



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Consideration of reports submitted by States parties under  
article 18 of the Convention on the Elimination of All Forms  
of Discrimination against Women**

**Combined initial, second, third, fourth, fifth, sixth and seventh  
periodic reports of States parties**

**Haiti\***

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\* The present report is being issued without formal editing.

**LIBERTY EQUALITY FRATERNITY  
REPUBLIC OF HAITI**

**Implementation of the Convention on the  
Elimination of All Forms of  
Discrimination against Women  
CEDAW**

**COMBINED REPORTS  
1982, 1986, 1990, 1994, 1998, 2002 and 2006**

**Port-au-Prince  
March 2008**

## FOREWORD

On behalf of the Republic of Haiti, I am proud to present in the pages that follow the reports on implementation of the Convention on the Elimination of All Forms of Discrimination against Women. The Convention was ratified in 1981 and, pursuant to article 18 of that same Convention, the Government of Haiti should have submitted an initial implementation report one year after ratification and another every four years thereafter. To compensate for failure to produce those reports, starting in April 2006 the Ministry for the Status of Women and Women's Rights stepped up its activities and embarked on the process of preparing the report. That report is of the utmost importance to the Haitian State. It enables it to evaluate and systematize progress made with respect to women's rights and to establish priorities for the future.

Preparing the CEDAW report was a participatory process. Government institutions, civil society organizations, and women's organizations in particular were consulted and became involved in the process. That exercise strengthened the involvement of State institutions in issues relating to women's rights. That is a key step. Promoting the equality of men and women involves the Haitian State as a whole, not just the Ministry for the Status of Women and Women's Rights (MCFDF).

On 14 and 15 February, 2008, approximately 100 representatives of government organizations, civil society organizations, and of women's and human rights organizations, in particular, took part in the workshop held to discuss and validate the report on implementation of the Convention on the Elimination of All Forms of Discrimination against Women. For two days, those members of government institutions and of civil society discussed key issues in connection with the report: legislative reforms in favour of women, women's participation in political life, and progress in the fight against violence specifically directed against women.

This report was the product of a collective effort. First and foremost, I would like to underscore the contribution of two consultants, who spared no effort to make this publication possible:

- Ms. Adeline Magloire Chancy, Minister for the Status of Women and Women's Rights from 2004 to 2006, in her capacity as national consultant; and
- Ms. Huguette Gnacadja Bokpe, a former expert on the Committee on the Elimination of Discrimination against Women, in her capacity as international expert.

These two consultants were able to rely on the support of a team at the MCFDF formed to make the project materialize. I would like to mention, in particular, Ms. Rose Esther Sincimat, Assistant Director of Gender Mainstreaming [*Prise en Compte de l'Analyse selon le Genre*], in the area of data gathering and analysis, and Ms. Myriam Merlet, Chief of Staff, for supervision and coordination.

Given the difficulty of acquiring all the technical and material resources needed to draft all those worryingly overdue reports, the Government of Haiti received assistance from the United Nations Division for the Advancement of

Women. A panel of Convention experts, organized by the Division for the Advancement of Women of the United Nations Department of Economic and Social Affairs, took part in a mission to Haiti in April 2007 in order to identify gaps and challenges facing the Government in its efforts to implement the Convention. Some of the members of that mission, including Ms. Françoise Gaspard, vice-chairperson of the Committee of Experts, joined us again for the workshop in February of this year. The Canadian Cooperation Office and the Gender Parity Section of the United Nations Stabilization Mission in Haiti (MINUSTAH) also lent support for the preparation of this report.

First and foremost, the Haitian Government owes this report to the women of Haiti. It was imperative to compile an exhaustive appraisal of the status and situation of the women and girls of Haiti.

Port-au-Prince, March 2008,  
Marie Laurence Jocelyn Lassegue  
Minister

**Speech by the Prime Minister, His Excellency****Mr. Jacques Edouard Alexis****on the occasion of the presentation of the preliminary version of the Reports****14 February 2008**

Madam Minister,

Mr. President of the Senate,

Mr. President of the Chamber of Deputies,

Messrs. Vice-Presidents of the Senate and the Chamber of Deputies,

Ladies and Gentlemen Presiding Officers,

Honourable Parliamentarians of both chambers,

Honourable Representatives of the diplomatic corps,

Ladies and Gentlemen of civil society,

National and international consultants,

Dear participants,

Ladies and Gentlemen,

Haiti signed the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in Copenhagen on 18 July 1980. It ratified it on 7 April 1981. The Convention was published in the official journal “Le Moniteur”, No. 38, on 11 May 1981, at which point it entered into force. In ratifying that Convention, the Government of Haiti formally committed, on the one hand, to adopting all measures needed to ensure its implementation nationwide and, on the other, to submitting periodic reports on progress made to the Committee responsible for monitoring said Convention.

In signing that Convention, the Government of Haiti confirmed its resolve to strive to achieve an egalitarian society. Today we reconfirm that resolve. There can be no modern State without guaranteed equality for all citizens, with no distinction based on sex, race, or origin, and so on.

Finally, years later, (Haïti mèt devwal o pwop) [Creole for “Haiti assumes control over its own destiny”], Haiti completed its first report, after a 25-year long period (from 1982 to 2006) characterized by a turbulent political context and the arduous, sometimes painful, path of the Haitian people toward democracy. My Government decided to prepare a combined report, comprising the initial report and the periodic reports of 1982, 1986, 1990, 1994, 1998, 2002 and 2006. Preparing it was a process of the utmost importance, headed by the Ministry for the Status of Women and Women’s Rights. Allow me to stress once more the Government’s support for that institution, which is so important for forging social cohesion.

Since it took office, my Government has taken care to ensure that all sectoral policies are shaped and implemented with a view to achieving due respect for the principle of gender equity. The submission of the report testifies to the Government’s determination to honour both the Haitian State’s commitment to the

Convention and the commitments set out in its Overall Policy to pursue a policy of inclusion, dialogue and reconciliation with all segments of national life.

Women comprise 52% of the Haitian population. Accordingly, the Haitian Government has a pressing obligation to take gender-specific conditions into account and, above all, to establish and direct public policies toward respect for the full citizenship of women. Thus, equality of all women and men in education, professional training, and employment; unfettered participation in decision-making; and the establishment of stronger mechanisms for combating forms of violence specifically directed against women and girls are now, all of them, actions the Government is duty-bound to pursue.

Today, on the eve of March 8, I repeat that no State can claim to be a democratic, modern, legally constituted State if it does not establish the objective conditions required for the equality of women and men. The fundamental rights of women and girls are inalienable and an inseparable integral part of universal human rights. It is essential for the promotion of democracy that women and girls enjoy to the full, and on an equal footing, all fundamental rights and basic freedoms. That, for my Government, is a top priority.

Thus, in considering women's rights and the gender perspective in our country's policies, we are reminded of the challenges of forging a more participatory, more representative and, hence, more egalitarian democracy. Accordingly, the Government once again commits itself to pressing ahead in that direction, supporting the Ministry and endowing it with all the resources it needs to pursue its actions, programmes and projects aimed at ensuring effective gender-mainstreaming in both the private and the public spheres.

May this report, presented to you today and shortly to be submitted to the Committee on the Elimination of Discrimination against Women, prove to be a decisive step forward, turning women's aspirations into a reality for the advancement of this country. I invite all member of society, and women and girls in particular, to place their trust in the future, in the construction of a democratic State that takes into account the needs of all social strata without any form of discrimination.

I wish you all the best in your endeavours.

**Speech by the President of the National Assembly,  
The Honourable Kelly Bastien,  
on the occasion of the presentation of the preliminary version of the Reports  
14 February 2008**

Your Excellency, the Prime Minister,  
Members of the Cabinet,  
Members of the diplomatic corps,  
Representatives of international organizations,  
Honourable Senators,  
Honourable Members of the Chamber of Deputies,  
Representatives of the political parties,  
Distinguished guests,  
Ladies and Gentlemen,

It is an honour for me to take the floor in this august assembly on the occasion of this workshop to validate the report on implementation of the Convention on the Elimination of All Forms of Discrimination against Women. The privilege conferred on me is undoubtedly a door ajar that needs to be forced wide open. Indeed, during my term as President of the Chamber of Deputies in 1997, on International Women's Day, organizations for the defence of women's rights led by the leaders of the day, including the current Minister for the Status of Women and Women's Rights, had begun a debate on gender issues in the Diplomatic Room in Parliament. That initiative was well received by my colleagues in the Chamber of Deputies and, before the renewal of the Presiding Officers of the House, two meetings had taken place in the Senate in the presence of representatives of feminist organizations to discuss initiatives for preparing bills and legislative proposals with regard to the emancipation of women in Haiti. Eleven years have elapsed since then.

