

## OHCHR Universal Periodic Review – Haiti

### UNICEF Haiti March 2011

This report, prepared by UNICEF Haiti, focuses on the progress made in Haiti towards the realisation of the rights of children as reflected in the Convention on the Rights of the Child and its additional Protocols. The report is not an exhaustive evaluation of the implementation of policies or legislation on child rights.

#### I. Background and Framework

##### A. Scope of international obligations

Haiti has ratified/acceded to the following Conventions related to the rights of the Child:

- Convention on the Rights of the Child (1995)
- ILO Convention 138 on the minimum age for the admission to employment (2009)
- ILO Convention 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (2007)
- American Convention on Human Rights (1977)
- Geneva Conventions of 12 August 1949 I-IV (1957)
- International Convention Against the Taking of Hostages (1989)
- Convention on the Rights of Persons with Disabilities (2009)
- Convention on the Elimination of Racial Discrimination (1972)
- Convention on the Elimination of Discrimination Against Women (1981)

Haiti has signed the following Conventions related to the rights of the Child:

- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2002)
- Optional Protocol to the Convention on the rights of the Child on involvement of children in armed conflict (2002)
- The Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption (2011)
- United Nations Convention against Transnational Organized Crime (2000)
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Preamble, supplementing the United Nations Convention against Transnational Organized Crime (2000)
- Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (2000)
- Convention on the Elimination of Enforced Disappearance (2007)

##### B. Constitutional and legislative framework

Haiti does not yet have comprehensive child protection laws. Haiti is currently working on a Child Protection Code and a Family Code (as established in Article 262 of the Constitution), but its existing legislation protecting children is widely scattered in penal, civil and administrative texts. These texts have recently been compiled in a collection entitled "current Haitian Legislation regarding Minors" for a better comprehension.

##### The Civil Code:

As regards, the civil texts, the Civil Code contains statutes regarding i) the civil registry (birth certificates, regularization of the civil registries), late birth registration, paternity and filiations (ii) the status of children in residential care centers (iii) the end of any disparity between children born within marriage and children born out of wedlock. (iv) exercise of the parental authority and

the civil majority (v) minority, guardianship and emancipation; (vi) the incapacity, exclusions and dismissals of guardianships; (vii) adoption (viii); the collection of food and guardianships claims.

#### The Penal laws:

The penal measures relative to children are scattered among different laws: i) Law of September 07th, 1961 establishing the special courts for children; (ii) Law relative to the child protection state officers; (iii) protective measure in favor of the special jurisdictions' minor; (iv) Decree of November 20th, 1961 governing the functioning of the "Juvenile court" of Port au Prince; v) the Penal Code which contains measures related to the crimes and offences against children and the offence of wandering.

#### Implementation:

In spite of the existence of these legal texts, justice for minors does not have appropriate implementation due in particular to the following reasons:

- Certain of these texts are dated and unsuitable to the current social situation of the country.
- These texts cover only the judicial protection of the children, that is to say the children in conflict with the law. The questions of social welfare of the children are almost non-existent.
- The penal protection of children is dissolved in the Penal Code and the punishment is often the same notwithstanding the victim is a minor.
- The law provides for the social workers to work hand in hand with juvenile justice judges. In practice, there are a limited number of social workers, and judges have to take decisions on children's crimes without any knowledge of their family and social background.
- The law of 1961 does not provide for children's detention, in conformity with the Convention on the Rights of the Child. However, children's privation of liberty is used as a primary solution to cases of children in conflict with the law. Alternative solutions (Diversion, foster families, placement in specialized institutions, etc.) are currently being examined by the government with the support of UNICEF.
- The current curricula of legal studies of the police, lawyers and magistrates, does not cover all legislations dedicated to minors.
- There are only two Children's Courts in Haiti, in Port au Prince and Cap Haitien. The other departments do not have Children's Judges. As a result, the files of children are often neglected in their treatment, and children are placed in detention in spite of the absence of this provision in the law.

### **C. Institutional and human rights structure**

#### Human rights institutions

An independent Human Rights Commission to monitor the implementation of the CRC has not yet been established, despite the recommendation of the Committee of the Rights of the Child following the presentation of Haiti's initial report. An Ombudsman Office (*Office de Protection du Citoyen*) exists but is not fully operational.

