work**

The law provides for a national minimum wage. The Superior Wage Council published new minimum wage levels in November. The daily minimum wage varies by profession, ranging from 250 HTG (\$2.60) for domestic workers to 550 HTG (\$5.70) for workers in private electricity, finance, telecommunications, and similar activities.

The law known as the 3x8 law organizes and regulates work over a 24-hour period divided into three eight-hour shifts. This law sets the standard workday at eight hours and the workweek at 48 hours for industrial, commercial, agricultural, and tourist establishments, and for public and private utilities. The 3x8 law repealed numerous provisions of the labor code, including provisions that covered working hours, overtime payment, a weekly rest day, and certain paid annual holidays. According to the ombudsperson for industrial affairs, the 3x8 law needed wider distribution to guarantee its implementation.

The law establishes minimum health and safety regulations, and it also sets requirements regarding workers' health and safety, including rules for onsite nurses at factories, medical services, and annual medical checks. The law allows workers to notify the employer of any defect or situation that may endanger their health or safety, and to call the Ministry of Social Affairs and Labor or police if the employer fails to correct the situation. Occupational safety and health standards are appropriate for the main industries, but these standards were not always enforced.

The Ministry of Social Affairs and Labor is responsible for enforcing a range of labor-related regulations on wage and hour requirements, standard workweeks,

premium pay for overtime, and occupational safety and health, but it did not effectively enforce these regulations. Penalties were not sufficient to deter violations, and authorities often did not impose them. There were no prosecutions for the individuals accused of violating the minimum wage or hours of work.

A lack of human resources and other constraints hampered the ministry's capacity to enforce labor laws. Labor inspectors faced challenges including a lack of funding and training, as well as a lack of support from law enforcement.

There were few reports of noncompliance with overtime provisions in apparel factories. In its 18th *Biannual Synthesis Report*, BWH found that most factories had at least one noncompliance issue related to emergency preparedness, working hours, or handling of chemical and hazardous substances. Management and union representatives from factories at the Caracol Industrial Park and Metropolitan Industrial Park participated in workshops led by BWH to promote management-worker dialogue, skill development, and improvements in working conditions.

BWH reported cases in which several workers exposed to work-related hazards failed to receive free annual medical exams. The Office of Insurance for Work Accidents, Sickness, and Maternity (OFATMA) is responsible for these exams. Some factories began conducting medical checks-up independently, and OFATMA continued performing its own medical checks at a number of factories. BWH continued to work with factories and OFATMA to improve compliance with this requirement.