

# A RIGHTS-BASED APPROACH

# TO U.S.-HAITI POLICY:

CENTERING HAITIAN VOICES IN A HAITI-LED SOLUTION

*Vendor set up at the Caribbean Market Place Carnival. Photo by Jeff Greenberg/Universal Images Group via Getty Images.*



**AMNESTY**  
INTERNATIONAL



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## BACKGROUND & INTRODUCTION

On Tuesday 7 July 2021, Haitian President Jovenel Moïse was assassinated.<sup>1</sup> Days before his death, Moïse named Dr. Ariel Henry as Prime Minister of Haiti, but Henry was not sworn in prior to the assassination. Following Moïse's death, on 20 July 2021, the Haitian government formally appointed Dr. Ariel Henry as Prime Minister of Haiti.<sup>2</sup> On 12 March, Henry announced he would step down once the Transitional Presidential Council (TPC) was established. On 12 April 2024, Henry's council of ministers issued a decree formalizing the creation of the TPC to govern Haiti until the appointment of a new cabinet and Prime Minister. Under the leadership of Edgard Leblanc Fils, the TPC was charged with appointing an interim Prime Minister, now Garry Conille, and nominating members for a provisional electoral council. Lesly Voltaire replaced Edgard Leblanc Fils.<sup>3</sup> On 25 April 2024, Henry officially stepped down and the TPC took power on the same day.<sup>4</sup> The new government was formed on 11 June 2024 with Conille acting as interior minister who oversees the Haitian National Police.<sup>5</sup> The TPC is mandated to establish the legal framework to hold elections in February 2026. Currently, the TPC fired Conille on 10 November 2024, and installed Alix Didier Fils-Aimé as the new interim Prime Minister.<sup>6</sup>

According to the UN more than 700,000 Haitians have experienced internal displacement as of September 2024, with over a half being women and girls.<sup>7</sup> Haitian feminist and child rights groups, and the UN have raised the alarm that gender-based violence is a grave human rights concern especially for those who have been displaced.<sup>8</sup>

Haiti is experiencing an unprecedented human rights and political crisis. This policy paper reflects Amnesty International USA's commitment to centering civil society organizations closest to the human rights context in shaping its advocacy with the U.S. Government. Haitians should take a central role in

<sup>1</sup> United Nations News, "UN condemns 'abhorrent' assassination of Haiti President Jovenel Moïse", 7 July 2021, <https://news.un.org/en/story/2021/07/1095422>

<sup>2</sup> NPR, "Ariel Henry will become Haiti's Prime Minister, ending a power struggle", 19 July 2021, <https://www.npr.org/2021/07/19/1017884122/haiti-interim-prime-minister-to-step-down>

<sup>3</sup> United Nations News, "Statement attributable to the Spokesperson for the Secretary-General - on Haiti", 13 April 2024, [https://www.un.org/sg/en/content/sg/statement/2024-04-13/statement-attributable-the-spokesperson-for-the-secretary-general-haiti-scroll-down-for-french?\\_gl=1\\*12h2adj\\*\\_ga\\*MTM5Mjk3NTQzOC4xNzI1MzY5MzEy\\*\\_ga\\_TK9BQL5X7Z\\*MTcyODQ4ODkzOC43LjAuMTcyODQ4ODkzOC4wLjAuMA..\\*\\_ga\\_S5EKZKSB78\\*MTcyODQ4ODkzOC4zLjAuMTcyODQ4ODkzOC4wLjAu](https://www.un.org/sg/en/content/sg/statement/2024-04-13/statement-attributable-the-spokesperson-for-the-secretary-general-haiti-scroll-down-for-french?_gl=1*12h2adj*_ga*MTM5Mjk3NTQzOC4xNzI1MzY5MzEy*_ga_TK9BQL5X7Z*MTcyODQ4ODkzOC43LjAuMTcyODQ4ODkzOC4wLjAuMA..*_ga_S5EKZKSB78*MTcyODQ4ODkzOC4zLjAuMTcyODQ4ODkzOC4wLjAu)

<sup>4</sup> Al Jazeera, "Haiti Prime Minister Ariel Henry resigns, transitional council takes power", 25 April 2024, <https://www.aljazeera.com/news/2024/4/25/haiti-prime-minister-ariel-henry-resigns-transitional-council-takes-power>

<sup>5</sup> Al Jazeera, "Haiti's interim Prime Minister Garry Conille forms new government", 11 June 2024, <https://www.aljazeera.com/news/2024/6/11/haitis-interim-prime-minister-garry-conille-forms-new-government>

<sup>6</sup> Associated Press, "Haiti replaces its prime minister, marking more turmoil in its democratic transition process," 10 November 2024, <https://apnews.com/article/prime-minister-haiti-alix-didier-fils-aime-garry-conille-bacb06217008ad0c735c22b72fb72235>

<sup>7</sup> United Nations International Organization for Migration, "Haiti", accessed 12 December 2024, [Haiti I Displacement Tracking Matrix](https://www.un.org/en/un-chronicle/window-opportunity-haiti)

<sup>8</sup> United Nations, "A window of opportunity in Haiti," 29 October 2024, <https://www.un.org/en/un-chronicle/window-opportunity-haiti>

addressing Haiti's current human rights crisis, and governments must ensure space for Haitian civil society to contribute to the response.