### **D. Policy measures**

Several plans of action have been adopted by the Haitian government:

- The 2007, National Plan of Education for All implemented by the Ministry of Education,
- The 2006 Child Protection National Plan elaborated by the Ministry of Social Affairs. However, this plan is not operational and is therefore not implemented,
- The 2001 National Plan of Action for the Health and development of Adolescents supervised by the Ministry of Health,

## **II. Promotion and protection of human rights on the ground**

### **A. Cooperation with international human rights mechanism**

Haiti reported for the first time to the Committee on the Rights of the Child on the implementation of the CRC in 2002, with a five year delay. Haiti was invited to present its second and third periodic reports in one consolidated report by 7 July 2007. This report is still due. A draft report was prepared in 2009, and validation was subsequently delayed in the aftermath of the January 2010 earthquake. UNICEF is supporting the Government of Haiti to finalise its report as soon as possible. UNICEF is also encouraging the preparation of the Alternative Report.

### **B. Implementation of international human rights obligations**

#### **a) Non discrimination**

Discrimination is prohibited under the Constitution (Art. 18). However, de facto discrimination remains high against specific groups of vulnerable children such as girls, *restaveks*, children from poor families, street children, children with disabilities and children living in rural areas.

Some laws related to succession have a discriminatory effect, it is the case of the Haitian Civil Code which states that the child born from a married man and a single woman is identified as a child born of adultery. As a result, this child will not have any right to inherit from his father at his death.

National aggregated data on the nutritional status of children under five do not indicate any discrimination between girls and boys. However, there are large disparities between children living in families belonging to the poorest quintile as compared to those living in families in the richest quintile and between children in rural vs. urban areas.

#### **b) Right to life, liberty and security of the person**

The vulnerability and risks of children to abuse and exploitation increased dramatically after the devastating earthquake that struck Haiti on 12 January 2010, as a result of the collapse of conventional protective environments, and the subsequent disruption of security, law and order. In 2010 the inter-agency Working Group on Separated Children registered 5,088 separated children, reunifying over 1,300 of these children with their families. Over 40% of these children were separated from their parents before the earthquake highlighting the root causes of vulnerability. It is thought that the number of abductions and cases of child trafficking has increased after the earthquake. Other types of crime, such as rape and other grave sexual violence and association with criminal elements, continue to be issues of serious concern, particularly in the IDP camps. Persistent poverty and youth unemployment in urban areas, aggravated by the destruction caused by the earthquake on 12 January 2010, have created an environment that is vulnerable to civil unrest and to renewed gang activities.

#### Child and infant mortality

A positive trend is shown in the neonatal mortality rate, infant mortality rate (IMR) and under-five mortality rate (U5MR) in Haiti. For example, the U5MR declined from 152 to 80 per 1,000 live births between 1990 and 2006. However, the pace of improvement remains insufficient to meet most health-related Millennium Development Goals. Despite significant progress towards reduction in IMR and U5MR, there is a need to focus on excluded children, as these examples demonstrate: some 13 per cent of children have never been vaccinated; the dropout rate for one-year-olds immunized against diphtheria/pertussis/tetanus vaccine (DPT3) is as high as 47 per cent. Large geographical disparities prevail. The main causes of child mortality in Haiti are neonatal, and they include pneumonia, diarrhoea and chronic malnutrition. An estimated 28 per

cent of children under the age of five suffer from chronic malnutrition, and 10 per cent suffer from acute malnutrition. The effect of diarrhea on child mortality is exacerbated by limited access to improved drinking water sources, hygiene and sanitation facilities.

The impact of cholera on child mortality is yet to be documented; however it is known that 26,428 of those affected by cholera, out of a total of 248,442 are children under five, approximately 10.6% (although concerns remain on under-reporting of cases, particularly at community-level. Figures are as of 25 February 2011. Source: MSPP).

### Children affected by Armed Conflict

It is important to remember that Haiti is not in a situation of 'armed conflict' as such. However, as mentioned by the Secretary General in his report to the Security Council in 2005 (A/59/695-S/2005/72 dated 9 February 2005), the Special Representative to the Secretary General on the Situation of Children in Armed Conflict has adopted a 'pragmatic and cooperative approach... focusing on ensuring broad and effective protection for children exposed to situations of concern, rather than on the definition of the term 'armed conflict' (para 96).

