

# HUMAN RIGHTS COUNCIL

## Universal Periodic Review (EPR)

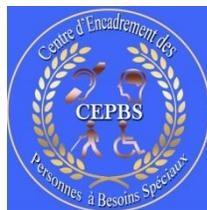
40th session of the UPR Working Group Human Rights Council

### Children's rights in Haiti



Submitted by:

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## About the Coalition

1. Under the coordination of the Fondation Pain d'Espoir ( FPDE) in accordance with Human Rights Council resolution number A/HRC/RES/5/1, establishing the Universal Periodic Review (UPR); the present coalition is constituted in order to present its written observations concerning on regarding the Republic of Haiti, for consideration by the UPR Working Group at its 40th session. It is composed of the following organizations:

2. **Fondation Pain d'Espoir (FPDE)**, an organization whose the main goal is defending and promoting the rights of the child, whose mission is to contribute to the implementation of the rights of children in vulnerable situations through education and development in Haiti.

3. Its objectives are to:

1. Promote and protect the rights of children ;
2. Provide support and holistic care to children in vulnerable situations particularly in educational and pedagogical matters;
3. Raise awareness of human rights culture among young people;
4. Promote the participation and community involvement of children through leadership and human rights training programs in order to create a new generation of actors of change;;
5. Strengthen children's skills through the development accessible, child-friendly knowledge;
6. Engage in active advocacy, at the national and international levels, for the adoption of new laws and public policies that protecting children's rights in Haiti.

4. **Generation Justice (GENEJ)**, a non-profit human rights organization whose main objective is to contribute to the respect of children's rights in Haiti through the eradication of child slavery and the fight against child trafficking, and for the emancipation of new generations of leaders.

5. **Center d'Encadrement des Personnes à Besoins Spéciaux (CEPBS)**, a Haitian organization whose goal is to support, guide, and contribute to the integration of people with special needs, especially children, for the full enjoyment of their rights.

## Introduction

6. The coalition submits its observations on the situation of children, particularly children in vulnerable situations, over the past few years. This contribution covers the period from the last State of Haiti review in November 2016 to July 2021. The analyses presented in this report are carried out in light of the current normative legal framework. They take into account international commitments, conventions signed and ratified by the State and national legislation on children rights.

7. These analyses also take into account two other aspects: first, the challenges related to the socio-economic and political crises, in addition to the COVID-19 health crisis; and second, the

gender dimension of the issue of children's rights.

8. The coalition wants to draw the attention of the Human Rights Council to the situation of children's rights, particularly children in vulnerable situations, in relation to Haiti's failure to fulfill its obligations under the Convention on the Rights of the Children. Its purpose is to share with you certain recommendations aimed at remedying the problems identified.

## Methodology

9. This report is supported by documentary research. The documentation available online (reports, studies, surveys, articles, books, etc.) produced by UN agencies, international organizations and reports produced on the subject by other national human rights organizations were consulted for this purpose.

10. A gender analysis of the data collected made it possible to evaluate the actions implemented by the State that take into account and integrate the gender dimension. Then, focus groups, working sessions, and training on the mechanism allowed the members of the coalition to share their experiences and expertise in order to present an overview of the issue and their observations on the situation of children.

## National context of the UPR

11. Following the last review of The Republic of Haiti by the Human Rights Council in November 2016, two hundred and thirteen (213) recommendations were made by the member states of the dialogue. One hundred and seventy-five (175) had been accepted, of which thirty-three (33) were noted and five (5) deferred. Upon submission of the addendum report, the Haitian state reconsidered some of the recommendations. Three (3) of the five (5) recommendations carried forward were accepted; two of the recommendations carried forward were noted. This reclassification gives eleven (11) accepted recommendations among the thirty-three (33) noted, fourteen (14) noted recommendations were reclassified in the accepted recommendations, which bring to one hundred and eighty-eight (188) the number of accepted recommendations a total of twenty-five (25) noted.

12. This review of the Republic of Haiti comes in a period of socio-political, economic, and health turmoil that was heightened by the assassination on July 7, 2021, of the President of the Republic, Jovenel Moïse inside his residential house. This explosive context is marked by the collapse of all republican institutions. The executive power is weakened by this assassination. Tensions are emerging between the interim Prime Minister, Dr. Claude Joseph, who resigned, and the Prime Minister appointed two days before the death of the President, Dr. Ariel Henry, who did not have time to be sworn in.