This policy paper provides analysis of two key areas of focus raised by Haitian civil society as necessary for addressing the current crisis from a human rights perspective—human rights accountability and institutional reform—and sets forth recommendations for the United States government (USG) raised by many civil society groups on how international actors and USG should respond to the current and future crisis in Haiti.

This paper also provides a picture of the diversity of civil society organizations across Haiti's eight departments, their unique situations and missions, and their reflections on Haitian-led solutions to this human rights crisis.

## **METHODOLOGY**

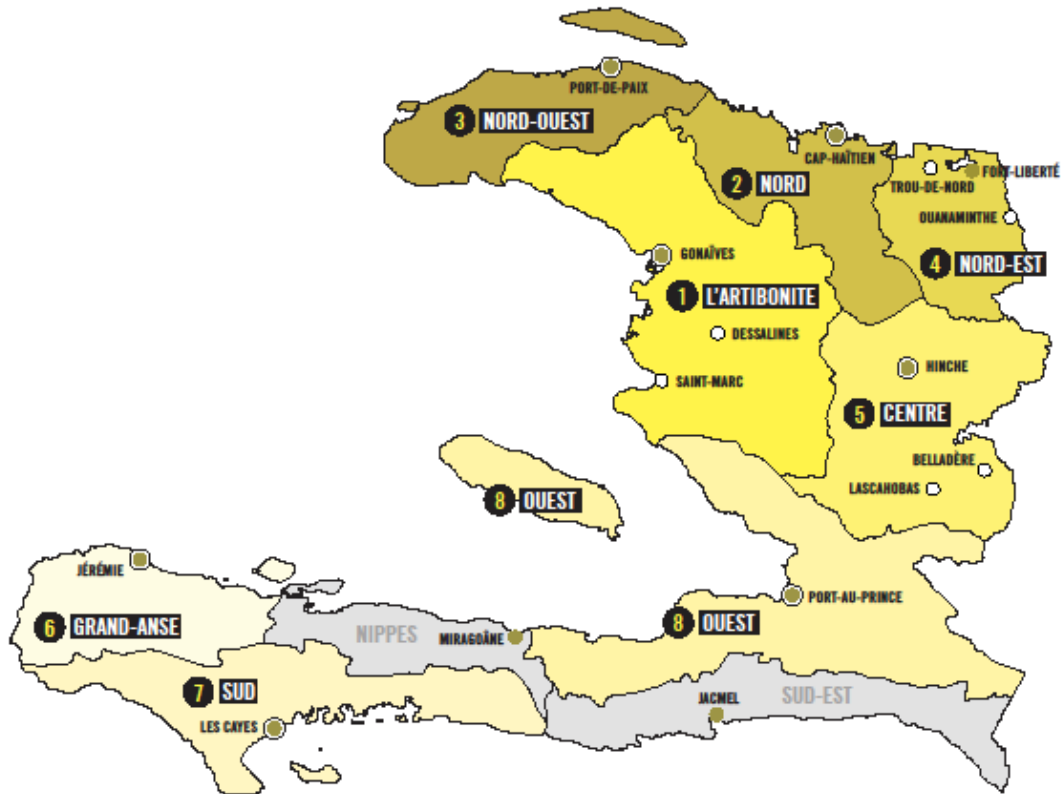
The analysis in this paper is based on broad consultations by the Amnesty International USA Haiti Advocacy Fellow with approximately 40 Haitian civil society representatives both in Haiti and the U.S. diaspora held between March and June 2024. Organizations consulted range from: general human rights, migration, journalism, religion, environment, youth engagement, gender-based violence, women's rights, disability rights, LGBTQIA+ rights, health, child rights, and criminal justice reform.

The fellow consulted general human rights organizations in eight of Haiti's ten departments: Artibonite, Centre, Grand'Anse, Nord, Nord-Est, Nord-Ouest, Ouest, Sud.

Consultations were conducted over Microsoft Teams or WhatsApp in Haitian Creole, followed a structured qualitative interview guide, and lasted an hour. To analyze the data, the fellow used thematic analysis to find themes according to the semi-structured interview. For privacy and security reasons, the names of civil society leaders in the policy paper are pseudonyms.

# HUMAN RIGHTS NEEDS VARY BY HAITI'S 10 DEPARTMENTS

Civil society groups in Haiti emphasize that all 10 departments have their own concerns, and therefore, human rights groups, including those in the 8 departments we concentrated on, need to be engaged when identifying Haitian-led responses to the human rights crisis in Haiti.



## THROUGHOUT ALL 8 REGIONS:

The fellow interviewed human rights defenders who have faced political persecution, and who worked on LGBTQIA+ rights, women empowerment through agricultural production, and child rights. Many civil society organizations raised the issue of decentralization and the impact of “the Republic of Port-au-Prince.” Due to the limited scope of this paper, we can only recognize this concern rather than dig into policy responses to address decentralization.