Indeed, the earthquake that struck Haiti on 12 January 2010 led to a breakdown of law and order and the disintegration of social structures, which in turn has contributed to a volatile security situation.

The killing of children within the context of armed violence in Haiti is a common occurrence in certain neighbourhoods of Port-au-Prince, including Martissant, Cité-Soleil, Bel-Air and Cité Eternelle in Port-au-Prince. According to official figures provided by national law enforcement authorities, 17 boys and four girls were killed in 2010 (compared to 21 cases in 2009 and 38 cases in 2008). For instance, during the last week of November and the first week of December, nine children were reported killed by armed gangs in Martissant as a result of the political unrest related to the first round of elections. It is believed that cases of children killed in Haiti remain severely under-reported.

Children as young as ten years old are reportedly being used in areas affected by armed violence, such as Cité-Soleil, Cité Eternelle, Bel-Air and Martissant, to carry guns, serve as lookouts or to courier drugs. Children are reportedly being used to, for instance, provide early warning to members when security forces are conducting operations, carry weapons and intervene in armed confrontations, convey messages, act as spies, collect ransom during kidnapping, carry out arson attacks or destroy private and public property, as well as undertake various other services for the groups. In Martissant, approximately thirty children belong to one armed gang.

Although there was a decline in the number of child abductions prior to the earthquake (89 cases in 2008; 21 cases in 2009), the numbers increased slightly in 2010, with 27 children, of which 13 girls, predominantly in Port-au-Prince. The increase can be attributed to the aftermath of the earthquake, which resulted in a breakdown of law and order and a general increase in criminality, particularly in the latter half of 2010. Children remain particularly vulnerable to abductions on their way to and from school, with some reported cases of children being abducted directly from their houses by armed elements. Abducted girls were exposed to sexual abuse and rape during captivity. Under-reporting to the authorities by families due to fear of repercussions suggests that the total number of abductions may be higher.

### Child labour, forced labour and children living and/or working in the streets

#### 1. Child trafficking:

Haiti is a source, transit, and destination country for children trafficked for the purposes of forced domestic services, economic and sexual exploitation. It was estimated before the earthquake that 2,000 children were trafficked per year. It is believed that this number has increased since the earthquake. Many of these children are commonly victims of mistreatment, sexual abuse, forced labour and criminal exploitation. In 2010, of the 11,774

children screened at the border checkpoints and at the Port-au-Prince airport, 2,509 were travelling without a legal document, and 459 were identified as victims of trafficking. (Source: Brigade de Protection des Mineurs).

Haiti ratified the Palermo Protocol against child trafficking in 2009. However, the provisions of the Protocol are not applicable unless translated into national legislation. A draft law on the prevention and repression of child trafficking exists and has been voted by the Parliament in 2010 but still waits its adoption by the Senate. However, this draft text is not fully compliant with international standards on child trafficking and needs to be revised before its final adoption.

## 2. The Restavek system:

The majority of trafficking cases are found among the “restaveks”<sup>1</sup>. The “restaveks” (meaning ‘staying with’ in Creole) are children in domestic service and are an estimated 225,000 in Haiti, representing over 8 % of children between 5 and 17 years of age<sup>2</sup>. Most children in domestic service come from the countryside and are sent to live with other families, both in Haiti and in the Dominican Republic, in the hope of a better life. In reality, the move often lands children in a worse situation. They are the first to wake up and last to go to bed, “restavek” children spend their days doing gruelling housework. Besides working without pay, most of them are not provided with basic necessities like clothes and shoes and are forced to sleep on the floor, nor do they generally go to school. “Restavek” children are deprived of the most basic child rights – the right to be cared for by their parents, the right to play, the right to go to school, the right to express themselves and the right to be free from physical and sexual abuse.

## 3. Street children:

Haiti’s population of street children was estimated to be less than 3,000 before the earthquake, but the number is widely presumed to be much larger given that the extent of population displacement, loss of life, and collapse of family and community networks. Street children are particularly at risk of abuse and exploitation, including sexual violence and recruitment into gangs.