Major progress has undoubtedly been made in the struggles led by women's organizations all over the world and, specifically, in Haiti. The women in certain countries, above all in Europe and in the Americas, have proved that equality of the sexes is not a nightmarish dream. Ms. Michèle Bachelet is President of Chile, Ms. Krouchner is President of Argentina, Ms. Condoleeza Rice is Secretary of State of the United States of America and Ms. Angela Merkel is Chancellor of Germany. I will spare you my lengthier list, which in any case by no means signifies that discrimination against women has come to an end.

Other battles need to be waged if women all over the world are really to enjoy the same rights as men. Even now, male chauvinist civilizations reduce women to the level of animals and things. Even now, in certain countries, men have the right to decide on matters of life or death for women. To this day, the constitutions of certain countries prohibit women's access to paid work and to education. An ongoing struggle is needed to bring about the full and integral liberation of all the women on our planet.

In our country, Haiti, women are everybody's mothers. They are housewives, they clean the house, they cook, they farm; they break up rocks, they are washerwomen, single heads of household, maids. They alone are responsible for producing more than half of everything under the sun in Haiti. And yet they are beaten and abused by their own husband. They are raped and humiliated by those who themselves were born from a woman's womb. They are abandoned after having delighted those who took too much pleasure in them. These loathsome conditions have to change for all women. Conventions and other international instruments on human rights and women's specific rights are important steps on the way to a world free of prejudice and discrimination. The implementation of those instruments has to be built into our way of living and day to day reflexes.

The Haitian Senate is ready to play an active part in all initiatives regarding arrangements to be made for preparing bills for advancing the emancipation of Haitian women. The Senate itself testifies to that commitment. The personnel, the human resources that run the institution, are both male and female, whereby the share of women is far greater than that of men. This is not demagogy. The composition of the staff is not such that positions of responsibility are reserved for men. Women's placements are on a par with those of men. I therefore encourage all public and private institutions in the country to follow the Senate's example in order to facilitate access to all positions of responsibility for women as qualified as men. The Senate is ready to give preference to all bills regarding the treatment to be accorded women, children and disabled persons in order to protect them from all kinds of aggression. I would like to congratulate, inter alia, the Ministry for the Status of Women and Women's Rights, which has already launched its legislative agenda by sending to Parliament three draft bills on domestic labour, consensual unions, and paternity and filiation. I can assure you, Ladies and Gentlemen, that once those bills have been submitted for adoption by the Senate, they will be voted on without delay.

I would like to end by insisting on the need to mobilize as many public and private institutions as possible to assist the most vulnerable groups in society so that they are able to live with dignity in the best possible conditions available to humankind. I hope that this workshop to validate the report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women is a great success for the benefit of all humanity and for women in particular. I wish you all the best in your endeavours.

Thank you!



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## Introduction

Haiti signed the Convention on the Elimination of All Forms of Discrimination against Women in Copenhagen on 18 July 1980 and ratified it without reservations on 7 April 1981. The Convention was published in issue No. 38 of the official gazette “Le Moniteur,” on 11 May 1981, at which point it entered into force. In ratifying that Convention, the Government of Haiti formally committed, on the one hand, to adopting all measures needed to ensure its implementation nationwide and, on the other, to submitting periodic reports on progress made to the Committee responsible for monitoring said Convention. A description of the political and social context surrounding ratification of the Convention and the framework for its implementation highlights the key stages of what was an extremely painful path toward the establishment of a legally constituted State.

First, the political and legal setting in which the Convention was signed – at variance with the spirit of human rights covenants and conventions – hardly facilitated its implementation. In 1981, Haiti was still governed by the Constitution of 1964, which made François Duvalier (elected in 1957) President for life. That Constitution was amended in 1971 in favour of his son, Jean Claude, who, at age 19, thereby inherited the life-long presidency of Haiti that his father had proclaimed for himself.

So the dictatorship of the Duvalier dynasty had been holding sway for 20 years and, propped up by a servile army and an all-powerful militia, crushing with summary executions, imprisonment without trial, and torture the slightest, incipient sign of opposition or attempt by civil society (political parties, trade unions, associations of all kinds, journalists) to organize and express itself. Resistance was forced to go underground and the views of Haitian democrats could only be voiced in groups of exiles.

It is not, therefore, surprising that the ratification of certain international instruments, due, no doubt, to foreign policy expediency, remained a formality within the confines set by a small circle of the powerful. They included the 1972 Convention against Racial Discrimination and the 1981 Convention on the Elimination of All Forms of Discrimination against Women. Nevertheless, this latter Convention sowed the seeds of important future changes to the legal status of women.

Key developments in the legal status of women in the post-Duvalier period were as follows:

1986, the year Jean Claude Duvalier was ousted, was a turning point. It unleashed an explosion of the democratic forces that had been gagged for so long. The first mass demonstration on 3 April 1986 was organized by women, who have forged a movement that since then has had a marked impact on the political life of the country. They revived the spirit of the struggles fought by the Women’s League for Social Action<sup>1</sup> which achieved women’s right to vote in 1950. The 1987 Constitution, which was supported by an overwhelming majority, guaranteed equality with no distinction between the sexes and proclaimed democratic freedoms.

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<sup>1</sup> Haiti’s first women’s organization, the Women’s League for Social Action, led the battle which won Haitian women the right to vote.

It was around that time that women's associations began disseminating the Convention on the Elimination of All Forms of Discrimination against Women.

Thereafter, there was no going back to pre-1986 conditions. Freedom of expression would indeed be repressed but was never again completely silenced. In 1988, the Secretariat of State for the Status of Women was established during the brief interlude of civilian government under Leslie F. Manigat. In 1990, a government headed by a woman, Ertha Pascal Trouillet, a judge of the Court of Cassation who was appointed Provisional President of the Republic, arranged free elections, which resulted in the people electing Jean Bertrand Aristide as President. However, a military coup d'état in September 1991 put a quick end to that experiment. Clandestine resistance networks formed once again and then became emboldened. Women, who were among the most active, paid a heavy price. It was during the coup d'état that rape was used as a weapon of terror and repression.

1994 saw a return to the constitutional order, which, although contested in certain democratic circles, eventually permitted the establishment of some of the democratic institutions contemplated in the 1987 Constitution including, in particular -- thanks to the pressure exerted by certain women's organizations --, the Ministry for the Status of Women and Women's Rights, which was established in November. The Ministry headed an inter-ministerial delegation to the 1995 Beijing Conference and made some commitments on the Government's behalf. In 1996, Haiti ratified the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará).

In 1998, women's organizations become stronger, more structured and more specialized in order to forge a common front against any deviation from democracy and against violence specifically directed at women. That year, in Port-au-Prince, they organized an International Tribunal on Violence against Women in Haiti and called for justice for victims. It was the crucible for establishing a platform that worked closely with a parliamentary commission for the amendment of laws discriminating against women. The Senate adopted some of the bills that women were calling for but then Parliament was dissolved at the beginning of 1999 before the representatives in the Chamber of Deputies had had time to vote on it.

Between 1996 and 2004, the Ministry for the Status of Women had problems establishing its role and imposing itself. Frequent changes of Minister and the politicization of institutions for party-political purposes rendered it unpredictable and ineffective. The advancement of women suffered as a result. In civil society, the struggle to prevent anti-democratic setbacks broadened its scope. In 2004, the advent of a transitional government opened up a niche that women's movements decided to exploit.