- CAPITAL CITY
- CAPITAL CITY WITH CIVIL SOCIETY GROUPS
- CITY WITH CIVIL SOCIETY GROUPS

# HUMAN RIGHTS NEEDS VARY BY HAITI'S 10 DEPARTMENTS

## 1 L'ARTIBONITE DEPARTEMENT

Civil society focuses on the rice basin of the country. Common issues that arise include the economic disenfranchisement of women vendors or *madan saras* who travel through gang-run territory to sell their goods in major cities like Port-au-Prince. However, human rights groups note that the department is the most accepting of the LGBTQIA+ community and has many support systems in place, especially in Dessalines and Saint Marc.

## 2 NORD DEPARTEMENT

The civil society organizations focus on gender-based violence, disability rights, and women rights. One civil society organization (CSO) advocates for access to private-public spaces for persons with disabilities, against gender-based violence (GBV), and how women can learn to reenter society after an injury that causes disability. Another CSO advocates against GBV as well, especially the update of the Criminal Penal Code to include cybercriminal laws.

## 3 NORD-OUEST DEPARTEMENT

Civil society organizations in the Nord-Ouest department focus on the right to security due to its proximity to the Artibonite department, youth civic engagement, and the right to self-sustainability. There is great emphasis on education as a tool to liberation and less reliance on foreign aid.

## 4 NORD-EST DEPARTEMENT

The Nord-Est department is commonly known for its land rights struggles, deportation issues, and migration challenges due to its proximity to the border. Many CSO's are present in the Nord-Est to welcome migrants and deportees from the Dominican Republic by providing job trainings, temporary shelters, and funds to return/move to another town in Haiti. Groups also conduct studies of labor rights violations for example in nearby Dominican towns.

## 5 CENTRE DEPARTEMENT

Civil society organizations focus on environmental justice and how gender-based violence impacts *madan saras* in commerce, especially in the fishery industry. Leaders often work with religious and spiritual leaders to raise awareness in rural communes about human rights and to uplift their concerns to surrounding areas. Door-to-door knocking and radios are used as methods of reaching the general population.

## 6 GRANDE-ANSE DEPARTEMENT

Civil society organizations' focus is on corruption, longstanding judicial reform, application of human rights laws, and child rights, especially child trafficking. They also work on pre-trial detention and lack of transparency and accountability for crimes committed by dangerous gang leaders. Groups flagged that there is a need for support of community level organizations to foster sustainable growth for communities by violence.

## 7 SUD DEPARTEMENT

Civil society organizations focus on agriculture and women's resiliency through job creation programs. There is a large focus on LGBTQIA+ rights related to identity, anti-discrimination campaigns, and pro-inclusion initiatives.

## 8 OUEST DEPARTEMENT

Civil society organizations in the Ouest department, in which the capital of Port-au-Prince lies, focus on the wide range of subjects found within the other departments. For example, CSOs address the rights of recent deportees, assisting in their return to their city of origin. Groups in the capital also work on issues related to women's economic empowerment and the impact of gang violence on the informal economy. They also work across sectors, including working across health and religious sectors to decrease discrimination against people with chronic illnesses.

## HUMAN RIGHTS ACCOUNTABILITY IN INTERNATIONAL INTERVENTIONS

Human rights groups in Haiti across all sectors raised deep concerns that they do not have the power to realize justice for marginalized groups, including for abuses committed by international actors. After decades of successive external interventions, human rights accountability for abuses arising in these interventions has been almost impossible to achieve.<sup>9</sup> This section seeks to explore the ways in which

<sup>9</sup>Some civil society groups did share that they have explored alternative pathways for accountability, including by consulting community and region-based groups with their own monitoring and documentation systems, and working to gain local buy-in to further a rights-based agenda.

past external interventions have contributed to human rights impunity, given how those past experiences play a role in civil society groups' significant concerns about the international Multinational Security Support Mission (MSSM). Many Haitian civil society groups emphasized that although international interventions are meant to create a stable environment, they have often been an additional source of violence and human rights abuses that also requires accountability.

Given the challenges of past interventions, these groups wanted external funding to reinforce the capacity of Haiti's own Haitian National Police to manage the security of the country.

Currently the mission is extended to October 2025.<sup>10</sup> Thus, the paper will highlight what groups want as accountability measures to protect human rights from external and internal entities, including by first assessing impunity for past interventions.

## IMPUNITY IN INTERNATIONAL INTERVENTIONS

Haiti has had three military interventions, followed by two international peacekeeping operations, between 1915 and 2017.<sup>11</sup> Consultations with civil society focused on concerns with the most recent intervention, the United Nations Stabilization Mission in Haiti (MINUSTAH).

On 5 February 2004, after months of unrest and demonstrations demanding the departure of President Jean-Bertrand Aristide, conflict broke out in Gonaïves, the country's fourth largest city, when armed opponents of the government attacked police stations and courthouses, forcing the police and local authorities to flee. As the violent rebellion swiftly spread to other areas in the north and center of the country, others joined in. On 29 February, as the "insurgents" threatened to advance on Port-au-Prince and forcibly remove President Aristide, he left Haiti under disputed circumstances.<sup>12</sup> In the months after, Amnesty International documented grave abuses and violations committed against supporters of former President Aristide and their relatives, as well as victims of human rights violations during the military regime; as well as abuses committed against those involved in prosecutions of human rights violators, human rights defenders, journalists and opponents of the former President; and finally, abuses committed by former insurgents, escaped prisoners, the police, and the UN-mandated Multinational Interim Force (MIF).<sup>13</sup>

The three-month international military force, MIF, was replaced by a full peacekeeping operation known as the United Nations Stabilization Mission in Haiti (MINUSTAH) from June 2004 until 2017. Since the beginning, the mission has been plagued by human rights abuses and a lack of accountability from the UN.