### Other vulnerable children:

#### 1. Children in conflict with the law

*Cf. Paragraph on juvenile justice.*

#### 2. Children in residential care centres

Among the most vulnerable children are tens of thousands living in residential care facilities as “orphans.” Many of these institutions are unregulated, unsupervised and illegal, and only a fraction of these children are truly orphaned by both parents. Sometimes encouraged by what has become an unscrupulous business for some Haitians, some struggling families have placed children in residential institutions with the belief that their children will be better cared for. Before the earthquake, more than 50,000 children were estimated to be living in residential care. UNICEF has received a number of reports of child rights violations in these centres, including serious cases of child sexual abuse. At the same time, the earthquake also spurred waves of illegal and premature adoptions as well as child trafficking and economic migration.

On March 2, 2011 the Government of Haiti signed the Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption. Draft National legislation was passed by the lower chamber in 2010, and was sent to the Senate. Yet the draft legislation still needs revision to meet international standards. Revisions to the draft legislation, and ratification of the Convention remain important legislative priorities. UNICEF applauds the steps taken by

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<sup>1</sup> US State Department 2010 Human Trafficking Report.

<sup>2</sup> The US State Department report on human trafficking for 2010 estimate is: “225,000 *restaveks* in Haiti and approximately 3,000 additional Haitian *restaveks* living in Dominican Republic”.

the Government of Haiti to move forward for the further protection of children. UNICEF encourages the ratification of the Convention within the shortest possible timeframe, revision of the draft legislation to meet international norms, and the revision of existing adoption procedures.

### 3. Children with disabilities

There is little statistical information on children with disabilities in Haiti. A working group to assist people with disabilities was operationalised after the earthquake. The MSPP did finalise a strategy for People with Disabilities in the months after the earthquake. Further efforts are needed to assist children and adults with disabilities.

### 4. Children Infected and/or Affected by HIV/AIDS

With the highest HIV prevalence rate in the region, Haiti has a significant number of orphans due to HIV/AIDS. Based on the US Census Bureau estimates, there are 263,000 to 375,000 orphans due to HIV/AIDS, and an estimated 15,000 to 20,000 children infected by HIV. A protective law for people living with HIV/AIDS in general is missing. While there is no policy document on the rights of children Infected and/or Affected by HIV/AIDS, HIV/AIDS care and treatment for children is stated in the National Strategic Plan 2008-2012. Nevertheless, there is still a huge inequity in terms of access to services for Children Infected and/or Affected by HIV/AIDS materialized by worsening mortality, higher morbidity, limited access to basic social services (health, education, social protection). In 2010, only 1,032 children received ARVs for treatment, which represents 6.88% of the total estimated number of children infected. The lack of both protective law and systematic safety nets increase their vulnerability to stigma and discrimination due to their own or parental HIV status.

### Violence against women and girls

Gender Based Violence (GBV) has long been a serious issue in Haiti. The earthquake has served to increase risk factors for GBV and expose the gaps in prevention and response. Sexual violence against children committed by civilians continued to be a significant problem throughout the country as well in internally displaced persons' camps in earthquake-affected areas. While GBV statistics in Haiti are sparse and incomplete, limited data from multi-sectoral GBV response actors document that sexual assault against children is a major concern. In 2010, one international health NGO, which operates a number of medical facilities in Port-au-Prince, registered 284 cases of sexual violence, of which nearly 60 per cent were children under the age of 18. Similarly, a network of sexual and reproductive health clinics in Port-au-Prince reported treating 239 women and girls between January and September 2010, of which 58 percent were children and adolescents. Between January and October 2010, limited data from the Haitian National Police in Port-au-Prince identified an average of 25 reported cases per month with a total of 253 reports. Outside of Port-au-Prince, the Prosecutor's Office received 34 complaints in the Northwest Department, 56 in the Southeast Department, and 17 in the Northeast Department.

