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Agenda items 2 and 10

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the High Commissioner
and the Secretary-General****Technical assistance and capacity-building****Situation of human rights in Haiti****Report of the United Nations High Commissioner for Human Rights****Summary*

The present report is submitted pursuant to Human Rights Council resolution 52/39. It provides an overview of the human rights situation in Haiti. The human rights situation in Haiti has sharply deteriorated over the period, mainly due to endemic gang violence. The report highlights the main developments related to rule of law institutions, the police, justice, and penitentiary systems. Some progress has been made in this domain, but challenges persist.

* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.

I. Introduction

1. In Resolution 52/39, the Human Rights Council requested the United Nations High Commissioner for Human Rights to provide it, within the framework of an interactive dialogue with the participation of the independent human rights expert (the expert), with an interim report on the situation of human rights in Haiti for its consideration at its fifty-fourth session and a comprehensive report on the subject, for its consideration at its fifty-fifth session. The present report provides an update of the subject since the publication of the last interim report presented at the Council's fifty-fourth session.¹

2. The expert on the situation of Human Rights in Haiti, William O'Neill, carried out his second visit to Haiti from 23 October to 1 November 2023.

3. The Office of the United Nations High Commissioner for Human Rights (OHCHR) collected information from wide range of sources, including Government entities and officials, other United Nations entities, in particular findings from monitoring activities conducted by the Human Rights Service of the United Nations Integrated Office in Haiti (BINUH) from 25 September 2023 to 29 February 2024, non-governmental organizations, victims and witnesses. This report also draws from findings of the expert and information from the United Nations Country Team in Haiti. All information was assessed and verified in accordance with OHCHR's standard methodology.

II. Legal framework

4. Haiti is party to several international human rights treaties,² including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. Haiti is also party to regional human rights treaties.

5. Article 276.2 the Constitution of the Republic of Haiti of 1987, as amended in 2011, stipulates that that "International Treaties or Agreements, once sanctioned and ratified in the manner by the Constitution, form part of the Legislation of the Country and abrogate any Laws contrary to them".

III. Impact of gang violence on human rights

6. Gang violence remains the main driver of human rights abuses and violations in Haiti and results in dire humanitarian impact. As stated in Security Council resolution 2699, "increasing violence, criminal activities, and human rights abuses and violations undermine the peace, stability, and security of Haiti and the region"³.

A. Armed violence by criminal gangs

7. According to OHCHR, in the last five months, armed violence caused by criminal gangs has significantly increased in intensity and expanded their geographic reach. Gangs' dynamics are also consistently changing. At least 1,436 people, not involved in the violent exchanges taking place, were killed (686), injured (371), or kidnapped (379) between 1 January and 29 February 2024. In addition, some 695 gang members were killed or injured, bringing the total number of people affected to 2,131 – more than 40% per cent compared with the number recorded in the two previous months. Gangs have continued to clash for keeping territories under their control and have intensified their attacks in areas previously considered safe to spread their influence. While the capital remains the epicentre of the

¹ A/HRC/54/79.

² See <https://indicators.ohchr.org/>. During its last Universal Period Review in 2022, Haiti accepted the recommendations to ratify several protocols and conventions, in this regard: <https://www.ohchr.org/en/hr-bodies/upr/ht-index>.

³ S/RES/2699, preambular.

violence, insecurity has continued to expand beyond Port-au-Prince, especially the adjacent Artibonite Department.

8. According to information gathered by OHCHR, in the metropolitan area of Port-au-Prince, during the third quarter of 2023, the G-9 family and allied gang alliance (hereafter G-9 and allies) and the G-Pèp allied gangs have continued to fight each other for territorial expansion and criminal sources of ‘revenue’ while experiencing infighting within their respective coalition and own ranks. Gangs belonging to the G-Pep alliance carried out violent attacks involving killings, arson, and sexual violence in the Carrefour-Feuilles (Port-au-Prince commune), Meyer (Croix-des-bouquets commune) and Caradeux (Tabarre commune) neighbourhoods. It appears that these attacks were aimed at gaining access to areas where they can increase their kidnapping activities due to the strategic position of these neighbourhoods.

9. Further, they carried out large-scale attacks to expand their influence over the south and northeast of the capital. For instance, attacks in the Carrefour and Gressier communes were driven by increased kidnapping, vehicle hijacking, and imposing “taxes” on passers-by on National Road 2 and extorting businesses moving goods through the Mariani port. These attacks appeared to be also linked to gangs’ interest in securing an escape route leading away from the capital in the context of police operations.

10. Meanwhile, attacks in the Thomazeau and Ganthier communes in the northeast of the capital intensified in September 2023. While these areas have no economic interest for gangs, this strategy is also related to gangs’ efforts to secure an escape route, in this case, leading to hard-to-reach mountainous areas leading to the central regions of the country. In this regard gangs have followed a “scorched earth” tactic to clear the areas of people, burning hundreds of vehicles and buildings in the two communes, including the Thomazeau police station.

11. In December 2023, infighting within G-9 and allies took place in Cité Soleil and Port-au-Prince over territorial control and the sharing of resources from truck hijackings and other methods of extortion imposed on local businesses. These clashes intensified significantly following the death of the Belekou gang leader, part of the G-9 coalition, in Cité Soleil in late October. In addition, main roads and ports connecting the capital with the rest of the country, remained under gang control.

12. Violence also continues to grow in the Lower Artibonite communes of Montrouis, Marchand Dessalines, Gros Morne, l’Estère, Liancourt, Petite Rivière de l’Artibonite, Verettes and Saint Marc. A joint OHCHR/BINUH report⁴ indicates that support from G-Pèp gangs based in the capital, coupled with alleged inconsistent and inadequate responses on the part of authorities, have facilitated the acceleration of violence in these rural areas and caused a serious deterioration of the human rights situation.