Civil society groups said that during MINUSTAH's term, they felt ignored when advocating for their voices, concerns, and suggestions to be considered. Additionally, the lack of impact of Haiti earthquake reconstruction funds and the alleged embezzlement of PetroCaribe funds led to greater frustration, as the mismanagement of \$2 billion dollars in international assistance by former Haitian officials led to these funds not reaching the affected population.<sup>14</sup> Groups also expressed frustration at the general impunity for the sexual exploitation and abuse (SEA) by MINUSTAH peacekeepers.

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<sup>10</sup> America Daily Briefing, "UN extends Haiti security mission", 30 September 2024, [https://latinamericadailybriefing.substack.com/p/un-extends-haiti-security-mission?utm\\_source=post-email-title&publication\\_id=896987&post\\_id=149608917&utm\\_campaign=email-post-title&isFreemail=true&r=2cglf&triedRedirect=true&utm\\_medium=email](https://latinamericadailybriefing.substack.com/p/un-extends-haiti-security-mission?utm_source=post-email-title&publication_id=896987&post_id=149608917&utm_campaign=email-post-title&isFreemail=true&r=2cglf&triedRedirect=true&utm_medium=email)

<sup>11</sup> The first military intervention lasted from 1915-1934 when the U.S. Marines occupied Haiti using political crises, such as the assassination of former president Jean Vilbrun Guillaume Sam, as its motivation. The political instability after the occupation eventually led to the rise of the successive, brutal dictatorships of François Duvalier (Papa Doc) and Jean-Claude Duvalier (Baby Doc), from 1957 to 1986. Then, in 1991, Jean-Bertrand Aristide, Haiti's first democratically elected President, was ousted by a military coup. The United Nations Security Council resolutions 940 of 1994 and 975 of 1995 authorized the U.S. to send troops and aircrafts to restore Aristide to power. A small number of these troops remained until early 2000. During that time the United Nations led a parallel United Nations peacekeeping mission from 1993 to 2000. See "RESOLUTION 940 (1994)", 31 July 1994, <https://documents.un.org/doc/undoc/gen/n94/312/22/pdf/n9431222.pdf>; UN Security Council, "RESOLUTION 975 (1995)", 30 January 1995, <https://documents.un.org/doc/undoc/gen/n95/028/26/pdf/n9502826.pdf>

<sup>12</sup> Amnesty International, *Haiti: Breaking the cycle of violence: A last chance for Haiti?*, 20 June 2004, <https://www.amnesty.org/en/documents/AMR36/038/2004/en/>

<sup>13</sup> Amnesty International, *Haiti: Breaking the cycle of violence: A last chance for Haiti?*, 20 June 2004, (previously cited)

<sup>14</sup> United States Department of State, "Major Corruption Cases in Haiti and Government of Haiti Efforts to Address Corruption", <https://www.state.gov/wp-content/uploads/2022/11/Appendix-C-Developments-in-Haiti-004977.pdf>

A minimum of 134 Sri Lankan peacekeepers were found to have sexually exploited and abused nine children from late 2004 to mid-October 2007, according to Associated Press.<sup>15</sup> However many more sexual exploitation crimes were committed against Haitian people. A United Nations report of sexual exploitation abuse allegations cases from 2010 to 2014 provides some insight into the cases involving MINUSTAH.<sup>16</sup> Many times, peacekeepers and personnel used methods such as offering food to coerce young girls into sexual acts. Cholera claims are another example of impunity by UN peacekeepers, as they introduced a fatal strain, killing 10,000 people.<sup>17</sup> The issue of child support remains a challenge, as cases of sexual abuse and exploitation by UN peacekeepers led to pregnancies and children born without access to child support.

Consequently, most Haitian civil society groups consulted look at these past experiences and are skeptical of how the current multinational force, led by Kenya, will champion human rights, given the results of the last foreign intervention.

## THE MULTINATIONAL SECURITY SUPPORT MISSION (MSSM)

The Multinational Security Support Mission (MSSM) is the current iteration of international intervention in Haiti. Civil society groups that spoke with Amnesty International specifically want the international community to address past mistakes of previous interventions in the structures and procedures of the MSSM to ensure the human rights of Haitians are respected. Human rights groups have called for ensuring the creation of pathways for disciplinary measures for members of the international force under Haitian laws, the laws of their respective countries and international law, as well as building the capacity of Haitian civil society organizations to monitor and report violations.

### BACKGROUND ON THE MSSM

Violence plagued the nation before the selection of former Prime Minister Ariel Henry. In response, the former Prime Minister Henry and his government asked the international community for a mission to combat gang violence. On 2 October 2022, the United Nations Security Council authorized resolution 2653, which established a panel of experts, sanctions regime, and committee to closely survey the implementation of the MSSM.<sup>18</sup>

The following year, in October 2023, the Security Council renewed the authorization in Resolution 2699.<sup>19</sup> This resolution: “authorized the renewal for one year of the sanctions regime in Haiti, continuing a targeted arms embargo, travel ban, and asset freeze established in October 2022.”<sup>20</sup>

The purpose of the mission was to establish a secure climate to hold democratic elections, with Kenya pledging 1,000 personnel.<sup>21</sup> On 1 March 2024, former Prime Minister Henry signed a Memorandum of Understanding with Kenya to deploy the MSSM later in the year.<sup>22</sup> Soon after, gangs shut down the main international airport in Haiti, blocking Henry, who was out of the country, from returning home.