Sexual violence is significantly underreported in Haiti. Survivors are often reluctant to seek medical or psychosocial care or pursue legal judicial action because they lack confidence in the capacity of response systems to appropriately support them. The social stigma of sexual violence, fear of insensitive and retraumatizing interviewing and medical examinations, and inability of response actors to protect survivors from further psychological harm and in many cases threats and acts of retaliation deter many survivors from disclosing what happened to them. In addition, survivors are sometimes dependent on perpetrators for meeting their basic needs, as in the case of marital rape, which affects an estimated 17% of Haitian women, and child sexual abuse involving fathers, stepfathers, adolescent male relatives, and others in positions of power over child victims. Furthermore, because evidence is commonly weak or poorly substantiated, only a small number of perpetrators are duly prosecuted, tried, and convicted, resulting in impunity. Some cases of rape are informally resolved through the negotiation of economic settlements between the families of the survivors and the perpetrators.

Despite significant advances in legislation over the past decade and a very robust feminist movement in Haiti, the Government has a limited capacity to effectively address the various forms of GBV in Haiti. The GBV Sub-Cluster initially sought to temporarily stand in for the National Committee for Violence against Women that was largely devastated during the earthquake but has been incrementally transferring the responsibilities back to the pre-earthquake actors, while further building technical skills and knowledge about GBV prevention and response. However, much work remains to be done, in particular around long-term systems building within the police, medical sectors, social welfare agencies, and legal justice structures.

### **c) Administration of justice and the rule of law**

#### Juvenile Justice

As in every country there are issues with the treatment of children in contact with the law. Legislation regarding children in contact with the law is found in *Loi du 7 septembre 1961 instituant les Tribunaux speciaux pour enfants* and *le Decret du 20 novembre 1961 instituant le Tribunal pour Enfants*. This legislation is outdated and is in need of revision. The legislation does not take into account the current context. The Legislation from 1961 does include the option of alternatives to detention, including the use of foster families instead of detention, but alternatives to detention are not adequately implemented. Nor are there appropriate provisions for child victims. The 1961 legislation thus needs to be revised.

The age of criminal responsibility for children in Haiti is 16. Most children are detained in pre-trial detention for largely petty crimes. The 1961 Legislation does make provisions for Children's Judges, and indeed for the eighteen legal jurisdictions throughout the country there are judges who have been designated as Children's Judges. The reality and application of this is quite different. In reality there are two functioning Children's Judges, one in Port au Prince, and the other in Cap Haitian.

The Direction de l'Administration Pénitentiaire (DAP) does keep statistics on children in detention. As at December 31, 2011 there were 132 children in pre-trial detention in the country, and 47 children convicted of crimes in detention. As at February 28, 2011 there were 152 children in pre-trial detention in the country, and 36 children convicted of crimes in detention. The situation of children in detention is of concern. Most children are held in pre-trial detention on average between 18 months and two years, often for petty crimes. Children and adults, as well as pre-trial and condemned detainees, continue to generally share the same cells throughout the country. The Direction de l'Administration Pénitentiaire, with the support of the international community, has undertaken steps to resolve this issue, within the framework of the Development Strategic Plan 2007 – 2012. While the prisons/detention centres need to conform to the CRC, and the Beijing Guidelines, alternatives to detention must be encouraged.

There is not appropriate access to legal representation for children in contact with the law. UNICEF is working with the Ministry of Justice (which includes both DAP and the BPM), the Ministry of Social Affairs and Labour (including IBESR/ the Institute of Wellbeing and Social Research) on comprehensive reforms for the protection of children in contact with the law, including promoting alternatives to detention where possible, and the link between social workers and the police, judges, etc. MINUSTAH is also actively involved in these efforts, both Child Protection and Rule of Law sections.

### **d) Right to social security and adequate standard of living**

The January 2010 earthquake underlined the structural problems and lack of social welfare and social security mechanisms for children, families, and communities in Haiti. Haiti ranked 145<sup>th</sup> out of 169 countries in the United Nations Human Development Index in 2010, making it the poorest country in the Western Hemisphere. Weak institutions and governance structures has led to an over privatisation of social services such as education, which are almost entirely

managed by non-State actors, while the country also implements a cost-recovery policy for basic health services.

The prolonged displacement of more than one million persons in camps also provides a reminder of the persistent bottlenecks to the reconstruction process, and the need to catalyze the implementation of more comprehensive social protection systems that might enable vulnerable groups to move home, and benefit other vulnerable families.