13. The Haitian Parliament is dysfunctional since January 2020, the Chamber of Deputies has lapsed, the Senate has only ten (10) senators. Maitre René Sylvestre, President of the Superior Council of the Judiciary (CSPJ) and the Court of Cassation, the highest court of justice in the

country, who should succeed the president in case of death according to Article 149 of the 1987 Constitution, died two weeks before the president, on June 23, 2021. The legislative branch has been paralyzed by a series of strikes that have dragged on for several years. This situation has plunged the country into an unprecedented constitutional vacuum that threatens to erase all republican gains. Meanwhile, the resurgence of Covid-19 cases has brought the already failing health system to its knees. Worried, the Haitian population is turning to medicinal plants to prevent and treat Covid.

## Right to education

### The implementation of the free and compulsory universal schooling program (PSUGO)

14. Education is an essential right. Allowing everyone to receive an education worthy of the name, is likely to contribute to their personal and social development. This right is essential to the economic, social, and cultural development of any society. Therefore, the Haitian state must guarantee access to quality education, adapted and without any discrimination to all children, particularly those in vulnerable situations.

15. In accordance with Article 32-1 of the 1987 Haitian constitution as amended and the recommendations received during the first cycle of the Universal Periodic Review, Head of State Joseph Michel Martelly implemented the Free and Compulsory Universal Schooling Program (PSUGO) in October 2011, aiming to enroll more than one million children in both public and private schools. This program of approximately \$43 million per year was to include 1st and 2nd cycle students, for which the Haitian state was to set 250 gourdes (\$US 6.) per child in public schools and 3,600 gourdes (\$US 90.) in private schools.

16. While the original intent of this program was laudable, its organization was a real fiasco. It is impossible to determine the number of schools that were enrolled and the number of children who actually benefited from the service. The few schools that could be reached did not receive the traditional supplies and didactic materials, as promised, to ensure the adequate training of children. The amount allocated for each child was very insufficient. Payments did not arrive on time (or at all) and teachers were not well paid. A large majority of them had to leave the schools. The school canteen provided for in the program was not granted to the children in the majority of the schools. And what about the learning spaces that did not respect any pedagogical norms? Most of them were very small, poorly maintained, not ventilated; even tents where the heat was suffocating.

17. The only benefit the children could really get from this program was that it was free. Other than that, the quality and appropriate education advocated during the program was just a slogan. Thus, the same problems continue to exist. The most disadvantaged children of the country are still left to their own devices, living with educational deficiency for some and total illiteracy for others.

## Recommendations

**The Fondation Pain d'Espoir (FPDE), Génération Justice (GENEJ), and the Centre d'Encadrement des Personnes à Besoins Spéciaux (CEPBS) recommend that the State:**

- **Readapt the PSUGO program to the needs of the most disadvantaged children, by setting mechanisms to monitor and follow up on the various program activities.**
- **Adopt other programs that will enable disadvantaged children, especially those in rural areas, to enjoy the right to education as proposed by Nigeria in #115.160.**

## Education of children with disabilities

18. The law aimed at the social integration of persons with disabilities, passed on March 13, 2012, is qualified as an appropriate response to the treatment inflicted on persons living with a lasting physical, cognitive sensory, psychological or intellectual disability.

19. In article 32, this law states that "access to education is guaranteed to all persons with disabilities. Exclusion from the educational system on the basis of disability is strictly prohibited". Article 32-8 of the said law states that "the State guarantees to disabled and deaf-mute persons means to ensure their autonomy, education, independence."

20. With the normative framework in place, CASAS (Commission d'Adaptation Scolaire et d'Appui Social), a structure housed in the Ministry of National Education and Vocational Training, was created to promote access for children with disabilities to free and essential primary education, secondary education, and technical, higher and vocational education.