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<sup>15</sup> Associated Press News, “Exclusive: UN child sex ring left victims but no arrests”, 12 April 2017, <https://apnews.com/article/africa-arrests-united-nations-only-on-ap-e6ebc331460345c5abd4f57d77f535c1>

<sup>16</sup> United Nations Missions, “Update to information on all allegations reported to peacekeeping and special political missions (2010 - 2022)”, 31 January 2024, [https://conduct.unmissions.org/sites/default/files/update\\_to\\_information\\_on\\_all\\_allegations\\_reported\\_to\\_peacekeeping\\_and\\_special\\_political\\_missions\\_2010\\_-\\_2022.pdf](https://conduct.unmissions.org/sites/default/files/update_to_information_on_all_allegations_reported_to_peacekeeping_and_special_political_missions_2010_-_2022.pdf)

<sup>17</sup> Associated Press News, “Exclusive: UN child sex ring left victims but no arrests”, 12 April 2017, <https://apnews.com/article/africa-arrests-united-nations-only-on-ap-e6ebc331460345c5abd4f57d77f535c1>

<sup>18</sup> United Nations Press, “Security Council authorizes Multinational Security Support Mission for Haiti for initial period of one year, by vote of 13 in favour with 2 abstentions”, 2 October 2023, <https://press.un.org/en/2023/sc15432.doc.htm>

<sup>19</sup> United Nations Press, “Security Council authorizes Multinational Security Support Mission for Haiti for initial period of one year, by vote of 13 in favour with 2 abstentions”, 2 October 2023, (Previously cited).

<sup>20</sup> United Nations Press, “Security Council renews sanctions regime, targeted arms embargo on Haiti for one year, unanimously adopting Resolution 2700 (2023)”, 19 October 2023, <https://press.un.org/en/2023/sc15455.doc.htm>

<sup>21</sup> United Nations Security Council, Resolution 2699, 2 October 2023, <https://documents.un.org/doc/undoc/gen/n23/287/18/pdf/n2328718.pdf>

<sup>22</sup> Al Jazeera, “Kenya, Haiti sign ‘reciprocal’ agreement on police deployment: Ruto”, 1 March 2024, <https://www.aljazeera.com/news/2024/3/1/kenya-haiti-sign-reciprocal-agreement-on-police-deployment-ruto>

He eventually landed in Puerto Rico after officials in the Dominican Republic closed their airspace to flights to and from Haiti.<sup>23</sup>

Weeks after the installation of then interim Prime Minister Conille, on 23 June 2024, 400 Kenyan police officers landed on Haitian soil. The physical base of the MSSM is centered next to the international airport in the capital. Both the Haitian National Police and MSSM forces are supposed to work together to combat gang violence.<sup>24</sup>

On 30 September 2024, the United Nations adopted resolution 2751 (2024) renewing the MSSM mandate for another year.<sup>25</sup>

## **ADDRESSING HUMAN RIGHTS ACCOUNTABILITY GAPS**

Haitian civil society continues to cite significant concerns about human rights protections in the MSSM. The deployment of police officers, without adequate accountability mechanisms created in part with civil society input, runs the risk of mirroring past harm committed by foreign interventions, such as sexual abuse and exploitation.

To protect the rights of the most marginalized, there must be clear and transparent human rights safeguards to guide the MSSM. Amnesty International has consistently maintained that Haitian civil society's expertise and concerns need to be heard and implemented to assist in the process.<sup>26</sup> Furthermore, not only measures, but various forms of redressing of harm such as reparations and effective remedies for victims are required.<sup>27</sup>

In this context, human rights organizations and other groups have identified some concrete steps to address the human rights gaps in the MSSM. First, groups raised concerns that there need to be specific protections in place for human rights defenders, civil society groups and community leaders reporting violations and human rights abuses, and civil society should have an input to how the systems of reporting and monitoring are created and implemented. While we understand, as of November 2024, that the process of input has begun, many civil society groups remain uncertain or uninformed about the process.

Many groups flagged that addressing the human rights gaps in the MSSM requires the inclusion of marginalized group participation, especially women. They argue that ensuring there is women's participation in decision-making processes can help ensure a gender lens in the MSSM and its accountability mechanism. The current absence of clear public accountability measures within the MSSM to protect the rights of women and children puts them at risk and creates mistrust and the environment for further human rights abuse, while also failing to address their security needs. Some groups told Amnesty International that this type of gender disparity causes a lack of initiatives, programs, and reforms focused on ending gender-based violence. Many interviewees mentioned that any international intervention must focus on long-term reforms, including capacity building of the Haitian judicial system.