13. The illicit trafficking of weapons and ammunitions through porous borders has provided a reliable supply chain for gangs. As noted by the Secretary-General, corruption that incubates the illicit economy also facilitate the patronage of armed gangs by the elites⁵. According to the United Nations Office on Drugs and Crime, the income of gangs operating in Haiti comes from several sources, including payments allegedly made by former and current political figures and business owners⁶. In addition, income comes from monthly “protection” payments from industries, companies or commercial enterprises operating in gang-controlled territory.⁷

14. The recruitment of children into gangs remains a critical concern. According to interviews carried out by OHCHR in 2023, gang members are primarily young males and children. Testimonies collected by OHCHR underline that children are used as lookouts, or “antennas”, as they are locally known, to facilitate kidnappings and robberies. Girls are typically involved in activities such as house chores and spying⁸. Several children gang

⁴ OHCHR and BINUH “Criminal violence extends beyond Port-au-Prince - The situation in lower Artibonite” (2023).

⁵ S/2023/596, p.4.

⁶ UNODC, First Quarterly report to the Security Council, 18 October 2023, p.14.

⁷ Ibid.

⁸ S/2023/647, para.138.

members have indicated to local actors a desire to leave the gangs but are prevented from doing so for fear of retaliation from both their home communities and the gangs. Some children who have tried to leave the gangs have been sought out and executed by gang members.

15. In addition, individuals accused of petty crime or suspected of association with gangs continued to be lynched, stoned, mutilated, or burned alive by members of the population or so-called “self-defence brigades”, armed with all manner of weaponry, including high-calibre guns. In 2023, OHCHR has recorded at least 528 cases of lynching (510 men and 18 women), most of them took place in the capital Port-au-Prince. While some killings appeared to be spontaneous, others were allegedly encouraged, supported, or facilitated by police officers and gang members belonging to the G-9 and allies⁹.

16. OHCHR has also observed with concern the intensification of violent clashes over land, between landowners and some members of local political elites, especially in the Northeast and the Artibonite Valley, Haiti’s breadbasket. While land disputes have been ongoing for decades, in the context of weakened police capacity and widespread impunity and corruption, these disputes with violent clashes appear to have intensified over the last year. Armed men attacked peasants in Montrouis in early April and burned at least 40 houses and drove people off their land. The same month, similar attacks occurred in Limonade in the Northeast and in Papaye in the Central Plateau. On 15 November, at least 50 people were killed with machetes and pistols when residents from one locality of the Arcahaie commune attacked residents in a nearby locality. On 19 December, armed individuals from the commune of Montrouis clashed in a land dispute, leading to 3 killings and 6 injured by bullets. On 13 January 2024, at least 10 people were killed in the Williamson area.

17. The Protected Areas Security Brigade of the Ministry of the Environment (in French, *Brigade de Sécurité des Aires Protégées* or BSAP) has emerged as a new actor opposing the Government. Since the return of Guy Philippe¹⁰ to Haiti in late November 2023, armed BSAP affiliates have staged military-like parades in several provincial towns and have participated in and helped facilitate anti-government protests throughout the country. Since 20 January, at least 25 casualties (eight killed and 17 injured) have been recorded mainly in the context of confrontations between protestors and police officers.

B. Impact of gang violence on the enjoyment of human rights

18. The population living in gang-controlled areas have not only been collateral victims of gang clashes, but they have also been directly targeted in order to create panic and punish those living under the control of rival gangs. In 2023, OHCHR registered that at least 4,451 persons have been killed (3,801 men, 538 women and 112 children) and 1,668 others injured (1,193 men, 420 women, 55 children) as a result of gang violence nationwide. Additionally, at least 1,962 persons (1,174 men, 729 women and 59 children) have been kidnapped by gangs. 84 per cent of all victims of killings and injuries were reported in the West department and 9 per cent in the Artibonite department, while 51 per cent of kidnappings took place in the West department and 47 per cent in the Artibonite department.

19. According to OHCHR, gangs continued to use sexual violence to spread fear, subjugate and punish the population. During gang attacks, several women and girls have been subjected to rape, including collective rape, in their homes, often after having witnessed the killing of their husbands. Some of the victims of rape have been mutilated or killed after the attacks. In gang-controlled areas, women and girls are also at risk of being ambushed and collectively raped by armed gang members in broad daylight, while on their way to work or to school. Some are forced into exploitative sexual relations with gang members and are threatened with death if they refuse. Rape of kidnapping hostages also continues to be used

⁹ BINUH, Human Rights Situation, Main Trends, Quarterly Report April-June (2023).

¹⁰ Guy Philippe, former Haitian police commissioner and senator, was expelled by United States authorities to Haiti on 30 November 2023 after serving a nine-year (reduced to six year) sentence in a United States prison. Since his return to Haiti, Guy Philippe has been holding media interviews and mass meetings, publicly calling for the overhaul of the Haitian government.

as a tactic to coerce families into paying ransoms. Sexual violence remains severely underreported due to community stigma, the salient threat of retaliation by perpetrators, insufficiency of healthcare and psychosocial services for survivors, and lack of trust in the justice system. Even when such incidents are reported, impunity for sexual violence is widespread¹¹.

20. OHCHR also observed that armed criminal gangs continue to inflict violence on children. During clashes between rival gangs in densely populated areas, residents, including children and babies as young as three months old, were killed in their homes or in the streets of their neighbourhoods by snipers, stray bullets, executed for their alleged support for the police or for rival gangs, or during invasions involving indiscriminate shootings. During gang attacks in the Carrefour-Feuilles neighbourhood (Port-au-Prince commune), an area considered relatively safe during the first half of 2023, entire families were burned alive in their homes. Many children suffer from serious physical and emotional trauma¹².