A set of guidelines was adopted by the new team heading the Ministry for the Status of Women and Women's Rights that strengthened the institution and provided a clear statement of its mission, of the organizational structure established to fulfil that mission, and of partnership with civil society and women's organizations in particular. That partnership even included consultations regarding reform of the legal framework and ways to combat violence against women. The decree of 6 July 2005 amending the Penal Code's provisions on sexual assault and the elimination of discrimination against women victims of it marked a high point for that period.



In 2006 a new government took office after free elections. It signalled also a new turning point for the Ministry on the Status of Women and Women's Rights, which found itself thereafter in a better position to induce the in-depth legal and social changes needed to bring about an egalitarian society free of all forms of discrimination against women. The right time had come to ensure that the Convention ratified in 1981 was strictly applied and to honour Haiti's commitments regarding the submission of periodic reports.

Haiti, which had not yet produced a report, despite being one the first signatories to the Convention, seized the opportunity offered by the Committee on the Elimination of Discrimination against Women of combining the initial report with the pending periodic reports. Thus, in this document, the Government of Haiti is submitting the initial report due in 1982 and the periodic reports due in 1986, 1990, 1994, 1998, 2002, and 2006. The due date for submission of the next report is 2010.

In March 2007, the Ministry for the Status of Women and Women's Rights (MCFDF), whose Directorate for the Defence and Promotion of Women's Rights is responsible for drawing up the country report, set in motion a process involving the recruitment of a national expert and an international expert to help perform this task.

That participatory and transparent process brought ministries and other government institutions into contact with civil society, particularly women's organizations, for the joint task of preparing this document.

In February 2008, the Report was endorsed by a validation workshop chaired by the Prime Minister and the President of the National Assembly and attended by stakeholders and representatives of civil society. The media provided ample coverage of the event, thereby helping to inform the public about the Convention, the status of its implementation in Haiti, and the commitments made by the Government and by Parliament to continue and to enhance the progress made.

## **General introduction to Haiti**

### **1. Territory and Population**

The Republic of Haiti, better known as Haiti, is a Caribbean State. It occupies the West coast of the Island of Haiti (or Hispaniola), which it shares with the Dominican Republic, located on the eastern side. Haiti ranks second in size, after Cuba, among the larger islands of the Greater Antilles. The country is bordered by the Atlantic Ocean and the Caribbean Sea. The islands nearest to it are, to the West, Cuba and Jamaica, and, to the East, Puerto Rico.

Haiti is divided into ten (10) departments: Ouest, Nord, Nord-Est, Nord-Ouest, Artibonite, Centre, Sud, Sud-Est, Grande Anse and Nippes. There are one hundred and forty (140) communes and five hundred and seventy (570) "communal sections". Haiti's capital, Port-au-Prince, is located in Ouest Department. Port-au-Prince and three (3) neighbouring communes - Carrefour, Pétion-Ville and Delmas – comprise the Metropolitan Area.

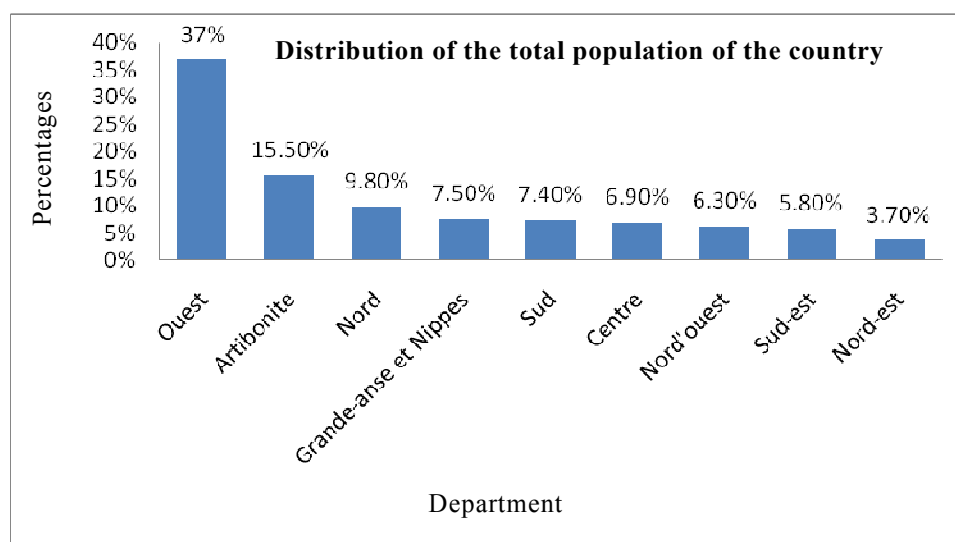
Map of the Republic of Haiti



### Demographic data:

The population of Haiti has grown extremely fast, from 8, 373,750 inhabitants in 2003<sup>2</sup> to 9.6 million, according to the National Poverty Reduction and Growth Strategy Paper (DSNCRP) published in September 2007. More than one third (37%) of the population lives in Ouest Department, where the country's capital is located, 16% live in Artibonite, 10% in Nord Department, and the rest in the remaining seven departments.

The share of the rural population diminished rapidly in the second half of the Twentieth Century, from 87.8% in 1950 to 59.58% in 2003. Approximately 60% of the total population live in rural areas. There is constant migration from rural areas to the towns and, in particular, to the Metropolitan Area. There is mass displacement of the urban population in West Department especially, where there are 640 people per square kilometre, compared to the national average of 286. The concentration is particularly marked in the capital, Port-au-Prince, and in the Metropolitan Area. The population is growing at an annual rate of 2.2%



Source: Population and Housing Census, 2003.

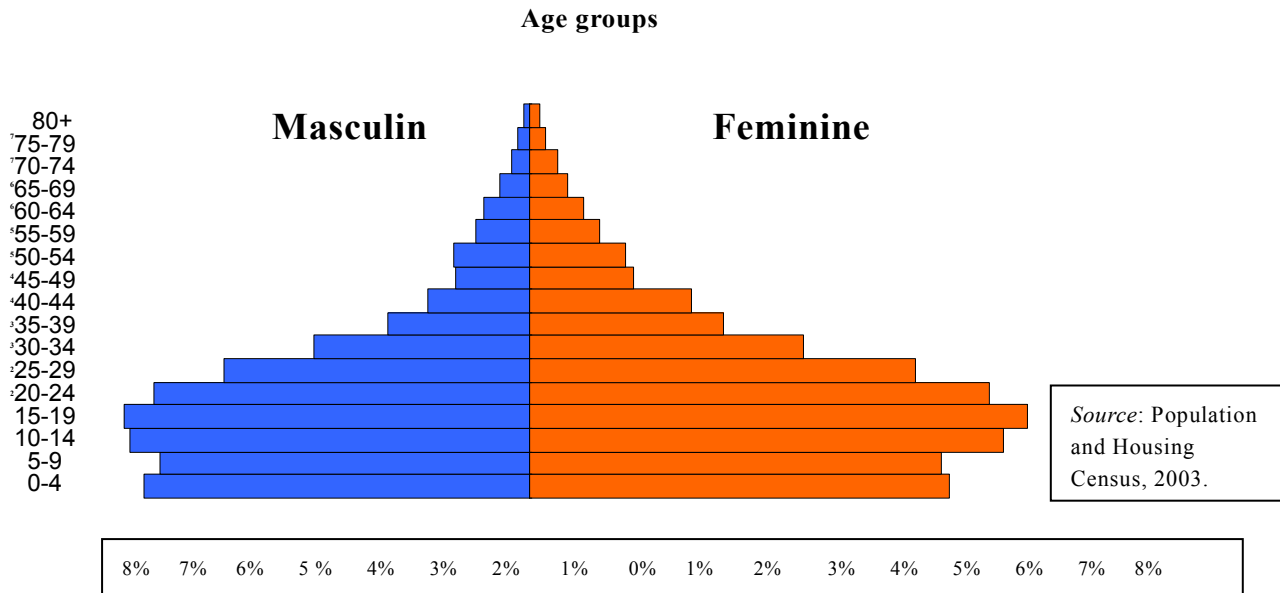
### Demographic characteristics

- **Population pyramid**

There is a large percentage of young people in the Haitian population. According to the latest (2003) census, over half the population was under 21 years of age, 12% were under five, and only 5% was over 64 years of age. Women make up 51.8% of the population. That difference vis-à-vis men is more marked for the population of working age, especially between 10 and 39 years of age. The surplus of women is particularly noticeable in urban areas, where there are 86 men for every 100 women. In rural areas the figure is 98 men for every 100 women.