Outside of the MSSM, to prevent mass killings, acts of violence, and gang proliferation, the Security Council's arms embargo must be effectively implemented to stop the flow of firearms and ammunition to Haiti.<sup>28</sup> Since the deployment of the mission, there have been some high-profile massacres. In October, the Office of the High Commissioner of Human Rights released a statement addressing one

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<sup>23</sup> Associated Press News, "Haiti's prime minister is locked out of his country and faces pressure to resign", 8 March 2024, <https://apnews.com/article/haiti-prime-minister-gangs-resign-e583a191a2f800bc63752220a47dec0d>

<sup>24</sup> NBC News, "Kenya-led police force arrives in Haiti to tackle gang violence", 26 June 2024, <https://www.nbcnews.com/news/world/kenya-led-police-force-arrives-haiti-tackle-gang-violence-rcna158974>

<sup>25</sup> United Nations News, "Security Council renews Haiti mission mandate, calls for more action against gangs", 30 September 2024, <https://news.un.org/en/story/2024/09/1155151>

<sup>26</sup> Amnesty International, "Haiti: Human rights safeguards and transparency must guide security mission deployment", <https://www.amnestyusa.org/press-releases/haiti-human-rights-safeguards-and-transparency-must-guide-security-mission-deployment/>

<sup>27</sup> Amnesty International, "Haiti: Open letter to all members of the Security Council regarding the development of an International Security Force in Haiti", 18 August 2023, <https://www.amnesty.org/en/documents/amr36/7122/2023/en/>

<sup>28</sup> Office of the High Commissioner of Human Rights, "Haiti's 'chaotic violence' can be resolved, Türk declare", 8 October 2024, Office of the High Commissioner of Human Rights, <https://www.ohchr.org/en/statements-and-speeches/2024/10/haitis-chaotic-violence-can-be-resolved-turk-declares>



massacre and the greater issue of gang violence.<sup>29</sup> Most recently, the town of Pont Sondé in Artibonite was attacked by gangs killing at least 115 people.<sup>30</sup>

Civil society groups repeatedly emphasized the importance of the implementation of the embargo and highlighted that one way the USG can change its policy vis-a-vis Haiti is by investigating the transnational nature of arms and ammunition flow into the country.

## **RECOMMENDATIONS TO THE USG TO ADDRESS HUMAN RIGHTS ACCOUNTABILITY GAPS IN THE MSSM**

- Continue to support the MSSM to ensure all personnel receive core pre-deployment and in-theater training from relevant UN entities. The training should provide an understanding of basic UN principles, guidelines, and policies, including on issues such as:
  - Human rights law,
  - Prevention, detection, reporting and addressing sexual exploitation and abuse,
  - Protection of civilians,
  - Child protection.
- The USG should work with the UN, donors and troop-contributing countries to ensure contributors commit to complying with these standards. In addition, it should work with contributing countries to commit to funding remedies assigned by Haitian courts or independent mechanisms for human rights violations or abuse committed by contributing country forces in the MSSM.
- In line with relevant provisions of Security Council resolution 2699 (2023), the USG should work with MSSM contributing countries, including by providing funding and technical support, to develop and deploy an accessible, independent, and transparent complaint mechanism (with a set rules of procedure) and provide regular public reporting on progress in the development of the mechanism.
- Support civil society participation in the development and deployment of the complaint mechanism, including updating all civil society regularly about the complaint mechanism regardless of whether they are formally part of the voluntary process to implement the mechanism.
- Ensure, including through technical support and funding, that any complaint mechanism is compatible with criminal prosecution and other accountability measures - ideally in a manner that further supports strengthening Haiti's institutions (see below for additional details on supporting criminal legal reform).
- Support, including through funding or technical support, the adoption of clear standards and rules for disciplinary action, compensation, and any other relevant reparatory action, following a human rights-based approach, and ideally with input and participation of Haitian communities and civil society.
- Support, including financially, no-cost paternity determination procedures for children with paternity claims against MSSM personnel, along with referral pathways for securing child support.

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<sup>29</sup> Office of the High Commissioner of Human Rights, "*Haiti's 'chaotic violence' can be resolved, Türk declare*", 8 October 2024, Office of the High Commissioner of Human Rights, (Previously cited)

<sup>30</sup> Associated Press, "*The death tolls in a gang attack on a Haitian town rises to at least 115*," 9 October 2024, <https://apnews.com/article/haiti-gang-attack-pontsonde-gran-grif-1a45faafb929a605f30af4efd8454aeb>

# LONG-STANDING NEED FOR REFORM OF CRIMINAL LEGAL SYSTEM

The institutional challenges the country faces cannot be resolved through international interventions alone. There are several issues that are presently weakening the State's ability to control territory, resolve conflicts, and prevent violence. There is a widely held belief, including among many Haitian civil society leaders consulted, that corruption weakens the rule of law, including corruption of lawyers and judges. For over a decade, Haitian jurists and the international community have worked to reform the criminal procedure code to address corruption, high rates of pre-trial detention and other challenges with the administration of justice in Haiti's criminal law system. In addition, successive governments in Haiti have pursued reforms of the criminal code to address impunity and protect and promote human rights. Haiti's criminal law is currently governed by an 1835 criminal code. In 2020, then-President Moïse controversially adopted by decree a new criminal code, and mandated it go into effect in 2022. It was subsequently postponed going into effect in 2022. Now, according to *Le Moniteur*, the official journal for Haiti, the executive branch of the Haitian government has postponed bringing into force the new Code Pénal (Criminal Code) of Haiti from 24 June 2022 to 24 June 2025.<sup>31</sup> It is unclear if this code will ever come into force, or if new reforms will be considered after the eventual Parliamentary elections.