21. Gang violence leads to important restrictions on freedom of movement of people and goods and serves as a means for gangs to assert control over the territory. Local sources recounted that mobile “checkpoints” have been erected and manned by armed gangs to control and restrict the movements of their inhabitants in and out the neighborhoods. The blockade of ports and roads by gangs continues to hinder the movement of goods and services. Interlocutors have reported informal “taxation”, including for public services such as water and electricity, robbery, bribery, intimidation and extortion by gangs at checkpoints. This context has highly contributed to inflation, with an average of 46.3 per cent in 2023¹³, and jeopardized livelihoods, while increasing revenues for gangs.

22. Since January 2023, OHCHR has documented the looting or destruction of more than 1,880 homes and businesses. In a practice that is becoming more common, gangs in the Artibonite department have attacked farm properties and also stolen hundreds of livestock belonging to residents, assets which often represent farmers’ life savings. Furthermore, along the northern coast of the Arcahaie and Léogâne communes, the Village de Dieu gang continues to use motorboats to access these communities and attack, loot, and steal from residents, local businesses, and humanitarian actors. To pay the ransoms demanded by gangs for the liberation of kidnapped family members, many have been forced to sell their homes and take out loans. Others have lost all their possessions and savings as they fled imminent gang attacks.

23. As of December 2023, gang violence had caused the internal displacement of approximately 313.900¹⁴ people. Families who have quickly left their homes find themselves without the means to meet their basic needs. During his mission, the expert received testimonies of pregnant women and children sleeping on the floor in the street, exposing them to increased risks of sexual assaults by gangs. At the regional level, the protracted instability and violence in Haiti have contributed to a significant, and increasing, exodus of Haitian nationals in dangerous cross-border journeys¹⁵.

24. According to consistent reports received by OHCHR, a high level of self-censorship due to repeated threats or fear of reprisals by gangs against journalists, media workers as well as members of civil society, has been registered. According to people met by the expert during his mission, many journalists have left the country to seek refuge elsewhere. Haiti was the third deadliest country for the press in 2022, with at least five journalists killed in relation to their work¹⁶. Journalists confirmed to the expert that they work in fear for their lives and face constant threats, especially female journalists. In 2023 OHCHR documented four cases of journalists killed, and no investigations were opened as of 29 February regarding these killings. OHCHR has received consistent reports indicating that gangs have also threatened and attacked civil society organizations.

¹¹ OHCHR and BINUH “Haiti: Gangs use sexual violence to instil fear – UN report” (2022).

¹² S/2023/768, para 56.

¹³ Ibid. para. 43.

¹⁴ OIM, *Suivi de mouvement des populations*, December 2023.

¹⁵ S/2023/768, para 20.

¹⁶ See Committee to Protect Journalists, January 2023.

25. According to local interlocutors, vote-buying, and coercion by gangs to vote in favor of certain candidates is a pervasive feature of the Haitian political landscape as some political actors have established networks of corruption with armed criminal gangs to hold on to power¹⁷. Out of 11.5 million inhabitants, gangs are likely to control territories which account for more than 3.5 million potential electors¹⁸. In areas affected by limited State presence, gangs have reportedly helped collect votes in favor of the highest bidder or prevent political opponents from campaigning.

C. Access to basic services

26. The preexisting dire humanitarian situation, including limited access to food, water, health, housing, and education continues to be critical, due to conjunctural and structural challenges, including pervasive gang violence. In 2024, approximately 5.5 million Haitians will be dependent on humanitarian protection and assistance¹⁹, including 3 million children (some suffering from acute malnutrition or “wasting”), the highest number ever recorded²⁰. The latest Integrated Food Security Phase Classification (IPC) of September 2023 shows that 44 per cent of the population, or 4.35 million, are food insecure. (IPC3+). In addition, 1.4 million people are in IPC 4. The closure of the border with the Dominican Republic has exacerbated these challenges²¹.

D. Access to health

27. Violence in certain neighbourhoods has hampered the supply of medical inputs and the movement of personnel to healthcare facilities, while it has prevented people from reaching healthcare providers. Throughout 2023, several health care facilities or hospitals run by government or nongovernmental organizations were attacked or compelled to suspend their activities due to threats or violence from gangs. In November, a new outbreak of violence between rival armed gangs in Cité Soleil, led to numerous casualties and to the closure of the Fontaine hospital and reduction of medical personnel due to risks for staff during this period²². On 14 December, Doctors Without Borders suspended its work at a medical centre in Port-au-Prince (Turgeau Emergency Centre) after armed individuals pulled a wounded patient from an ambulance and shot him dead in the street²³. This is the fourth closure of one of the organization’s medical centres in the capital in 2023. Other ambulances have been attacked while transporting patients outside hotspot areas, and cases were reported to OHCHR of children and women patients who succumbed to gunshot wounds resulting from these attacks. Around 40 per cent of medical staff has left the country due to insecurity in the recent period²⁴. According to local actors, the situation has increased their costs of health care services and medicines, forcing some to cut back or close their services. The closure of the border with the Dominican Republic exacerbated the shortage of key medical supplies.

E. Access to Education

28. Gang violence has continued to force many schools to close, and gangs have attacked children, teachers, and parents inside schools. In the Artibonite Department (Gonaïves), two

¹⁷ *Stratégie nationale de désarmement, démantèlement et de Réduction de la violence communautaire en Haïti*, June 2021.

¹⁸ Protection Analysis Update, Gang-controlled areas of Port-au-Prince, OHCHR/OCHA report, February 2022.