<sup>2</sup> HAITIAN INSTITUTE OF STATISTICS AND INFORMATION SCIENCES (IHSI), 2003, *Recensement général de la population et de l'habitat* [Population and Housing Census], Port-au-Prince, Haiti.

**Age pyramid for the total population of the country  
Haiti 2000**



- **Life expectancy**

The Haitian Institute of Statistics and Information Sciences (IHSI), working jointly with the Latin American Demographic Centre (CELADE) and the United Nations Population Fund (UNFPA), estimates life expectancy at birth as 58.1 years for both sexes (2000-2005), based on 2003 Census data.

- **Infant, child and infant-child mortality rates**

Over the past 20 years, even though the mortality rate among children under five years of age has diminished, Haiti still has one of the highest rates in the world. According to the data available, the infant mortality rate fell from 74 to 57 and child mortality from 61 to 31 per 1,000.

- **Maternal mortality**

Over the 2004-2006 period, the maternal mortality rate increased, from 523 deaths per 100,000 live births in 1994-2000 to 630 deaths per 100,000 live births in 1998-2006.

**2. Structure of government**

The exercise of national sovereignty falls to three branches of government, each of which is independent of the other two (articles 59 and 60 of the Constitution). The legislature is bicameral, with a Chamber of Deputies and a Senate. The Executive Branch's powers are split between the President of the Republic and the Government, which is headed by the Prime Minister. In addition, the Constitution confers regional executive powers at the Communal Section, Commune, and Department levels. Under article 173 of the Constitution, "Judicial

powers are exercised by the Court of Cassation, the Courts of Appeal, higher level courts and special courts, whose number, composition, organizational structure, modus operandi and jurisdiction are established by law.”

### **3. Cultural characteristics**

- **Language**

Under the 1987 Constitution, Haitian Creole, which is the national language spoken by the entire population, was recognized as one of two official languages, the other being French. Nevertheless, even now, legal texts produced by the three branches of government – the Executive, the Legislature and the Judiciary – are written only in French, which only a tiny urban minority can speak. Translation of a few such texts into Creole is still the exception, rather than the rule. Although a Creole version of the Constitution exists, it has not been regarded as a valid legal reference.

- **Religions**

The 1987 Constitution places religions, such as Catholicism, Protestantism and voodoo, on an equal footing as far as the State is concerned. In principle, the State is secular, but in practice the Catholic Church still acts like a State religion.

### **4. Poverty in Haiti**

Over the past two decades, the constant decline in the gross domestic product, steep population growth, and the dearth of appropriate public policies have led to the impoverishment of the population, compounded by a deterioration in the standard of living. Indeed, the data taken from the Household Consumption Budget Survey, published by the IHSI in 2001, show that 28% of the Haitian population are unable to satisfy their basic needs, including the 2,040 calories per day recommended by the WHO, and are exposed to acute food insecurity.

Haiti has the highest poverty rate in the Western Hemisphere. More than half of all Haitians live under the extreme poverty threshold of US\$1 per person per day and approximately three quarters live beneath the US\$2 per day poverty line. Haiti appeared to have regressed in the development ranking, falling from 146th place in 2000 to 153rd place in 2003 and then moving back to 146th place in the ranking today, which classifies it as a middle-income country, according to the UNDP’s latest Human Development Report.

Inequalities in terms of monetary income and living conditions correlate strongly with unequal opportunities as regards access to resources, such as credit, infrastructure, and education. The scant provision of basic social services, poor housing, limited capacity to take part in and guide public decision-making, and the absence of any social network momentum are all factors contributing to the exacerbation of poverty. Moreover, more than 77% of the 140 communes are seriously deficient in basic social services, a figure that is even worse in rural and mountainous areas.

Women and girls are among the most vulnerable and are therefore harder-hit. Indeed, between 42% and 44% of all heads of household are women, many of them working in the precarious informal sector while others are unemployed, a situation that exposes them to all kinds of violence.

**Demography and poverty**

Haiti's principal demographic characteristics are:

(1) Rapid population growth: the average annual rate of growth of the population has increased from 1.4% between the 1971 and 1982 censuses to 2.5% in 1982-2003;

(2) Rapid urbanization, with a growth rate of 4.9% that has taken the urban population to 40%, compared with 25% in 1982. Haiti has a young population, structured in such a way that it could bode well for future economic growth. However, in the current context, that structure constitutes an explosive factor because it threatens to increase the growth rate of the population, above all in the poorest strata.

**5. Socio-economic indicators****• Education**

Access to education is certainly improving but, despite all the efforts of the past decade, overall it is still insufficient. More than half of the population of ten years of age or older can now read and write, with literate men outnumbering literate women in both urban and rural areas.

**• Health**

With respect to health, progress has been very slight and, in some cases, it has even regressed. The maternal mortality rate has increased from 523 deaths per 100,000 live births in 2000 to 630 in 2006. On the other hand, the infant mortality rate dipped from 102 per 100,000 live births in 1990 to 80 in 2000.

One of the best indicators of socio-economic progress in a sustainable development context is the infant-child mortality rate, which also reflects the economic and social progress achieved by households. This indicator, based on the death rate of children less than five years of age, is supposed to decline to 47 per 100,000 in 2015, according to the Millennium Development Goals. That goal is, however, proving elusive. Over the past 15 years, the rate declined from 150 to 125 and the global context does not appear to herald any major change in the situation (Ministry of Public Health and the Population, 2005).

**• Environment**

The indicators point to a marked deterioration in the environment, with no outlook for any spectacular improvement by 2015. Women play a major role in stewardship of both the human and physical environment and therefore influence the likelihood of a disaster occurring and its magnitude. Their farming, commercial and other activities have a considerable impact on various ecosystems. In many instances, they intervene to mobilize development stakeholders in support of actions to protect and preserve certain species. Nevertheless, it has to be recognized that they, too, are partly to blame for environmental degradation, despite the fact that they are the most severely affected by natural disasters. Living in precarious conditions, they are the first to lose their home, cattle, business or tools. They, too, are the first to be laid off when business ceases or slows down in their sphere of activity.

- **Gender**

Women represent a majority (52%) of the Haitian population, in both urban and rural areas. Within the family they play a key role, watching over it and ensuring its survival. They participate in all activities and are vital for the economy. Nevertheless, there is a trend toward the feminization of poverty in Haiti. According to DSCRNP data, people living in households in which a woman is the chief breadwinner have per capita incomes 7% below those of people in households in which a man contributes most of the money.

At the same time, women continue to be victims of various forms of violence (above all, rape) associated with the rapidly increasing insecurity in the country. Abuse of power by officials and maltreatment of women in the home are core problems still to be resolved. Women have been robust in their calls for political transparency and greater access to decision-making positions. Nevertheless, both qualitative and quantitative data show that they are still under-represented.

- **Gross Domestic Product**

The Haitian economy, which used to be essentially agricultural, has evolved over the past two decades into a market economy dominated by the informal sector following the opening up of the country's ports to foreign trade in 1986. The result has been a decline in national output, which is now incapable of satisfying the demand for goods and services of a burgeoning population. Certain social and economic data show that annual GDP per capita fell some 28 percent in 1990-2003: from US\$501.71 in 1990 to US\$361.6 in 1997, and then to US\$332.23 in 2003.

- **Foreign trade**

For want of stimulation of the productive apparatus, national output has declined and trade has been characterized by a marked increase in imports, due to the deficiencies in local output and the still incipient capacity to process local products.

- **Employment**

According to the latest (2003) census, the economically active population is approximately 65% of the total. The rate is slightly higher for men (66.90 %) than for women (62.20%). Almost half the workforce is in the agriculture and livestock sector, where men predominate, while more women than men are engaged in wholesale and retail trade.

There are far more independent workers (82.10%) than employees (12.75%). Domestic staff account for 2.2% of the workforce. In all three, the percentage of women is lower than that of men, with the exception of the "independent" and "family help" categories in urban areas, where women make up 51.46% and 62.24% of the total, respectively.