Nevertheless, we spoke with civil society about gaps existing in the criminal legal system that need to be addressed in order to restore the rule of law in Haiti. In particular, civil society identified the need for increased protections for women, sexual minorities, and children.

Specifically, civil society identified the following elements for reform:

- Crime victims need better protections in law along with legal and psychosocial accompaniment.
- Women, children and other marginalized populations need greater protections against compounding and intersectional forms of violence.
- Haiti's criminal law needs to reflect an increase in online violence. Non-carceral responses are also needed.

## CRIME VICTIMS NEED BETTER PROTECTIONS IN LAW ALONG WITH LEGAL AND PSYCHOSOCIAL ACCOMPANIMENT

Victims and survivors of sexual violence and the LGBTQIA+ community rarely receive justice in the criminal courts due to their marginalized status and the insufficiencies in existing criminal law. Many survivors of rape by peacekeepers in past missions did not report due to fear of being blamed or seeing the perpetrator again.<sup>32</sup> Fears of these sorts are typical for survivors due to the nature of the crime itself and the unequal power dynamic. This is further reason why a criminal code reform should include provisions on crime victims' rights to send a clear message that survivors will be protected.

According to many Haitian civil society representatives, sexual violence is not taken seriously when survivors report to the police; they are not believed and are turned away. Civil society organizations are advocating for survivors to have access to crime victims' rights advocates and lawyers. This accompaniment would support survivors through the criminal proceedings from the initiation of the complaint, to ensure the criminal legal system takes their cases seriously. This should include support to access comprehensive post-rape medical care, within 72 hours, which is very difficult to access,

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<sup>31</sup> Le Nouvelliste, "New penal code implementation delayed to June 2025," 24 June 2024, <https://lenouvelliste.com/en/article/248793/new-penal-code-implementation-delayed-to-june-2025>

<sup>32</sup> Associated Press News, "AP Exclusive: UN child sex ring left victims but no arrests", 12 April 2017, <https://apnews.com/article/africa-arrests-united-nations-only-on-ap-e6ebc331460345c5abd4f57d77f535c1>

and only 3% are able to be treated within this time frame.<sup>33</sup> This also includes the need to fund crisis response and referral services in which a girls' rights group mentioned the need for greater resources to service the entire country.<sup>34</sup> This is especially important to prevent retraumatization of survivors. Advocates say that the penal code reform needs to include specific crime victims' rights to ensure the dignity and safety of survivors.

## **NEED FOR GREATER PROTECTIONS AGAINST COMPOUNDING AND INTERSECTIONAL FORMS OF VIOLENCE**

The criminal legal system, and particularly the existing criminal code, does not provide sufficient protection for women, children and gender and other minorities and the compounding and intersectional violence they face in Haiti.

Women, girls, and people from the LGBTQIA+ community are distinctly impacted by violence. Activists raised with us their concerns about how gang violence is contributing to compounded risks of gender-based violence and violence against children. For example, in Haiti, women's income is often dependent on access to major cities and their markets. When travel is blocked by gang violence, women's financial security is impacted, and that can put their autonomy and security at risk. This in turn impacts how women provide for their children, especially girls. A lack of financial household security can drive some children to become *restavèk*, or child domestic workers, to provide for their families, where they may then face abusive workplaces.

Amnesty International has also documented firsthand the impact of gang violence on children. Our research shows how gangs exploit children in desperate conditions including to run deliveries, gather information, and do domestic chores. Girls as young as 14 spoke of how multiple gang members repeatedly raped them during attacks on neighborhoods or after abductions. Researchers spoke to children who lost limbs and sustained other catastrophic injuries due to stray bullets or from being targeted. Child protection actors told Amnesty International they need significantly more resources to even begin to address the situation.

Greater protection for people with disabilities is also needed, both with specific provisions in law to protect against abuse based on disability discrimination, and interventions to help people with disabilities navigate the criminal legal system. This is particularly important for women and girls with disabilities. According to a civil society group in the north of Haiti, women and girls with disabilities are often shut out of the public sphere, like in education and financial institutions, which can limit financial independence and increase the risk of violence.<sup>35</sup>

## **CRIMINAL LAW NEEDS TO REFLECT INCREASE IN ONLINE VIOLENCE**

Haiti's existing criminal code does not address child pornography, but the criminal code amendments do specifically prohibit child pornography of any child younger than 18 years old.<sup>36</sup> However, human rights defenders raise concerns that even this new version of the criminal code does not address the rising trend of online violence. They are calling for specific criminal prohibitions of online violence, such as the recording and uploading of sex and acts of sexual violence. Furthermore, civil society have flagged that children and adult women alike suffer from extreme online sexual harassment and bullying. Any lasting criminal legal reform will need to create pathways for addressing online violence.