¹⁹ Based on the preliminary estimate for the 2024 Humanitarian Needs Overview for Haiti in different programmatic sectors.

²⁰ See <https://www.rhinews.com/actualites/lescalade-de-la-violence-menace-des-milliers-denfants-a-port-au-prince-selon-lunicef/>

²¹ WFP Haiti, Overview of DR Border Closure Impacts, November 2023.

²² See, Haiti: Medical care severely affected by clashes in Cité Soleil.

²³ See MSF suspend ses activités à Turgeau.

²⁴ See <https://news.un.org/fr/story/2023/12/1141732>

hundred eighty schools (21 per cent) have been affected by gang violence and have not been operational since 2022²⁵. Thirty of these schools have been destroyed and 16 have been entirely ransacked. In addition, internally displaced families who fled their homes due to gang violence in the capital have sought refuge in at least 25 schools²⁶. In October, over 500 high school students were trapped amid violent clashes between armed gangs in La Saline, in the metropolitan area of Port-au-Prince. Humanitarian actors were eventually able to open a corridor to let them return to their homes²⁷. In the Artibonite department, over a hundred schools have been forced to close their doors while another 178 operate intermittently, leaving thousands of children without access to school.

F. State response

29. Despite limited progress in some sectors, the lack of governance and accountability as well as poor records of service delivery are the main factors of the State's failure to respect, protect and fulfil economic, social, and cultural rights²⁸. Local sources indicated that poor governance continues to cripple the system and to hinder the population's access to education and health. During his mission, the expert received information indicating that the budgeted amounts allocated to ministries are often not fully expended.

IV Law enforcement and judicial entities

A. Haitian National Police

30. The Haitian National Police (HNP) continue to make important strides despite serious obstacles. There have recently been several police operations against gangs, albeit limited given the high level of threats posed by gangs, leading to arrests of gang members in the Artibonite Valley and in various poorer neighbourhoods in Port-au-Prince, including Tabarre, Cité Soleil and Martissant. Additional equipment received by the HNP from the United Nations basket fund, as well as technical trainings, have contributed to strengthen the police. An inter-ministerial task force was additionally created to coordinate future operations with the Multinational Security Support (MSS) mission. As of 14 January 2024, the Vetting Unit of the HNP has registered 763 police and administrative officers of the HNP, a positive step to fight corruption within the institution and towards restoring Haitian society's trust in the police.

31. According to OHCHR, the HNP still face multiple challenges²⁹, including the lack of adequate capabilities to deter, arrest and disarm heavily armed gangs, often with superior firepower, including protection gear, weaponry, ammunition, vehicles, and other tactical equipment. Police officers are severely underpaid and understaffed³⁰. This translates to a police-to-population ratio of 1.3 officers per 1000 citizens, falling far short of the United Nations benchmark of one officer for every 450 individuals. The police additionally lack technical capacities, especially intelligence.

32. The lack of staff was exacerbated by a high rate of attrition, with at least 1600 police officers who left the country in 2023³¹. From 1 January to 31 December 2023, 34 police officers were killed and 22 were wounded in gang violence. As of October 2023, of 412 police buildings, 45, including corrections facilities, were non-operational, under the direct control of gangs or had been subjected to repeated attacks³².

²⁵ S/2023/768, p.13.

²⁶ Ibid.

²⁷ Unicef, October 2023.

²⁸ A/HRC/54/79, para.19-24.

²⁹ A/HRC/54/79.

³⁰ UNDP, 2023.

³¹ See <https://news.un.org/fr/story/2023/12/1141732>.

³² S/2023/768, para 17.

B. Justice

33. According to OHCHR the Minister of Justice and Public Security has actively engaged with various stakeholders, including the Superior Council of the Judiciary (CSPJ) and public prosecutors (*commissaires du gouvernement*), indicating a comprehensive approach to reform the judiciary. Between October and December 2023, 30 magistrates were vetted and certified, and 12 vetted and not certified by the CSPJ, another important step to combat impunity within the institution. Some progress has been made in the investigation of the assassination of President Jovenel Moïse. In a referral order dated February 2024, the judge in charge of the case charged 51 people. The Haitian State has also registered some progress to fight corruption within Haitian institutions. On 15 November, the Anti-Corruption Unit (ULCC) transferred 11 corruption investigation files to prosecuting authorities. In December 2023, the Dean of the Port-au-Prince Court of First Instance assigned three judges to investigate three of the cases to initiate public proceedings against the alleged perpetrators.

34. Nevertheless, the main underlying challenges rendering the justice system dysfunctional³³ remain. The Port-au-Prince and Croix-des-Bouquets courthouses have not been operational since their buildings were attacked in June and July 2022. Since then, government authorities have not relocated or reinforced security around these buildings. Faced with this situation, the Port-au-Prince court and public prosecutor's office continue to temporarily occupy a small space lent by the Office de la Protection du Citoyen (OPC). However, the magistrates can only visit the court three days a week, which is far from sufficient for the number of cases in their charge. As for the magistrates in Croix-des-Bouquets, they continue to work in inadequate conditions to carry out their functions.

35. In October, the Thomazeau administrative complex which hosts the townhall, local court and other key state institutions, was taken over by gangs. No progress has occurred since the Human Rights Committee expressed its concerns about the lack of independence of the judiciary.³⁴ Judges and clerks remain targets of threats, violence, and intimidation, undermining their independence and preventing them from performing their duties. The lack of adequate human and material capacity continues to constitute a major challenge to the justice system's efficiency. Corruption is deeply entrenched in the criminal justice sector and convictions for corruption are exceedingly rare and national anti-corruption and accountability mechanisms remain under-resourced³⁵. In 19 years of existence, and a total of 87 cases transferred to the judicial authorities, only one person has been convicted of corruption³⁶. Impunity for serious human rights violations committed in the past remains a major concern, highlighting the dysfunction of the justice system and reinforcing pervasive impunity³⁷.