21. This mechanism is ineffective. No measures have been taken to date by Haiti to promote the socio-educational inclusion of children with disabilities. No specialized centers have been created. The vast majority of disabled children do not attend school. No program has been implemented by the Ministry of National Education to facilitate the transmission of values on human dignity. The curriculum and infrastructure are not adapted to the needs of children living with disabilities. Teachers' capacities have not been strengthened in relation to the types of school support that these children should receive. The non-inclusion of children with disabilities in the Free and Compulsory Universal Schooling Program (PSUGO) demonstrates the State's indifference to their situation.

22. Given the Haitian government's inability to guarantee the full integration of this minority in accordance with legal provisions, some non-profit organizations are trying to support these children. They contribute to the training of children with motor disabilities. They work on prevention, detection, early stimulation, and rehabilitation of children with intellectual disabilities with a view to their social integration.

## Recommendations

- **Take its responsibilities by taking concrete actions to validate the laws set forth outlined in favor of the integration of children with disabilities. These actions should lead it to:**
  - ✓ **Create well-equipped specialized centers in the ten departments of Haiti**

- ✓ **Build capacity and collaborate with non-profit institutions that have experience and have developed expertise on the topic, providing them with the financial and technical means for their operation.**
- **Investing in the training of qualified teachers, able to educate children with special needs.**
- **Promote the creation of books and other didactic and pedagogical materials adapted to the instruction of these children.**

## Gender stereotyping in the Haitian education system

23. In Haiti, the weight of cultural atavisms is present at all levels of society and is transmitted mainly in places of socialization such as the family, school, church, media, etc. It contributes to the transmission and learning of values, norms, and social roles to the youngest. It contributes to the transmission and learning of values, norms, and social roles to the youngest. Children internalize these inequalities and tend to reproduce them in their immediate environment. The sexist stereotypes already present in the Haitian school system, in school textbooks, and in teachers' approaches, deepen the gender discrimination gap every day.

24. In families, girls are responsible for various household tasks, and this reality follows them even to school where boys do better than them because they have much more free time to study and recreate. This is why the highest dropout rate is among girls.

25. While school plays a fundamental role in the reproduction of practices and prejudices, it can at the same time be a space for reorienting sexist visions and demonstrating equity between women and men. This is why, since 2000, measures - for which the UN has encouraged Haiti - have been taken to advance the equal access of girls and the integration of equality and the transformation of stereotypes into curricula, in formal and non-formal education, by also introducing gender equality into textbooks and teacher training. Gender parity was also achieved in primary and secondary education during the same year.

26. However, despite these small progresses, the challenge is still great. In 2021, girls are still subject to gender discrimination at home and in social settings.

### **Recommendations.**

- **Work in full collaboration with national organizations for the defense of girls' and women's rights, in order to carry out public awareness campaigns on the importance and necessity of promoting gender equity, from the earliest age, for sustainable social development.**
- **Establish specialized committees to follow up on these campaigns in the social environment (families, schools, churches, etc.)**

## Impact of economic and socio-political health crises on children's schooling

27. The covid-19 pandemic remains the greatest challenge facing the world today. It appeared in Haiti on March 19, 2020, following serious political turbulence that had already forced Haitian children to stay at home, unable to enter school. With the arrival of the coronavirus, all schools had to close their doors again, to avoid the spread of the disease. This second closure significantly reduces the children's learning time for the year 2020. Of the 195 school days scheduled by the Ministry of National Education and Professional Training (MENFP), only 70 days have passed.

28. Some schools have chosen to operate remotely, but this provision has reached only 5.6 percent of households. For 86.7% of others, their children's school did not offer this service. In the remaining cases, it was difficult for children to attend these classes remotely either because of lack of access to electricity (19.0%), internet (14.9%), or because their parents could not afford to continue paying school fees.

29. In addition to these health constraints, which have hindered access to education for children in Haiti over the past two years, the socio-political crisis also remains an unavoidable obstacle. The insecurity that is gaining ground in many parts of the metropolitan area prevents the development of the youngest children who cannot access the road to their schools, either because of the barricades imposed by armed bandits on public roads or for fear of being kidnapped. Not to mention those children who will not complete their academic year 2020-2021, because they are currently in disadvantaged camps, following the attack by bandits who forced their parents to abandon their homes. And what about those other categories of children who still go to school, but who are traumatized, thus unable to perform well?

30. In the face of all these irregularities, the Haitian government remains passive, not deploying any valid strategy to remedy the situation.