## 6. Legal framework

With Independence in 1804 came the legal framework that, in its broad outlines, persists to this day.

As regards the Constitution:

There have been a number of Constitutions, from 1801 to the Constitution of 1987, which is still in force. This latest Constitution proclaims the equality of all Haitian men and women before the law and establishes a democratic framework for the State.

The 1950 Constitution was a turning point for women as it granted them the right to vote.

As regards international and regional instruments, those ratified by Haiti are listed under Article 2.

As regards domestic legislation:

Immediately after Independence, the country endowed itself with a set of laws, published between 27 March 1825 and 19 May 1826, which remained in effect until the 20th Century. They included, inter alia:

- The Civil Code of 27 March 1825 and the Penal Code of 19 May 1826, both of which were largely inspired by the French Napoleonic Code. Much later (in 1982 and 2005) they were amended to eliminate most elements that discriminated against women;
- The Code of Civil Procedure of 3 May 1825, and the Code of Criminal Procedure (*Code d'Instruction Criminelle*) of 12 April 1826;
- The Commercial Code of 28 March 1826;
- The Rural Code of 6 May 1826.

Then came:

- The Labour Code of 1961, which establishes the equality of the sexes in terms of access to employment, salaries, and wages;
- Other laws governing the civil service and the organization of central government.

Two changes in the legal framework in favour of women are worth underscoring: the 1982 amendment to the Civil Code regarding the legal status of married women and the 2005 amendment to the Penal Code with respect to sexual assault, the elimination of discrimination against women in that area, and the decriminalization of adultery.

The Executive Branch has, to some extent, supported the Ministry for the Status of Women and Women's Rights and the women's movement in their struggle to promote women's rights. One can point, for instance, to:

- The meeting, in January 1996, between representatives of the Government and of civil society to discuss preparing a post-Beijing National Platform for Action, which unfortunately did not materialize;
- The signing of a Declaration, in May 1996, committing the Government to an overall policy on behalf of women, which, likewise, led to nothing;
- Talks in 1997 with women's groups throughout Haiti's 10 departments, with a view to preparing a post-Beijing Plan of Action;



- The signing of a draft agreement, in February 1996, on an inter-ministerial partnership between the Ministry of Justice and the Ministry for the Status of Women to act on behalf of women and to revamp the whole of the legal system;
- The inclusion of the Ministry for the Status of Women and Women's Rights (MCFDF) in the Joint Commission of the Ministry of Social Affairs to examine the report entitled "Convention on the Rights of the Child."
- The inclusion of the MCFDF in the Commission on Judicial and Legal Reform;
- Support for the proclamation, in May 1997, of a joint declaration by the Ministry of Public Health and the MCFDF on the prevention of maternal mortality;
- The establishment, in June 1999, of a National Commission for the Education of Girls (CONEF), of which the MCFDF is a member;
- The signature, in March 2007, of a cooperation agreement between the MCFDF and the Ministry of National Education, aimed at formalizing an ongoing series of exchanges between the two institutions on decisions needed to improve the Haitian school system for both sexes.

Despite the above, discrimination against women persists in several areas. Those situations will be addressed in the sections below dealing with the articles in CEDAW.

## **7. The role of women's organizations**

The Haitian Women's Movement consists of myriad groups ranging from organizations seeking greater access of women to basic social services and other socio-economic improvements to explicitly feminist associations campaigning for a change in the status of women.

The actions led by the Haitian Feminist Movement draw on all currents of feminist thinking. Haitian feminists challenged laws that discriminate against women in the 1998 Committee for Negotiations with members of Parliament and they have lobbied for ratification of the Convention of Belém do Pará. They have promoted women's participation in decision-making bodies and, in March 1991, they called for the establishment of a high-level State body to address issues of specific concern to women. They have attempted to demonstrate the relations between gender and class by combating violence and the feminization of poverty in connection with their participation in the World March of Women in 2000. They have taken up the cause of women's health, particularly with regard to the decriminalization of abortion and by developing women's health centres. In 1987, they were actively engaged in combating violence against women. Moreover, associations such as ENFOFANM, Kay Fanm, SOFA, Fanm Deside Jacmel, Asosyasyon Fanm Solèy d'Ayiti, Mouvement des femmes Haïtiennes pour l'Éducation et le Développement [Haitian Women's Movement for Education and Development] (MOUFHED) and others have established services for women in these areas. They have also produced specialized journals highlighting women's achievements. They include: Ayiti Fanm, a feminist magazine distributed by Enfofanm, Kòmè, Journal Fanm Ouvriyèz, and so on.

## Article 1

### Definition of discrimination against women

1.1. Affirmation of the principle of equality of the sexes in the Constitution

1.1.1. Evolution of the legal status of women in the history of Haiti's Constitutions

**The early Constitutions, having defined what it means to be Haitian, the notion of equality, and the manners in which political rights are exercised, contained discriminatory provisions:**

- Article 9 of the Constitution of 1805, excludes the citizenship of women: “Nobody can be a Haitian if he is not a good father, a good son, a good husband and, above all, a good soldier”<sup>3</sup>;
- Article 14 of the Constitution of 1811 declares women to be officially excluded from the hereditary prerogatives and immunities of the royalty and of the Regency;
- Articles 108 and 138 of the Constitution of 1849 proclaim that women and their descendants shall be perpetually excluded from hereditary imperial dignity and that of the Regency;
- Article 5 of the Constitution of 1879 states that a Haitian woman shall lose her nationality if she marries a foreigner;
- The 1884 Constitution prohibited a Haitian woman married to a foreigner from possessing real estate, a discrimination that was reiterated in article 9 of the 1888 Constitution and article 5 of the 1889 Constitution.

The first innovations came with the amendments on 19 April 1944 to article 4 of the 1935 Constitution, which recognized, on the one hand, the eligibility of women aged 30 or more to hold office as Senator, Member of the Chamber of Deputies, and member of Communal Administrations, and, on the other, their right to accede to all civilian administrative jobs on terms established by law. The amendments also provided for women being appointed by the President of the Republic to serve as Secretary of State or Under-Secretary of State, on terms established by law.

For its part, the 1950 Constitution was a milestone in the reduction of discrimination, when it established in article 4 that “all Haitians, regardless of sex, shall, if they have reached the age of 21, exercise political rights, provided that they meet the other conditions required by the Constitution and by law.”

Nevertheless, a restriction was placed on that right in that a married woman's right to vote was provisionally subject to her husband's authorization and women's eligibility was limited to municipal functions, even if this Constitution left the door open to any amendments deemed useful for establishing absolute equality between the sexes.

<sup>3</sup> MANIGAT Mirlande, 2002, *Etre femme en Haïti hier et aujourd'hui, le regard des Constitutions et des Lois et de la Société*, Quisqueya University, Port-au-Prince, Haiti. GAUTIER Arlette, 2002, « Les esclaves femmes du nouveau monde : Etude comparative, No. spécial, « Les femmes et l'esclavage », *Revue Haïtienne d'Histoire et de Géographie* 76 (210), January-March, pp. 28-47.

It was not until the Constitution of 1987 that the complete equality of all Haitians was proclaimed, regardless of sex.

1.1.2. Incorporation of the principle of equality of the sexes in the current Constitution:

The Constitution in force today, which was adopted on 10 March 1987 by a Constituent Assembly convened after the fall of the Duvalier regime in February 1986 and then overwhelmingly supported in a referendum held on 29 March 1987, unequivocally proclaims the principle of equality of men and women before the law and equal rights with respect to the protection and enjoyment of human rights (articles 17, 18, 19, 28, 32.1 and 32.6).

1.1.3. Introduction of the principle of non-discrimination in the Constitution and in other domestic laws:

There is no explicit mention of gender-based discrimination in the current Constitution. However, the Decree of 4 February 1981 on domestic implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Haiti on 16 August 1972, considers gender-based discrimination a crime, as stipulated in articles: 8.1, 8.2, 8.3 and 9. The other causes of discrimination cited in this Convention are race, colour, descent, national or ethnic origin, and religion. Albeit set in a restricted framework, this reference signals recognition in a national law of the existence of sex-based discrimination, punishable by imprisonment or fines.