36. Juvenile justice in Haiti also faces deep structural and systemic problems, which impede it to perform its dysfunctions and to ensure a human rights-based approach, including to meet Haiti's obligations under the Convention on the Rights of the Child³⁸. The Port-au-Prince Juvenile Court has been the unique juvenile court operational to date. The Court was paralyzed in 2019, due to gangs controlling the area where it is located and has been inoperative ever since³⁹. In addition, according to civil society organizations, other structural challenges such as insufficient resources allocated to investigative judges regarding juvenile justice, have also contributed to the inefficiency of juvenile justice. Most children in conflict with the law⁴⁰ are placed in detention for several years without any measures to facilitate the judicial processing of their cases (see below).

³³ A/HRC/54/79.

³⁴ CCPR/C/HTI/CO/1 (2014), para.17.

³⁵ S/2023/596, p. 4.

³⁶ See <https://radiographieht.com/rapport-de-lulcc-la-fjkl-appelle-la-justice-haitienne-a-sevir-contre-les-criminels-a-col-blanc/>

³⁷ S/2023/596, p. 3.

³⁸ In relation to the obligations under this convention, see CRC/C/GC/24.

³⁹ To date, no decision has yet been taken by the authorities to relocate the children's court.

⁴⁰ The age of criminal responsibility in Haiti is sixteen.

C. Criminal justice and the penitentiary

37. Some progress has been made within the past few months, in particular to reduce prison overcrowding. On 20 October 2023, the Minister of Justice and Public Security and the Superior Council of the Judiciary adopted a joint memorandum in a bid to reducing prison overcrowding ahead of the MSS mission arrival. Chief Judge and government commissioners were instructed to organise regular correctional and criminal hearings across the country to release persons unlawfully and arbitrarily detained in the prisons under their competence. Following sessions held by the Port-au-Prince Public Prosecutor's Office, 258 persons were released in November and December. In addition, the Dean and Government Commissioner of the Port-au-Prince Court of First Instance have been holding a number of special correctional hearings at penitentiary centres for children, CERMICOL. Since October 2023, 11 children were released across the country. These are initial positive steps but must be continued and accompanied with several measures to fulfil and protect child's rights in the child justice system, including children's reintegration into the society.

38. No improvement of the conditions of detention has been recorded. As of 31 December 2023, 11,822 people were being held in Haitian prisons, of whom 83 per cent were in pretrial detention⁴¹. Under international law pre-trial detention shall be the exception rather than the rule, must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime⁴². Detainees convicted or in pretrial detention are mixed in cramped spaces, with limited access to nutritious food, health care and a healthy environment. According to OHCHR, prison overcrowding, under-nutrition, and lack of access to healthcare led to the deaths of at least 107 inmates between January and November 2023. The expert visited the prison of Fort Liberté where detainees and officials working in the facilities had no access to electricity. According to information received by the expert, and despite the dire needs to improve prison conditions, an important part of the budget allocated to the Prisons Administration, that could be more than 50 per cent, would be diverted due to corruption.

39. Despite some progress regarding special hearings for children, criminal hearings have stalled due to the ongoing paralysis of the Port-au-Prince Juvenile Court. The expert visited the detention centre for children located in Port-au Prince, CERMICOL. Out of 90 children, only one had been convicted, the rest was awaiting trial. During his visit, the expert met with the Prison Administration officials, who indicated that "many are detained for minor offenses for which they should not even be detained". The CERMICOL centre has an occupation rate of four times its capacity, with 235 detainees due to the transfer of 145 women and girls in May. Moreover, the failure to separate male from female detainees and children from adults are contrary to international human rights law and standards. In addition, according to information received by OHCHR, children in conflict with the law in other parts of the country are scattered in prisons for adults, with no specific conditions of detention to take into account their age.

V. State obligations under International Human Rights Law

A. Strengthening democratic institutions

40. State parties to human rights treaties have the obligation to respect and ensure human rights to all individuals within their territory and subject to their jurisdiction⁴³. The State's positive obligations to ensure human rights mean it can also be held responsible where it fails to take appropriate measures to prevent human rights abuses by non-State actors, investigate abuses committed and redress the harm caused by such actors⁴⁴. Where appropriate, it must

⁴¹ BINUH, Quarterly report: October – December 2023.

⁴² CCPR, General comment No. 35, (2014).

⁴³ ICCPR, ICESCR, art. 2

⁴⁴ CCPR, General comment No. 31 (2004), paras. 8

also prosecute and punish those responsible,⁴⁵ within fair trials, and must ensure the right to reparations for victims of human rights violations and abuses⁴⁶.

41. Strengthening key institutions such as the police, the judiciary and penitentiary systems is particularly critical for good governance and to comply with State's obligations under international human rights law. It would also be essential against the background of the deployment of the MSS mission.⁴⁷

B. Oversight, accountability, and fight against impunity

42. Impunity, including on cases of sexual violence, is common threads running through Haiti's law enforcement system and continue to be a major challenge to democracy and security⁴⁸. Strengthening accountability and oversight mechanisms to stem impunity and restore trust in rule of law institutions is key and needs to be a priority throughout State institutions⁴⁹. The sanctions regime adopted by Security Council resolution 2653 (2022) is an important step towards accountability for perpetrators of crimes in Haiti. It should be accompanied by judicial measures locally, such as the "Specialized judicial poles" as endorsed in a road map by the Prime Minister in October 2022.