UNICEF recognises the need to enhance the Government of Haiti's capacity to plan and manage the delivery of basic social services for recovery, and to leverage the unprecedented resources mobilised in the wake of disaster. There is an important opportunity to catalyze the transformation of institutions and community-based systems that promote the survival, protection and empowerment of children.

Progress towards achieving MDG1 (end poverty and hunger), for example, is likely to have regressed, due to loss of livelihood and economic opportunities following the earthquake. Some 48 per cent of households show a decrease in wealth since the disaster; as much as 43 percent of Port-au-Prince's labour force is believed to be self-employed with many informal businesses mostly run by women having lost their capital.<sup>3</sup> Already prior to the earthquake, three quarters of Haitians were surviving on only \$2/day, and half on only \$1/ day. Income inequality was extremely high, with a Gini coefficient of 0.66. The income inequality is mirrored by levels of child poverty<sup>4</sup> with stark disparities between urban and rural areas. Absolute poverty affected only 8 percent of children living in the metropolitan area in 2005 for example, compared to 61 percent of children living in the countryside.<sup>5</sup> Already before the earthquake malnutrition was a silent crisis for children: one in five children under five years was underweight and one in three children was suffered chronic malnutrition.<sup>6</sup>

### Right to health

Despite progress in reducing IMR and U5MR over previous years (MDG 4), the final impact of the earthquake and of the cholera outbreak on child mortality has yet to be ascertained. It is clear however, that the earthquake-related death toll for children under-five was greater than the average estimated deaths per year. While children's right to health suffered following the destruction of hospitals and health centres, there is some evidence that access to health has improved through the expansion of humanitarian assistance<sup>7</sup>. However, an estimated 13 per cent of children have still never been vaccinated, underlining the need to "narrow the gaps" and reach the hardest with sustainable services outside earthquake-affected areas. Maternal mortality (MDG 5) in Haiti is far off track and was likely to be negatively impacted by the disruption of services after the earthquake. Even before the disaster, Haiti was in fact moving *further away* from the targets set out under MDG 5, with maternal mortality increasing from 523 per 100,000 live births for the period 1993-2000 to 630 per 100,000 live births for the period 1999-2006. With regards to MDG 6 (Combat HIV/AIDS, malaria and other diseases), some 70 to 80 per cent of people living in low-lying coastal areas are at risk of contracting malaria but only five per cent of children suffering from fevers receive anti-malarial treatment<sup>8</sup>. HIV/AIDS prevalence remains the highest in the region but only one in five women tested actually receives counseling on Prevention of Mother-to-Child Transmission of HIV/AIDS (PMTCT)<sup>9</sup>.

### Birth registration

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3 International Crisis Group, Latin America Briefing #32, 31 March 2010, page 4

4 Deprivation in the context of child poverty is defined at the extreme end of the scale for each measure, thus education deprivation is defined as a child aged 7-18 who had never been to school, and health deprivation as a child who had received no vaccinations at all.

5 David Gordon & Shailen Nandy, Absolute Child Poverty in Haiti in the 21st Century. 2007

6 Michel C, Placide MF, Mariko S, Barrère B, Sévère B, Alexandre C. Enquête Mortalité, Morbidité et Utilisation des Services, Haiti, 2005-2006. Calverton, Maryland, USA : Ministère de la Santé Publique et de la Population, Institut Haïtien de l'Enfance et Macro International Inc. 2007

7 MSF, Haiti One Year After, 2011

8 Institut de l'Enfance Haïtienne, Enquête Mortalité, Morbidité et Utilisation des Services (EMMUS)IV, 2005-06

9 WHO, UNICEF, UNAIDS. Towards universal access: scaling up priority HIV/AIDS interventions in the health sector. Progress report 2009.



Following the 2006 Mortality Survey<sup>10</sup>, 81.1% of births are declared at the civil registry and 70.7% of births have a birth registration. Strong administrative barriers to birth registration exist for children and their families. Out of 185 civil registry offices nationally, 150 (i.e. 81.1%) are in cities<sup>11</sup>. Only three offices are in the 570 communal sections while 60% of Haitian populations reside there<sup>12</sup>. Even though the procurement of a birth registration is free until the age of two, there is often an informal administrative fee associated to the registration process.