The absence of an express statement of the principle of non-discrimination in the Constitution is to a large extent compensated by the existence of laws, decrees, and regulations that prohibit discrimination.

1.1.4. Respect for the principle of non-discrimination against women by implementing international instruments on women's rights ratified by Haiti:

Apart from CEDAW, Haiti has signed other international instruments proclaiming the free exercise of fundamental human rights by women, on an equal footing with men:

- The Convention on the Suppression of Trafficking in People and Exploitation of Prostitution, on 2 September 1952;
- The Convention on the Political Rights of Women, ratified on 31 July 1957;
- The International Convention on the Elimination of All Forms of Racial Discrimination, on 16 August 1972;
- The Convention on the Elimination of All Forms of Discrimination against Women, on 7 April 1981;
- The Convention against Discrimination in Education, on 15 October 1984;
- The International Covenant on Civil and Political Rights, on 23 November 1990
- The Convention on the Rights of the Child, on 23 December 1994;
- The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará), on 3 April 1996;

- ILO Convention N° 138 concerning the Minimum Age for Admission to Employment, on child labour, on 15 May 2007;
- ILO Convention N° 182 concerning the Worst Forms of Child Labour, on 15 May 2007.

Haiti is a member of the Inter-American Commission of Women of the Organization of American States (CIM-OAS). It was Vice President of the CIM from 1978 to 1986 and currently sits on the Executive Committee in an advisory capacity. Haiti also has an expert on the Committee of Experts of the Follow-up Mechanism to the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (MESECVI).

## Article 2

### Obligation to eliminate discrimination

#### 2.1. The scope of the Convention under domestic law

According to Article 276 of the Constitution of 1987, “The National Assembly may not ratify any international treaty, convention or agreement containing clauses contrary to this Constitution.”

Article 276.1 states that “international treaties, conventions and agreements are ratified in the form of a decree,” and Article 2 stipulates that “once international treaties or agreements are approved and ratified in the manner stipulated by the Constitution, they become part of the legislation of the country and abrogate any laws in conflict with them.” Ratification takes the form of a decree issued by the National Assembly comprising two parliamentary chambers, or by the Executive in the absence of Parliament.

It follows from the above that:

- The Convention, and any other instrument that has been duly ratified and therefore forms part of the national legal order, may be invoked before Haitian courts and tribunals and before administrative bodies;
- Their provisions take precedence over all domestic laws, so that in the event of conflict with an opposing domestic law, they must prevail;
- Consequently, by ratifying the State is obliged to amend existing laws and to prepare and promulgate laws in keeping with the contents of the Convention.

In practice, there is no systematic approach to aligning domestic laws with the Convention when they differ or say nothing on the subject. Thus, in the case of the International Convention on the Elimination of All Forms of Racial Discrimination, a decree was issued on 4 February 1981 to render it applicable under domestic law, whereas CEDAW is applied via amendments to certain provisions of the Civil Code or the Penal Code by means of a decree of amendments on 8 October 1982 and a decree of 6 July 2005, respectively.

Despite the fact that CEDAW is directly applicable before Haitian courts, the principal obstacle encountered is widespread ignorance among the population and in the professional circles involved of the contents or even the existence of the international instruments that are binding for the Haitian State. As a result, in practice, judges and attorneys make very little reference to the Convention. By some accounts,<sup>4</sup> judges may substantiate certain of their decisions by referring to the conventions or to the laws amended to make them conform to their contents. There is no systematic record of judgments that refer to the text of CEDAW. Two recent judgments were, however, traced that punished rape on the basis of the law of 6 July 2007, which amended the Penal Code to align it with the contents of CEDAW.

They were, in one case, a judgment of the Higher-Level Court of Cap Haitien dated 30 April 2007, condemning the perpetrator of a rape of a 28-year-old woman to nine and a half years in prison and a fine of 50,000 Gourdes, and, in the other

<sup>4</sup> Testimony of a judge at the Court of Appeals, Maître Lise Pierre-Pierre.

case, a judgment handed down on 28 December 2007 by the Higher-Level Court of Port-au-Prince condemning a 70-year-old man to 15 years hard labour and a fine of 50,000 Gourdes for having raped a minor, aged 15.

In order to increase familiarity with the international instruments incorporated into domestic law, article 40 of the Constitution requires the State to disseminate laws, decrees, decisions, international agreements, treaties and conventions and everything with a bearing on national life in both Creole and French. However, it has to be admitted that that provision is not implemented in practice, because civil registry papers and declarations are issued in French only, even though the only language spoken by three-quarters of the population is Creole. Nevertheless, it is important to point out that, despite the absence of any specific State policy on the matter, the Government currently favours the popularization of Creole and both the Convention of Belém do Pará and CEDAW have been translated into Creole.

Some journals produced by women's organizations are also published in Creole and the Ministry for the Status of Women and Women's Rights has agreed to have these combined reports translated into Creole.

As for the Optional Protocol to CEDAW, with which only a few organizations are familiar, the Government of Haiti is convinced that, following the presentation of these combined reports, the dissemination of them and of the final observations and recommendations of the Committee will constitute a favourable platform for its ratification.

## 2.2. Existing forms of discrimination against women and progress made toward eliminating them

### 2.2.1. Laws, regulations, religious practices and traditional customs in force that discriminate against women

#### 2.2.1.1. Laws

- A law of 10 May 1920 incorporated into the Civil Code currently in effect stipulates that, if a marriage is dissolved, the woman loses the use of her husband's name. That provision is detrimental, in particular, to divorcées who have been exercising a liberal profession under their husband's name.
- The labour code contains provisions discriminating against domestic service and authorizes child labour for children aged 12 or more. In practice, most such children are girls in domestic service.
- In criminal matters, despite the progress made in the decree of 6 July 2005, certain aspects have not been addressed: sexual harassment, conjugal violence and provisions on abortion still discriminate severely against women.
- Violence against women in general, and conjugal violence in particular, are not specifically addressed in any legislation and the only remedies available are those provided for in the Civil Code (under which maltreatment and physical abuse may constitute grounds for divorce for a married woman) and in the Penal Code, which refers to voluntary blows and wounds, battery, which are punishable only if they result in illness or incapacity lasting more than 20 days.

- Complaints may be filed for rape, attempted rape and sexual harassment based on the provisions of the Penal Code regarding rape and indecency, whereby the status of the perpetrator may constitute an aggravating factor (for instance, in the case of a person who abuses his authority to engage in sexual harassment). In practice, however, sexual harassment is, one could say, tolerated by society and by the State and often regarded as a reaction to provocative attitudes of the women or girls concerned.

In practice, and in the absence of specific provisions covering the particular circumstances surrounding the offences and all the harm they do to the victim, apart from the assault on her bodily integrity, it is prejudices against women and pressure exerted by the perpetrator of the violence or by his family or even by the victim's own family that make her refrain from seeking justice, for fear of reprisals or because of scruples about speaking in public about something that is both intimate and humiliating.

The same influences sometimes prevent judges from objectively applying the law and lead them to place the burden of proof on the victim or else find mitigating circumstances that favour the perpetrator.

#### 2.2.1.2. Policies and administrative acts or practices that discriminate against women

In principle, the Constitution proclaims the equality of all citizens before the law, without distinction as to sex. Consequently, there is no formal policy of blatant discrimination against women. Nevertheless, in practice, there is ample evidence of discrimination.

#### 2.2.2. Customs and traditional practices that discriminate against women

No written inventory is kept of popular customs and traditions and there is no common law, in the strict sense. However, certain practices do have a heavy impact on the status of women.

##### 2.2.2.1. Discriminatory religious practices

In the religious sphere, the Catholic Church, which is the most influential church in Haiti, bans women from the priesthood. Certain protestant faiths also do so. It is worth noting, however, that the Episcopal Church recently altered its rules in favour of women.

In general, religion tend to advocate treating men and women differently, by preaching submissiveness to married women, opposing legal recognition of other forms of union, and by maintaining separate schools for boys and girls.