43. In Haiti, decades of poor governance and corruption have also severely limited the realization of human rights, including economic, social, and cultural rights⁵⁰. Gangs have also benefitted from a power vacuum, especially in impoverished areas characterized by the absence of State services⁵¹. The lack of economic and social opportunities for children and the youth, including limited access to schools and health as well as high levels of food insecurity among children, are factors exploited by gangs, who offer them regular access to food and money in exchange for their "work" as a gang member. Investment in local services and economies will contribute to social cohesion. Comprehensive policies should also address the social factors and root causes of fuelling gang violence, including the lack of protection, respect, and realization of human rights in areas where the State has not provided services. Targeted policies for social inclusion of marginalized adolescents need to be part of the strategy⁵².

C. Haitian National Police

44. A more robust and accountable policing, backed by the population is necessary. The capacities of the HNP to perform its functions needs to be increased, including to prevent and respond to certain human rights violations and abuses, such as sexual and gender-based violence. The Police Inspectorate of the HNP should be strengthened to play an oversight role on operations led by the HNP and to take appropriate measures in response to allegations of misconduct and human rights violations by police officers, in particular during anti-gang operations led by the HNP, under General Inspectorate of the HNP⁵³. In addition, the process of vetting for all police officers under the Police Inspectorate needs to be strengthened and accelerated⁵⁴.

45. Increased technical expertise on specific issues such as use of force in urban settings and intelligence, transversally integrate international human rights standards in their doctrine and mission, as well as enhanced working conditions for police officers, will contribute to increasing the HNP's capacities and impact in the long-term. Restoring police stations that

⁴⁵ Ibid., para. 18, and No. 36 (2018), paras. 27 and 67.

⁴⁶ Ibid., paras. 16 and 17.

⁴⁷ UN Security Council 2699 (2023).

⁴⁸ S/2023/647, para. 69-77, 106-08.

⁴⁹ OHCHR, Rule-of-law tools for post-conflict states. Mapping the justice sector, 2006, Page 32. See recommendations provided in A/HRC/54/79.

⁵⁰ A/HRC/54/79.

⁵¹ Ibid.

⁵² CRC/C/HTI/CO/2-3 para.36 and 37.

⁵³ At least 662 alleged gang elements have been killed during police operations since January 2023.

⁵⁴ A/HRC/54/79, para 42.

have been destroyed in gang-controlled areas will additionally be key to ensure the continuity of peace and security in these areas.

46. In addition, comprehensive policies on security, that also draw from good practices, such as community-based policing approaches need to be implemented. During his mission, the expert met with the police commissioners from Fort Liberté and Ouanaminthe who have achieved significant results in the region thanks to their community-based policing approach. They rely heavily on close relationships with the population, notably through active patrols, visiting schools and markets, gaining the population's trust.

D. Justice and penitentiary

47. While there is urgency to address persistent structural issues, the judiciary needs to be urgently strengthened, and its independence ensured, including to deal with increased arrests of alleged criminals. The development and implementation of the above-mentioned of Specialized judicial poles, would facilitate this work. The poles could create an institutional space to support Haitian relocated magistrates to investigate and prosecute gang members arrested by the HNP and in the future the MSS mission, including through the appointment of special magistrates and advice provided by international experts in this domain. A particular focus should be placed on children involved in gangs-related criminality as well as women victims of sexual violence, in accordance with international human rights law and standards. Victims should also be supported to access justice and to file complaints.

48. The likely increase in those detained by MSS and transferred to Haitian authorities together with their reception by Haitian authorities must be effectively done in a clear consistent and coherent manner across MSS contingents. Addressing conditions in prisons and treatment of detainees and prisoners, including overcrowding, in conformity with applicable international human rights law and standards, and other international standards including the United Nations System Common Position on Incarceration on detention⁵⁵ needs to be prioritized. While acknowledging the importance of avoiding undue use of pretrial detention, it will be necessary to create additional facilities compliant with international norms and standards to anticipate new arrests and detentions of alleged gang members.

49. Children recruited by criminal gangs face multiple human rights violations and abuses⁵⁶. Children should be treated primarily as victims guided by the principles set forth in, the Convention on the Rights of the Child as well as international standards and norms, including on juvenile justice and reintegration⁵⁷. In accordance with the Convention on the Rights of the Child, the arrest, detention and imprisonment of a child must be used only as a measure of last resort, and for the shortest appropriate period⁵⁸ and should be subject to regular review with a view to its withdrawal⁵⁹. Alternatives to deprivation of liberty should be favoured to emphasize successful reintegration and rehabilitation of all children.

E. Violence: Prioritizing protection and prevention

50. Prevention and protection policies should include initiatives such as community-based processes to maintain social cohesion crippled by gang violence. Community-based organizations need to play a central role to prevent and mitigate the deterioration and impact of the situation of insecurity, especially to enable humanitarian assistance. In addition, supporting community-violence reduction, disarmament, demobilisation, and reintegration is necessary⁶⁰. This requires working with the population, especially promoting the participation of women as actors of change to reduce stigmatization of victims and former gang members, especially children and the youth as well as support to former gang members

⁵⁵ See <https://www.ohchr.org/en/detention/international-standards-detention>

⁵⁶ CRC, General Comment No. 24 (2019) paras. 97-98.

⁵⁷ See A/HRC/21/25 (2012).

⁵⁸ Convention on the Rights of the Child, article 37, b).

⁵⁹ CRC, General Comment No. 24 (2019), para. 6.

⁶⁰ United Nations Operational Guide to the integrated disarmament, demobilization and reintegration standards (2010).

to help them reintegrate society and prevent their reinvolvement in gang activity⁶¹. In this context, the implementation of the National Strategy for the Disarmament, Demobilisation, and Reintegration of Armed Individuals and the Reduction of Community-based Violence, endorsed by the authorities on 5 January 2021, will be key.