## **Recommendations**

- **Provide schools with technological equipment for distance learning and guarantee access to electricity and internet throughout the country.**
- **Strengthen the Haitian security system and dismantle armed bandits, in order to ensure the free movement of Haitians throughout the metropolitan areas in complete peace of mind.**
- **Ensure compensation for parents who have been driven from their homes and the implementation of remedial sessions for their children in the camps to help them complete their academic cycle.**
- **Restore the mental health of traumatized children, providing psychologists who can provide therapeutic sessions for them.**

## **Right to Protection**

### **Ensuring the protection of children is one of the greatest challenges in Haiti**

31. Ensuring the protection of children is one of the greatest challenges in Haiti, where children under the age of 18 make up 40% of the population. Many children live in critical conditions or

face difficult situations. The vulnerability rate was 24% in 2006, a figure that is expected to rise in 2021 with the sharp increase in birth rates and generalized insecurity. However, by ratifying the Convention on the Rights of the Child (CRC), Haiti has committed itself to defending and guaranteeing the rights of all children without distinction. Yet thousands of children from poor families are abandoned to their fate. This is the case of children in domestic service, street children, and children in detention.

### Situation of street children

32. The Haitian capital and several other cities in the country are full of children who convert the streets as their home. Approximately 5,000 children live on the streets of the metropolitan area. Today, considering the alarming and growing statistics of 2010 reporting more than 3,000 children of which 89% are boys, 1/3 between 8 and 13 years old and half are from the West department according to a study published by World vision in 2012. These abandoned children, nicknamed "kokorat" in the pejorative language, depend on the street to survive. They are often found huddled with drivers looking for a few coins, or wiping the windshields of transport or private vehicles. Several factors explain their presence on the streets, but the economic poverty of the country is the main one. They are not protected by Haitian State and do not have access to education, housing, health care, etc., and are exposed to all kinds of physical and psychological abuse.

33. Articles 26 and 27 of the Convention on the Rights of the Child, ratified by Haiti, recognize the right of every child to benefit from social security, including social insurance. The State is therefore obliged to take all necessary measures to ensure the full realization of this right.

34. Recommendations number 115.98 and 115.104 made respectively by the Republic of Tanzania and Ecuador encourage the State of Haiti to ensure the protection of street children.

### Recommendations.-

- **Strengthen the legal framework on responsible fatherhood.**
- **Encourage the culture of adoption and family integration in affluent social environments.**
- **Take adequate measures to ensure the protection and continuous educational and health care of street children.**
- **Create reception centers specifically for street children in the country's major cities, ensure the operation of the Carrefour reception center, which has been practically abandoned by the Ministry of Social Affairs.**

### Situation of children in domestic service

35. Poor parents in rural areas place their children in foster homes, hoping to offer them a better life without imagining the reality that awaits them. Most often, these children work day and night

as domestic servants, suffering all kinds of injustices in these foster families, who treat them mostly as slaves. Thus, in 2015, according to a study conducted by some twenty national and international organizations under the direction of the Ministry of Social Affairs, in 2015, more than 200,000 children were exploited as domestic servants in Haiti.

36. However, article 32 of the Convention on the Rights of the Child in the first paragraph specifies that States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. These children in domestic service, known as "Restavèk", have no access to education and work more than 14 hours a day, according to the study. There are generally more girls than boys among children in domestic service. More than 25,800 children were in institutions, 80 percent of whom were not orphans. 207,000 children are in unacceptable domestic work situations.

37. This issue was of great interest during the last review of Haiti. The State of Mongolia, the United Kingdom, Great Britain, Ireland and the Lumos organization expressed their concern about the situation of children in domestic service. The Haitian State in its addendum report attempted to provide very unconvincing responses to recommendations 115.105, 115.109 and 116.3, made by Jamaica, Norway and the Czech Republic respectively.

38. The lack of measures implemented by Haiti to curb this phenomenon demonstrates its laxity and lack of will to ensure the protection and well-being of children in vulnerable situations. The social projects to assist underprivileged families mentioned by the State in its report are unknown to the population and to organizations working in this field.