By contrast, Voodoo has always allowed women to perform the role of priestess. Known as "mambo", these priestesses are on an equal footing with the priests or "houngan".

##### 2.2.2.2. Traditions encouraging harm to the bodily integrity of girls or women or rape

No research has been done to confirm or deny the existence of female genital mutilation, but it has not been identified as a generally observed custom.

Some women's organizations working closely with communities that have preserved old traditions cite the survival of practices performed on the bodies of

female babies designed to constrict their clitoris to prevent it from developing while the genitals of baby boys are stimulated by massaging the penis to make it bigger.

There is no systematic practice of forced or child marriage in Haiti. However, cases of rape of minors are often settled by the victim's marriage to the aggressor. Such a marriage is arranged by the parents on the pretext of forcing the aggressor to provide board and lodging and to look after both the victim and any child that is born. These arrangements are sometimes made without the knowledge of the judge who has already been apprised of a complaint and who then rarely opposes withdrawal of the accusation.

Isolated cases have also been observed of customs in which the parents of a newly wed woman are obliged to pay compensation to the husband if it transpires after the wedding night that she was not a virgin.

Combined rape and incest has also been observed by fathers, uncles, godfathers, or other adult males close to the family, who on the pretext of protecting a girl who has barely reached puberty, rape her in order to deflower her and thus ward off other males the family does not know. This tradition, which also gives rise to pregnancies in girls as young as 10 to 12 years of age, is now increasingly being denounced and taken before the courts. The victims are often received at centres run by women's organizations.

There is also a belief that sexual relations with young physically or mentally disabled women or girls guarantees good luck. This practice takes the form of rape, above all of girls. For the first time, their mothers took their cases to the International Tribunal on Crimes against Women, which sat in Haiti in 1998, as a result of pressure exerted by Haitian women's movements.

### 2.3. Mechanisms for the advancement of women and for monitoring implementation of the Convention at the national level

#### 2.3.1. Presentation by the Ministry for the Status of Women and Women Rights (MCFDF), of the resources and means at its disposal

The Ministry for the Status of Women and Women's Rights (MCFDF) was established on 8 November 1994 in response to women's demands and in the lead up to the Fourth World Conference on Women in Beijing in September 1995.

The Ministry has suffered from the political instability besetting the country and it owes its survival to the support mobilized by women's organizations.

Despite its financial and logistical difficulties, the Ministry has continued to operate and, in August 200(?), began preparing a follow-up report on implementation of CEDAW in Haiti, which did not, however, follow the Committee's directives. Nevertheless, the document constitutes a source of data that underscore "the persistence of a male chauvinist culture undermining Haitian women's attempts to achieve emancipation and constraining mature reflection on issues related to the status of women" (extract from the Introduction to the report).

The MCFDF, whose work cuts across a number of sectors, is now solidly established thanks to the Decree of 22 December 2005 on its organizational structure and modus operandi. It is pursuing the mission outlined for it in article 2 of that Decree, namely "to formulate, implement, guide and enforce government



policy, by striving to achieve a society in which women and men are equal; to guide the definition and execution of equitable public policies nationwide.”

The Ministries powers are distributed among the following directorates:

- Directorate for the Promotion and Defence of Women’s Rights;
- Directorate for Gender;
- Directorate for Administrative Affairs.

The Organic Law of the Ministry envisages departmental directorates, eventually to be established in each of the country’s 10 departments. For the moment, due to financial and human resource constraints, there are 10 departmental offices, each of which is headed by a coordinator.

### 2.3.2. The mission of the MCFDF

The MCFDF is the principal national agency responsible for drawing up and overseeing the implementation of policies to promote women’s rights and ensure equality between men and women. Moreover, article 27.5 of the Decree of 22 December 2005 on the Organizational Structure and Modus Operandi of the Ministry for the Status of Women and Women’s Rights (MCFDF) specifies that it is incumbent upon the Directorate for the Promotion and Defence of Women’s Rights, above all to “ensure follow-up to the conventions, programmes and declarations on women’s rights ratified by the Haitian State.”

It is important to note that article 3 of the Decree of 22 December 2005 empowers the institution to “...12°/ Study international agreements or conventions on the status of women and women’s rights, to recommend, where appropriate, signature of such instruments, and to see to their execution once ratification procedures have concluded.”

Based on that provision, the Ministry has undertaken to prepare the CEDAW report with the cooperation of all the other ministries concerned. This is the first time that the Government, through the MCFDF and with the cooperation of the other ministries, national agencies involved, and the Civil Society Platform, has proceeded in an autonomous and participatory manner to gather information and data (which some regard as official and others consider informal but credible) with a view to preparing reports on the legal and institutional measures adopted to promote the status of women and on what is really happening on the ground.

Apart from CEDAW, the main instrument addressing violence against women, ratified by Haiti on 3 April 1996, is the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Belém do Pará). Haiti owes the signature of that Convention to the first Minister on the Status of Women in 1995. Its ratification the following year came after intense lobbying of parliamentarians by the Ministry and by women’s organizations.

The MCFDF is also responsible for monitoring implementation of the Beijing Platform for Action. Shortly after its establishment in 1994, the MCFDF took part in 1995 in the Beijing Conference and entered into various commitments on behalf of the Government of Haiti. The MCFDF submitted the Beijing+5 Report to the United Nations in 2000 and the Beijing+10 Report in 2005.

### 2.3.3. The financial resources of the MCFDF

The MCFDF's 2004 operating budget totalled 13 million Gourdes. By 2006, it had risen to 36 million and in 2007 it was 44 million Gourdes. That was a substantial increase, but the budget still fell short of what the Ministry needed to exercise its powers and implement its National Platform of Action. As a result, its activities are still limited in scope and weak at the departmental coordination level.

### 2.3.4. Broad outline of National Policy for the Advancement of Women, its implementation and tangible results already observed.

The broad outline of the National Policy on Equality, set forth in the positions of principle expounded in the Government's overall policy and in those established by the MCFDF, on the Government's behalf, in its ministerial programme, involves:

- Conceiving, developing and implementing a policy of equality between men and women based on dissemination of the gender perspective or analysis of social relations between men and women, with a view to ensuring sustainable development. A law on that subject needs to be promulgated as a matter of urgency.
- Strengthening the organizational/institutional capacity of the national agency, i.e., the MCFDF.
- Boosting the political role of the MCFDF within the State apparatus and establishing harmonious relations with other government and State bodies and institutions.
- Taking specific steps to promote and defend women's rights.

### 2.3.5. Mechanisms for coordinating and cooperating with other ministries and government agencies

Given that one of its essential functions is to disseminate the gender perspective, the MCFDF has conducted several awareness raising and training programmes on comparative analysis by gender (Analyse Comparative selon le sexe - ACS). They form part of the overall effort to implement and activate Gender Intersection Points (PIG) in the line ministries and, at the departmental level, Gender Intersection Networks (RIG), in order to facilitate cooperation with the Ministry's Directorate for Gender Mainstreaming (DPAG).

The MCFDF also partners with other ministries and State institutions involved in combating discrimination and violence against women, through draft agreements with, in particular, the Ministries of Public Health and National Education.

### 2.3.6. Cooperation with civil society

Civil society, above all women's and feminist organizations, have always been at the forefront of the struggle to promote women's rights in Haiti. The Women's League for Social Action, the first organized movement, won a hands-down victory for citizen participation in 1950.

Those organizations collaborate with the MCFDF in a number of ways, especially by consultation on specific cases under the guidance and coordination of the MCFDF and by signing draft agreements on specific actions advocating the promotion and defence of women's rights.

**National Dialogue on Violence against Women (La Concertation Nationale contre les violences spécifiques faites aux femmes)** is a framework for reflection and action initiated in December 2003. After a lull induced by the socio-political unrest in Haiti, the Dialogue resumed in May 2004, since when – especially since July 2004 – it has made considerable progress.

The Dialogue comprises a partnership between:

- The Haitian State, represented by four ministries, including the Ministry for the Status of Women and Women's Rights (MCFDF),
- Civil society, represented by women's organizations and nongovernmental organizations pursuing various related goals; and
- The following United Nations and international cooperation agencies: UNFPA, MINUSTAH's CivPol and Gender Section, UNICEF, UNHCHR, and Fonds Kore Fanm (Canada).