The lack of birth registration has the following consequences for children:

- Prevention to take the official exam at the end of primary school, thus access to secondary education. Children have access to primary education without a birth certificate. Even though a birth certificate is asked for, if the child doesn't have one, alternative documents can be provided such as a vaccination card or a baptism card. In case no documents are available, a family member or community members can present themselves with the child. However, a birth certificate is required for children to take their official exams at the end of the primary cycle and so to enter secondary education.
- For children in contact with the law, there is a risk of detention if a birth certificate is not provided to prove the child is under 16 years old which is the age of criminal responsibility.
- Prevention of travelling abroad: embassies require the original birth certificate to provide travel authorization.

The lack of birth registration can also increase the risk of trafficking, the risk of family separation during emergency and is an increased barrier to family reunification.

### **e) Right to education**

Progress meanwhile is insufficient to ensure all children are in school (MDG 2), given that the majority of children in Haiti were out of school before the earthquake<sup>13</sup> and the 2010 earthquake crippled the education system, reduced some 3,978 schools to rubble, caused the death of an estimated 1,500 teachers, and led to the interruption of education for some 2.5 million. According to a camp-based rapid assessment conducted in November, an estimated 25 per cent of children living in IDP camps who were enrolled in school before the earthquake could not return in October<sup>14</sup> primarily for financial reasons.

Before the earthquake 80 percent of education services were delivered by the non-public sector. Governance capacities were limited and the government regulatory role was weak. The earthquake only exacerbated capacity gaps at the national, departmental and communal levels, further deteriorating national ownership, especially at decentralized levels. While vacancy rates are high, the technical capacity of education officials employed is also often limited. A number of Ministry officials, including school inspectors, lack the capacity to adequately execute their roles and require support to develop management, operational planning and supervisory skills. The absence of an effective Education Management of Information System is also a great constraint, limiting the ability of all stakeholders in the sector to effectively conduct evidence-based planning and decision-making. Overall, these factors constrain coherent policy development, implementation and coordination efforts between government; the private sector and the assistance community. Although a great deal of work has been done in 2010- education services in Haiti remain of poor quality and relevance, with low internal efficiency and poor learning achievements displayed by pupils.

The Government of Haiti five-year Education Strategic Plan (finalized at the end of 2010) focuses on five main areas:

1. Increasing access to basic quality education by supporting new learning opportunities for vulnerable groups (including expansion of semi-permanent school construction in underserved areas; expanding the accelerated learning programme for out-of-school and

<sup>10</sup> Enquete de Mortalite, Morbidite et Utilisation de Services Sante, EMMUS IV, 2006

<sup>11</sup> UNFPA study on geographical spread of civil registry offices and population geographical distribution, 2008

<sup>12</sup> Ibid

<sup>13</sup> Based on attendance levels estimated through the Enquête Mortalité, Morbidité et Utilisation des Services (EMMUS)IV, 2005-06

<sup>14</sup> UNICEF. Enquete de Rentree Scolaire, November 2010

- over-aged children; implementing the nationwide Go-to-School campaign and continuing efforts to advocate for the abolition of school fees and other barriers to achievement of universal education);
2. Improving the quality of education services (by supporting the MENFP and its partners in the development and implementation of an innovative model that aims to improve quality of education and school-based management);
  3. Strengthening institutional capacity of the MENFP at national and local levels (in targeted areas) to enhance regulation, planning and overall governance of the education sector;
  4. Supporting development and implementation of ECD policies and standards with the view of increasing access and quality of pre-primary education services and improving school readiness;
  5. Strengthening the capacities of the national and local education personnel on minimum standards of education in emergencies and disaster risk reduction (DRR) programmes. This includes supporting MENFP to develop and integrate a DRR component in the national curriculum as well as sustaining efforts to prevent cholera in schools and facilitating the movement of displaced persons through provision of learning opportunities in areas of return or resettlement.

### **III. Achievement, best-practices and constraints**

UNICEF acknowledges that the Government of Haiti faces several constraints in implementing the full scope of its CRC obligations due to the country's political and economic present challenges.