## **Recommendations**

- **Adopt measures to prevent family separation (awareness campaign, assistance and support program for low-income families ,etc.)**
- **Take strong measures to prevent child labor and ensure schooling for children in domesticity.**
- **Pass a law encouraging local adoption or family integration by rewarding foster families with defined social assistance.**
- **Pass a legislation and implement public policies to eradicate the phenomenon of domesticity in Haiti.**

## **Internal migration: children in Internally Displaced People (INP) camps.**

39. According to a United Nations agency census, nearly 10,000 residents of the capital's poorest neighborhoods were forced to leave their homes because of violence or fires in early June. Nearly 2,000 people from the Martissant neighborhood, the scene of cruel gang clashes, including 426 minors and 50 infants, took refuge in the Carrefour sports center, according to the Center for Analysis and Research in Human Rights (CARDH). Civil protection officials reported 562 internally displaced persons, including 69 children and five pregnant women.

40. In 2004, there were officially 34 armed groups in Haiti. In 2019 the National Commission for Disarmament, Dismantlement and Reintegration (CNDDR) reactivated in March of the same year had counted nearly 100 armed gangs in the country. For its part, the Office for the Coordination of Humanitarian Affairs (OCHA-Haiti), in its third report, indicates that there are currently close to 95 armed gangs fighting in approximately one-third of the territory of Port-au-Prince. A report from the Task Force of the National Strategy for Disarmament, Dismantling of Armed Groups and Reintegration of Disarmed Individuals (SNDDR) submitted this week to Prime Minister Claude Joseph reveals that 162 armed groups have been identified throughout the country, with nearly 50% of them in the metropolitan area. According to the document, these gangs represent a potential of more than 3,000 armed men with firearms, excluding the dormant bases, which are not very active but potentially dangerous. A situation that threatens the lives of millions of children in the country. It should be remembered that over the past six months, many children have been among the countless victims of the generalized climate of insecurity in the country.

41. Externally, the migration of children to the Dominican Republic is the weakest link in the Haitian state's struggle to control its child population. According to a Word Vision report, each year more than 2,000 children cross the Haitian-Dominican border irregularly. These children are often mistreated or even sold into prostitution networks and are therefore mostly victims of sexual abuse and exploitation. Trafficking and smuggling of Haitian children is an alarming phenomenon that is intensifying due to the socio-political and economic crises. The state should redouble its efforts to identify and protect child victims.

42. Despite the enactment of the Anti-Trafficking in Persons Act in 2014, the lack of effective strategies to combat this phenomenon makes the government's efforts insufficient. According to the 2019 U.S. Department of State Trafficking in Persons Report, Haiti is ranked at Level 2 on this classification in relation to the extent of government efforts to meet the minimum standards of the 2000 Trafficking Victims Protection Act.

## **Recommendations**

- **Provide educational and psychosocial support that takes into account the needs of children in IDP camps.**
- **Ensure better coordination of humanitarian assistance in IDP camps by taking into account the food and health needs of infants.**
- **Take measures to prevent and manage health risks related to the spread of Covid-19 due to poor housing conditions.**
- **Establish mechanisms to prevent and mitigate the risks of sexual abuse and exploitation of displaced children.**
- **Develop a bi-national strategic plan with Dominican Republic to combat child trafficking.**
- **Develop a method to systematically track trafficking data and government efforts against child trafficking.**
- **Develop a national anti-trafficking action plan with allocated resources and increase long-term funding for assistance to victims of trafficking.**

## Right to food

43. Since the spiraling violence of July 7 and 8, 2018, Haiti has seen its economy increasingly suffocated by the phenomena of political unrest, security crises, poor trade policy, and disadvantageous agricultural policy. Indeed, the Haitian food basket is considerably reduced in quality and quantity. An average inflation rate of around 20% in 2020, worsens the economic situation of households and increases the cost of spending on food supplies.

44. In 2019, according to statistics from the National Coordination of Food Security (CNSA), 35% of the Haitian population was plunged into extreme poverty requiring urgent food aid. This bleak picture of this food crisis directly affects children in the most vulnerable social strata in urban and rural areas. The impact of the poor governance of national authorities joins the cases of drought noted in the northwest, various floods produced by Hurricane Matthew in 2017 ravaging the regions of Grand'Anse, Nippes, and Artibonite.