51. Priority should be placed on children, both in terms of protection and prevention, based on a holistic and human rights-based approach to address their specific needs⁶². Special attention needs to be placed on children recruited by gangs. Reintegration programmes should include prolonged psychosocial support, vocational training, quality education, health care and cater to other vital needs⁶³. The thorough implementation of the Protocol on the transfer, reception and care of children associated with armed gangs encountered during territorial security operations⁶⁴ signed between the United Nations and the government is a critical tool in this context, as recommended by the Secretary General in similar cases⁶⁵. A differential response should also be developed and implemented for women and girls often facing gendered and socially constructed compounded stigma for their alleged association with armed gangs, as well as survivors of sexual violence⁶⁶.

52. Tackling gender and social norms that relegate women and girls in a position of inferiority are at the root cause of the gender-based violence perpetrated against them. Promoting gender equality would also be a key component of the prevention of violence strategy given the high prevalence of sexual violence and the targeting of women and girls.

F. Ensuring security

53. On 2 October, United Nations Security Council 2699 (2023) authorized Member States to form and deploy a Multinational Security Support (MSS) mission to support the efforts of the Haitian National Police (HNP) to re-establish security in Haiti and build security conditions conducive to holding free and fair elections. The resolution provides that the MSS mission will have to operate in “strict compliance with international law, including international human rights law”.

54. By deterring, arresting, and disarming gangs, the level of criminality and violence should drop significantly and enable Haitians to recover a degree of security and a sense of normalcy. Securing strategic installations and major roadways will allow the population living in gang-controlled areas to access basic services and humanitarian aid. It will similarly contribute to allowing freedom of movement, enabling people to come back to their residence. In addition, sustainable security will be conducive to creating a more enabling environment for the exercise of human rights, a vigorous civil society and for the restoration of democratic institutions⁶⁷.

55. Security policies and strategies, including by the MSS mission, should take into account the high-risk environment characterized by complex and interrelated dynamics, complicated by the presence of organized and highly armed criminal gangs present in densely populated areas. Most of these areas are also characterized by precarious shelters made of flimsy material. Such circumstances are likely to lead to potentially incidental and additional harm to the population. In addition, the presence of children among gangs needs to be factored in the concept of operations. Some report that gang members might retaliate against the population perceived to be collaborating with the MSS. It will be essential that the MSS mission- through effectively integrating human rights into the planning and conduct of its

⁶¹ CRC/C/HTI/CO/2-3 para. 36 37.

⁶² Gaps and needs for successful reintegration of children associated with armed groups or armed forces, Global Coalition for Reintegration of Child Soldiers (2020).

⁶³ Office of the Special Representative of the Secretary-General for Children and Armed Conflict. [Reintegration of former child soldiers](#), page 2.

⁶⁴ Memorandum of understanding between the United Nations system in Haiti and the government of the Republic of Haiti.

⁶⁵ A/77/895-S/2023/363 (2023). Para. 13.

⁶⁶ OHCHR and BINUH “Haiti: Gangs use sexual violence to instill fear – UN report” (2022).

⁶⁷ 2023, S/2023/596.

operations and in establishing its robust compliance mechanism - is able to mitigate and minimize those potential incidental and additional harm in its operations.

56. While Security Council Resolution 2699 was welcomed by a large majority of the population, local interlocutors have stressed that there is a need to inform, consult and engage the community to build trust and manage expectations regarding the MSS mission. Previous advocacy work, awareness-raising campaigns and community-engagement with the local populations will be also instrumental to sensitize populations to the need not to resort to violence and therefore avoid risks of the resurgence of mob killings or collective lynching, the “Bwa Kalé” movement.

57. OHCHR considers that, in line with Security Council Resolution 2699, it is vital to ensure that the MSS mission’s compliance mechanism, the application of United Nations Human Rights Due Diligence Policy (HRDDP), and the monitoring and reporting mandate of BINUH are conducted in parallel, in a consistent, mutually reinforcing manner that builds cumulatively and enhances its efforts to contribute to alerting and possibly preventing the commission of human rights violations and abuses.

58. The effective protection of the population by the MSS mission will also require processes consistent with human rights that include MSS’s effective selection of vetted personnel, their training, the development of rules of operations, including on the selection of appropriate equipment and in its planning and conduct of operations. Simultaneously, it is essential that the MSS mission has ability to thoroughly investigate and address any allegations of human rights violations, including sexual exploitation and abuse, through transparent and accessible processes for the population affected. It will also serve to enhance the efficacy of its operations and its contribution to stability in Haiti.

59. Resolution 2699 expands the arms embargo imposed by resolution 2653 of 21 October 2022 by replacing the targeted arms embargo by a full territorial arms embargo in Haiti. In addition, a tighter national and international controls at the borders and increased coordinated action to stem trafficking in weapons and ammunitions is a prerequisite to stem gang violence.⁶⁸

VI. Conclusions and recommendations

60. **Structural and conjectural factors have led Haiti to a cataclysmic situation, characterized by deep political instability and extremely fragile institutions. Corruption, impunity, and poor governance, compounded by increasing levels of gang violence, have eroded the rule of law and brought State institutions, which should be the basis of a democratic society, close to collapse. The impact of generalized insecurity on the population is dire and keeps on deteriorating. Against this backdrop, the population is severely deprived of enjoying its human rights. Especially the situation of children and women is distressing and may affect many generations to come.**

61. **In late February 2024, criminal gangs began conducting coordinated attacks against key State institutions’ facilities, such as police stations, prisons, and other sites in the capital Port-au-Prince, including the main port and airport. The recent escalation of violence has heightened human rights abuses, including killings, kidnappings, and rapes, especially against women and young girls. It has also precipitated the humanitarian catastrophe and further deepened the political deadlock, undermining the peace, stability and security in Haiti and the region.**