UNICEF identifies the following challenges:

- **SOCIAL BUDGETING AND PLANNING FOR CHILD PROTECTION:** There are very limited national budget allocations for social services. Haiti's social service system needs to be reformed. Coordination between government authorities on child protection needs to be reinforced, especially on the issues of child abuse, sexual abuse, trafficking, migration, and the commercial sexual exploitation of children.
- **WEAK REGULATION:** Part of the issue with weak government structures is lack of regulation in a sector prone to fraud and corruption, including in residential care, where reform is challenging, due to the system of remunerations to crèches and residential care facilities, often linked to child trafficking and international adoption.
- **DECENTRALISATION:** Support to Government counterparts is underway, but it is not yet to scale outside of Port-au-Prince. Staffing of government agencies (in particular IBESR) are not fully decentralized and thus UNICEF support, even if more decentralized, requires deeper structural governmental changes.

### **IV. Key Priorities, Initiatives and Commitments**

While further developing and consolidating the legal framework, serious and immediate attention needs to be paid to developing a policy and regulatory framework that would guide the implementation of the CRC in Haiti. In parallel, the capacity of government mechanisms and institutions that are mandated by legislation to carry out the legal provisions also need to be developed. It is only through a comprehensive approach that Haiti would be able to meet its obligations under the CRC.

In order to achieve this goal, resources have to be made available through a child- and family-oriented social budgeting policy. In its last concluding observations, noting that current budget allocation of resources are inadequate, the Committee on the Rights of the Child urged Haiti to prioritise specific budgetary allocation in order to "address, in particular, the needs of the most vulnerable groups of children".

### **V. Capacity building and technical assistance provided by UNICEF**

UNICEF is providing technical and financial assistance to Government Entities and CSOs on a number of issues related to the implementation of the CRC:

#### Solutions for children without parental care

UNICEF has supported IBESR staff in monitoring and assessing residential care centres in Haiti and in promoting the reunification of children from these facilities with their families. This work has included trainings to the IBESR team on family reunification and reintegration. UNICEF also provides direct support to IBESR to employ protection and community liaison agents, who monitor child care institutions. They also identify, register, accompany, and reintegrate children who have been separated from their families as well as those who are victim of abuse, exploitation, and violence. Post earthquake international NGOs have also been key actors in Child Protection activities, especially family tracing and reunification work. Over 200 NGO case workers are involved in family tracing and reunification work.

#### Community-based child protection

Key to UNICEF's child protection work is promoting and strengthening a protective environment for all children. The activities involved in community-based child protection programming include psychosocial support, Child Friendly Spaces, and building community-level child protection awareness and mechanisms. Community-based child protection is a means to stimulate community-level child advocacy and is vital to establishing sustainable systems for child abuse prevention and referrals.

#### Prevention and response to gender-based violence

Gender Based Violence has long been a serious issue in Haiti. The earthquake has served to increase risk factors for GBV and expose the gaps in services to prevent and respond to GBV. UNICEF has been supporting the Women's Ministry as well as local and international partners to engage communities in challenging harmful gender norms that contribute to the culture of silence around GBV and to address obstacles for survivors of GBV who seek medical and psychosocial care and support, security, and justice. UNICEF's GBV programme is reinforcing GBV referral systems that were weakened by the earthquake, increasing awareness about GBV and improving the quality and availability of prevention and response services.

#### Addressing child trafficking and community policing

UNICEF is also working with the BPM, who are engaged in trafficking prevention and response at the four border areas and the airport in Port-au-Prince in collaboration with UNICEF supported partners such as Heartland Alliance. The BPM are also working in more than 120 displaced person camps in Port-au-Prince to prevent and respond to violence, abuse, and exploitation in communities. UNICEF is leading coordination efforts and supporting closer collaboration between IBESR and the BPM in the border areas, camps, and residential care centres.

#### Support to children in conflict with the law:

UNICEF supports the Ministry of Justice in the reinforcement of the legal framework for minors by developing projects aiming at reducing pre-trial detention, providing legal assistance to minors in the jurisdiction of Port-of-Prince, supporting the organization of a monthly working group on juvenile justice, supporting the revision to legislation, and financing the placement of juvenile judges and social workers outside of Port au Prince.