45. According to Unicef, in 2021 more than 80,000 children under the age of five are at risk of dying due to malnutrition. An increase of 61% in severe malnutrition over the past year. 217,000 children experience severe malnutrition in 2021 compared to 134,000 children in 2020. The increase in the admission rate of children suffering from acute malnutrition is about 26% in Haitian health centers.

46. Despite the seriousness of the situation, the right to food is not thoroughly addressed in Haitian legislation. It is repeated in a vague manner in certain legal texts such as Article 22 of the Haitian Constitution of 1987. Thus, the legal framework established by the State does not allow citizens to exercise this right in all its fullness.

### Recommendations

- **Strengthen the legal framework in order to better guarantee the enjoyment of this right by Haitian citizens, particularly children.**
- **Set up social programs that can better assist children in vulnerable situations, including school canteen and family allowance programs at the national level.**

## Right to identity

47. The shortcomings of the civil status system prevent the State from recording all the facts relating to the status of persons at birth and death, as should be done. This dysfunction is very detrimental to the individual and to the state itself. And this very dysfunction is proven to be detrimental to individuals as well as to the nation itself. We note that despite the signing of the International Convention on the Rights of the Child in 1989 and the adoption of the law of August 20, 1974, on civil status, the State is struggling to guarantee this fundamental right.

48. Studies show that 30% of children born in the country do not have a birth certificate to prove their legal existence. This situation deprives the child of his fundamental rights and risks condemning him to a strong exclusion within society.

### Birth certificates: paternity and responsible filiation

49. In order to address the issue of legitimate and natural children, the State has made a legislative proposal on this phenomenon. In 2012, the Haitian parliament passed the law on parenthood, maternity, and filiation that allows any child to know the identity of his or her parents, thus ending the discrimination between natural and legitimate children. This is an encouraging sign that aims to make parents, who have been resigning from their role for several years, more responsible, even if it is like a document that remains in the drawer without application.

### Recommendations

- **Take necessary measures to modernize the birth registration service and facilitate access to it for children in the regions.**
- **Strengthen the measures mentioned in the last state report regarding the process of issuing national identification cards from birth.**
- **Take measures to promote the effective implementation of the law on paternity, maternity, and affiliation.**

## Children with disabilities

### Stigmatization of children with disabilities

50. Children with disabilities are one of the most marginalized and excluded groups in society and face daily discrimination. They are often denied access to cultural or recreational activities, information, and other areas essential to their full integration into society and their development into adulthood. In Haitian society, unfortunately, disability is often perceived as a curse, exposing people with disabilities to a higher risk of violence.

### Assistance and Social Inclusion of Children with disabilities

51. In order to ensure that all children have their fundamental rights respected, free from discrimination, the inclusion of disability must be the norm in all political and social projects. The Haitian state, in accordance with its commitments, should implement a national system that promotes the integration, participation, and training of all children, including those living with disabilities.

52. The Office of the Secretary of State for the Integration of Persons with Disabilities (BSEIPH), which has been operational since 2007, ensures the implementation of policies and programs for the integration of persons with disabilities. The Convention on the Rights of Persons with

Disabilities and its additional protocols, the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities ratified by the Haitian state in July 2009 and April 2009 respectively, as well as the law on the integration of persons with disabilities passed on March 12, 2012, contribute to enriching the legal corpus in this area.

53. This law is certainly qualified as an appropriate response to the treatment inflicted on people with disabilities living with a physical, sensory, cognitive, psychic, or intellectual impairment. However, the coalition deplors the absence of public policies and administrative measures that facilitate the integration of children with disabilities into Haitian society. The coalition adheres to recommendations number 115.146, 115.161, and 115.163 formulated respectively by Senegal, Slovenia, and Mongolia which encourage the Haitian state to guarantee the fundamental rights of persons with disabilities.

### **Recommendations**

**The Fondation Pain d'Espoir (FPDE), Generation Justice (GENEJ), and the Center for the Centre d'Encadrement des Personnes à Besoins Spéciaux (CEPBS) recommend that the nation of Haiti:**

- **Take all measures to guarantee the protection and promotion of the rights of children with disabilities.**
- **Ensure that children with disabilities have access to social services, to quality education adapted to their needs.**