62. **The crisis has precipitated basic services, including the health system to a near collapse. A total of 18 health institutions are no longer operating in the capital region, as they are located in areas affected by armed gangs, including the Haitian State University Hospital (the reference hospital for the whole country) and the sanatorium, which used to house over 100 tuberculosis patients. The same applies to certain regions of Artibonite, where gang violence has prevented the functioning of more than 10 health institutions. According to OHCHR, hospitals have been set ablaze, medical personal**

⁶⁸ UNODC, First Quarterly report to the Security Council, 18 October 2023.

killed, injured and kidnapped and there is a shortage of basic medical supplies. 1.4 million people in Haiti are “a step away from famine”⁶⁹. The violence has displaced nearly 17,000 people in Port-au-Prince between 8-14 March⁷⁰ and has impeded the delivery of humanitarian aid.

63. The situation of the violence on children is particularly worrying. Not only children are being killed during gang attacks and caught in crossfire, but they are also increasingly used by gangs to carry out armed attacks.

64. Tackling insecurity, including through the deployment of the MSS mission, and severe political instability need to be given the utmost priority. It is essential to protect the population and to prevent further human suffering. An international security support mission will be crucial to protect State institutions attacked to their very core, including the new Transitional Presidential Council. Nevertheless, enhancing security alone will not be conducive to long-lasting solution. Comprehensive policies aiming at the restoration of the rule of law and violence-prevention will be the key for ensuring peace and security. Violence reduction strategies will also be crucial.

65. The High Commissioner calls on all national stakeholders and relevant Haitian authorities to:

(a) Engage constructively in meaningful and participatory dialogue to ensure and facilitate a broad political agreement, providing for a democratic transition, leading to free and fair legislative and presidential elections, in strict compliance with international law, including international human rights law.

(b) Urgently undertake all necessary steps to address gang violence, including in cooperation with the future MSS, to establish a minimum level of public order as a first step to ensure access of humanitarian aid, provide basic needs to the population so they can live their lives in dignity, and create security conditions conducive to free and fair elections in Haiti.

66. In addition, the High Commissioner calls in particular to the Haitian authorities to:

(a) Strengthen the Haitian National Police, including with adequate resources and equipment, to respond to gang violence, protect and secure public buildings, in particular those used to provide services to the population, and ensure respect of human rights norms and standards; as well as expedite the vetting process of police officers in the Haitian National Police, and hold accountable all those involved in human rights violations, as well as misconduct and criminal acts, in accordance with international human rights norms and standards;

(b) Allocate sufficient resources for functional and effective rule of law and justice institutions to address gang criminality and organized crime, including for investigations and prosecutions;

(c) Ensure the independence and impartiality of the Judiciary, including *juge de paix*, and establish specialized judicial poles with competence to consider cases related to corruption and crimes involving allegations of human rights violations and abuses;

(d) Improve the conditions of detention, in line with international human rights norms and standards and review as a priority pre-trial detention order, ensuring it is an exceptional measure and imposed in accordance with international human rights law.

(e) Prioritize the increase of the resources allocated to the Anti-Corruption Unit's (ULCC) for investigations purposes and work more closely with the public prosecutor, through the specialized judicial poles;

⁶⁹ WFP, March 2024.

⁷⁰ IOM, March 2024

(f) Urgently elaborate and implement comprehensive and articulated policies to address the consequences of violence and poor governance, with support from the international community as appropriate, including:

- (i) Support the re-deployment and presence of state authorities and basic social services in marginalized areas and implement policies aiming at ensuring that people enjoy at least the minimum core obligations of the rights to education, health and employment;
- (ii) Strengthen of medical and psychosocial care systems for survivors of sexual violence improving their availability, accessibility and quality;
- (iii) Implement measures, with preventive and early intervention approach, to protect children from gang violence and recruitment, strengthen the *Institut du Bien Etre Social et de recherches* to develop community-based services that respond to the specific needs and problems of children, and implement tailored programmes for children in conflict with the law in the centre of detention of CERMICOL to promote their reintegration into the society;
- (iv) Create and foster employment opportunities especially for the youth - at risk of returning to and/or being involved in criminal activities such as civic corp;
- (v) Relocate immediately all IDPs currently living in squalid conditions in school premises to safe and appropriate facilities in accordance with international standards.
- (vi) Promote social and civic initiatives, with a focus on gang affected areas, to prevent violence through grassroots engagement;
- (vii) Provide a safe and enabling civic space for civil society actors, in particular journalists, human rights defenders, and LGBT+ and community leaders.

67. The High Commissioner further calls on Member States to:

- (a) Continue to support the rapid deployment of the MSS mission in strict compliance with international law, including international human rights law, as applicable, in accordance with United Nations Security Council resolution 2699 (2023).
- (b) Encourage humanitarian and development actors to work hand in hand through the triple humanitarian, development and peace nexus to find mid- and long-term solutions to access to basic services and address the root causes of instability.
- (c) In light of the UN Security resolutions 2653 (2022) and 2700 (2023), to consider the following measures:
 - (d) Take strict measures to prevent the direct or indirect illicit supply, sale, diversion, or transfer to Haiti, from or through their territories or by their nationals, or using their flag vessels or aircraft, of small arms, light weapons, and ammunition,
 - (i) Increase inspection, in accordance with their national legislation and applicable international law, of all cargo to Haiti in their territory, including seaports and airports, if the State concerned has information that provides reasonable grounds to believe the cargo contains items the supply, sale, or transfer of weapons and ammunitions.