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<sup>33</sup> United Nations Population Fund, "No one is spared": Sexual violence wielded as a weapon in Haiti's humanitarian crisis," 26 June 2024, [https://www.unfpa.org/news/"no-one-spared"-sexual-violence-wielded-weapon-haiti-s-humanitarian-crisis#:~:text=PORT-AU-PRINCE,%20Haiti%20-%20One%20of%20the%20biggest%20problems%20is](https://www.unfpa.org/news/)

<sup>34</sup> Interview with Nadine Louis, Fondation Toya, 19 March 2024

<sup>35</sup> Interview with Regine Diègue, Coordinator, Mouvement pour l'intégration et l'émancipation des femmes handicapées (MIEFH), 22 March 2024

<sup>36</sup> Le Moniteur, Decret Code Pénal Article 472 et 473 Mercredi, 20 June 2024, <https://www.haitilibre.com/docs/code-penal-haiti-2022.pdf>

## **NON-CARCERAL RESPONSES ALSO REQUIRED**

One of the many criminal code concerns and moral issues that the MSSM has to face is how to reintegrate children recruited by gangs back into society. As one feminist leader told us, the response must be non-punitive and transformative. Many of the civil society groups consulted agree and want a form of transitional justice that includes a truth commission, with various time frames proposed. USIP is proposing that the transitional justice models that would provide both a pathway for healing at the community and national level and deal with general violence induced by corruption and impunity include for example Colombia's transitional restorative justice model and Guatemala's hybrid prosecution system, which contain useful lessons.<sup>37</sup> However, any response should account for Haiti's unique needs. For example, civil society leaders in the general human rights sector focusing on prison abolition, religion in the role of social justice, and transformative justice like human rights defender Carlos Baptiste of a youth transformative justice organization, Pasteur Mario Dejean of a Catholic organization focused on the intersection of faith and human rights and Ronald Sévère a land rights activists, ask for a truth commission including youth violence prevention, gang reinsertion into society, and reparations for small-scale landowners, an issue for groups in the North and North-East of the country. Reparations is specifically important for these groups, as gangs steal property of landowners through force. As Carlos Baptiste stated: "this is about breaking generational trauma through a non-punitive and transformative way."<sup>38</sup>

## **RECOMMENDATIONS TO THE USG TO ADDRESS LONG-STANDING NEED FOR REFORM OF CRIMINAL LEGAL SYSTEM**

- Support technical assistance to train police, investigative judges, prosecutors and other justice officials on survivor-centered responses to sexual violence.
- Provide funding for the legal and psychosocial accompaniment for survivors of gender-based violence, including supporting the human rights defenders, crime victims' rights lawyers, and advocates that work with survivors.
- Provide technical and financial assistance to ensure the expedited resumption of activities of the Port-au-Prince Juvenile Court as well as to support increasing the capacity of investigative judges as part of addressing structural challenges facing the child justice system and to shorten lengthy periods of pre-trial detention.
- Auditing existing processes to assess what personnel, task forces or other infrastructure are still needed within the justice system to prosecute those who commit interpersonal violence, LGBTQIA+ discrimination, sexual violence, and child abuse cases with special attention to reduce traumatization by the justice system.
- Ensure reforms to the criminal code include protections for marginalized populations, including tech-mediated gender-based violence and online crimes.
- Consult gender-based violence and other civil society groups on how best to strengthen and expand national and community-based survivor-centered legal, medical and psychosocial resources, including emergency support.
- Support a feasibility study on implementing a Haitian model of a transitional justice entity.

## **OTHER RECOMMENDATIONS TO THE USG**

Twenty years ago, Amnesty International stated in a report "Haiti is confronted with a number of human rights challenges it must meet if the country is to break with the violence and impunity that

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<sup>37</sup> USIP, "Mapping Haiti's road toward justice: Lessons from Colombia and Guatemala", 10 July 2024, <https://www.usip.org/publications/2024/07/mapping-haitis-road-toward-justice-lessons-colombia-and-guatemala>

<sup>38</sup> Louis Henri Mars, Lakou La Pe, 10 April 2024

has characterized it for so many years.”<sup>39</sup> It further stated that “Haitian ownership of human rights and justice programs is essential if lasting progress is to be achieved.”<sup>40</sup> Both remain true today. However, Haitian civil society feels the international community, and the U.S. government has left it out of the process. Beyond the two key areas to address—improving accountability mechanisms for the MSSM and long-standing needed reforms of the criminal legal system—civil society raised the following additional recommendations for the USG:

- Stop deportation and repatriation of Haitian Nationals.
- Prevent the transnational network of weapons trafficking to the Caribbean from Florida.
- Work with the Dominican Republic to end its de facto racist migration policies, and protect human rights organizations and defenders advocating for the end of abusive practices.
- Fund Haitian civil society groups who accept migrants from the U.S. and Dominican Republic to support short-term welcome centers and psychosocial services.
- Extend and redesignate Temporary Protected Status.

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<sup>39</sup> Amnesty International, *Haiti: Breaking the cycle of violence: A last chance for Haiti?* (Index: AMR 36/038/2004), 20 June 2004, <https://www.amnesty.org/en/documents/amr36/038/2004/en/>

<sup>40</sup> Amnesty International, *Haiti: Breaking the cycle of violence: A last chance for Haiti?* (Index: AMR 36/038/2004), 20 June 2004, (previously cited)

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