The purpose of the Dialogue is to encourage coordination, or even synergy, among the various initiatives under way to combat violence, especially sexual violence, against women. The National Dialogue has adopted a 2006-2011 National Plan to Combat Violence against Women aimed at preventing such violence and at attending to and assisting the victims of violence specifically directed against women.

Organizationally, it is structured around a tripartite (Government/civil society/international cooperation) coordinating committee and three technical commissions responsible for the coordination and harmonisation of existing tools in their sphere of activity for data gathering, care/assistance, and communication/sensitization.

Nowadays, the National Dialogue can count on the commitment of the Ministry of Justice and Public Security and of the Ministry of Public Health and Population to support its activities.

Apart from this platform, there are some major women's NGOs that provide services for women victims of violence (see the list of them annexed to this report).

Worth mentioning, too, is the National Coordination Committee for Advocating Women's Rights (Coordination Nationale de Plaidoyer pour les Droits des Femmes - CONAP) with which the Ministry signed a draft agreement on 14 December 2004 on issues relating to violence against women and revision of laws discriminating against them.

#### 2.4. Implementation of national policy for the promotion of women's rights and progress to date

Implementation of this policy began with the preparations for Haiti's participation in the Fourth World Conference on Women.

The first seminar on CEDAW was held in May 1995, in conjunction with the Centre for Justice and International Law and attended by women from all of the country's departments. By then women and society as a whole had become more aware of the various forms of discrimination against them.

The Ministry's attention was also drawn to the issue of access to land and agrarian reform, above all as a means to address the precarious circumstances of women heads of household.

Having narrowly missed being closed down entirely on several occasions, the Ministry was finally rehabilitated, restructured, equipped and accorded a well-established place in central government, which helped draw attention to its efforts to implement its policy.

#### 2.4.1. Progress at the institutional level

- A national presence of the Ministry through offices in each of Haiti's 10 departments;
- The creation of three key units:
  - The Directorate for Gender Mainstreaming (DPAG), whose principal functions are to establish mechanisms for interministerial cooperation, provide effective assistance to other government agencies with gender-related comparative analysis and evaluate the effectiveness of those effort,; and to collect, process, and make available data broken down by sex;
  - The Directorate for the Promotion and Defence of Women's Rights (DPDDF), responsible for defining, executing and disseminating the activities of the Ministry in this area, drawing up administrative regulations and proposing amendments to laws to ensure respect for women's rights, and conducting public education programmes to promote non-sexist attitudes;
  - The Research and Planning Unit, responsible for making diagnostic assessments and designing and proposing plans and projects to be implemented in the framework of the Ministry's sectoral policies, and for helping to prepare (and monitor the implementation of) analytical and planning rules and standards for the Ministry's directorates.
- Establishment of a Consultative Council attached to the Minister's Office, as a forum for consultation with women's organizations in all the departments. The mechanisms through which it will operate are currently being developed and its inauguration is scheduled for 2008;
- The MCFDF's membership of the Higher Council of the Civil Service, established in 2005. This allows it to anchor a gender equality perspective at the heart of government policy- making and management.
- The establishment of gender focal points in each ministry and throughout public administration;
- Draft agreements with the ministries concerned (Health, Education, Justice) on adopting common policies to combat violence and eliminate sexual stereotypes.

#### 2.4.2. Legislative reforms

Considerable progress has been made with respect to both civil and criminal law. The civil law reforms have to do with the full legal competence of women, the marital home, the joint exercise of parental authority, joint administration of estate,

and the right of women to invoke adultery as grounds for divorce on an equal footing with men. However, the new provisions still contain discriminatory elements. (See Articles 15 and 16 below)

The criminal law amendments concern the establishment of specific sexual assault offences, the characterization of rape as a crime against a person liable to more severe punishments, and decriminalization of adultery.

In criminal law, too, discriminatory elements persist, as in the criminalization of abortion. However, new anti-discriminatory bills promoting the equality and advancement of women have been presented to Parliament by the MCFDF. They are:

- The bill on filiation and responsible parenthood;
- The bill on recognition of consensual unions;
- The bill on domestic labour conditions.

Other bills are in the pipeline, such as a bill on partial decriminalization of abortion, a specific criminal law on violence against women, and a law establishing the equality of men and women.

#### 2.4.3. Formalization of the cross-cutting nature of the Ministry's activities and gender mainstreaming (DPAG)

The incorporation of both women's and men's interests in government policies and in the line ministries' programmes and projects is part of the MCFDF's gender mainstreaming policy. It is being pursued above all through formalization of a Technical Intervention Manual for the Gender Mainstreaming Directorate, prepared in August 2005 with technical assistance from the Inter-American Development Bank. Its purpose is to endow the DPAG with the capacity to induce government agencies to incorporate a gender perspective in their policies, to provide mechanisms to ensure that the Ministry's actions have the desired cross-cutting impact, and to monitor progress.

#### 2.4.4. Jurisdictional protection of women

Apart from ordinary law remedies, there is an institution known as the Office of the Ombudsman (Office de Protection du Citoyen et de la Citoyenne - OPC), which has not, however, yet proved its effectiveness for protecting women from all discriminatory acts. The sphere of competence of this independent body, established in 1997 under the Constitution of 29 March 1987 in order to protect all individuals from any kind of abuse of power by the Public Administration, encompasses all the ministries and autonomous State institutions, but does not intervene in private disputes.

The Ombudsperson has power to investigate, recommend, and propose reforms. The Office is not a court. It has attempted to develop a close rapport with citizens, but has only scant resources. As a result, it has been unable to establish a presence in each geographical department. At the same time, two units have been formed: the Unit for the Promotion and Protection of Children's Rights and the Unit for the Promotion and Protection of Women's Rights.

Most complaints filed are classified in the human rights category, but the grounds for discrimination are not expressly stated. The statistics are broken down

by sex. They show that complaints filed by women are outnumbered by complaints lodged by men.

#### 2.4.5. Joint actions with other ministries

There are concrete examples of cooperation, some of which are ongoing:

- The signing of a draft interministerial partnership agreement between the Ministry of Justice and the Ministry for the Status of Women and Women's Rights to promote the advancement of women and revamp the whole of the legal system (February 1996);
- The signing of a Declaration committing the Government to an overall policy in favour of women in May 1996;
- The inclusion of the Ministry for the Status of Women and Women's Rights (MCFDF) in the Joint Commission of the Ministry of Social Affairs on the report "Convention on the Rights of the Child."
- The inclusion of the MCFDF in the Commission on Judicial and Legal Reform;
- The proclamation, in May 1997, of a joint declaration by the Ministry of Public Health and the MCFDF on the prevention of maternal mortality;
- The establishment, in June 1999, of a National Commission for the Education of Girls (CONEF), of which the MCFDF is a member;
- Cooperation with the Ministry of Public Health to attend to women victims of sexual violence and protect them against STDs/STIs.
- The partnership with the Ministry of Justice to train its staff, lawyers, and the National Police.

And more recently:

- The signing in March 2007 of a cooperation agreement with the Ministry of National Education aimed at formalizing an ongoing series of exchanges between the two ministries on decisions needed to improve the Haitian school system for both sexes.
- The signing of a cooperation agreement in January 2008 between the MCFDF and the Haitian Children's Institute (IHE) on inputs into the MCFDF database.

#### 2.4.6. Cooperation with local agencies of the United Nations system and development partners

- Signing and execution of a joint project with UNFPA and UNICEF on violence against women and institutional strengthening of the Ministry;
- Signing and execution of projects with the Kore Fanm Fund, of the Fund Management Centre (CGF) of the Canadian International Development Agency, particularly in connection with efforts to strengthen the Ministry's capacity to conduct comparative analysis of gender-related differences (ACS) and with studies of violence;
- South-South partnership with Brazil, supported by UNFPA, to establish violence-prevention mechanisms and to care for women victims of it, as

well as to evaluate, in particular, Brazil's experience with special police stations to handle it;

- Signing and execution of projects with the Inter-American Development Bank (IDB) relating to studies of violence and capacity-building within the Ministry.
- In connection with the promotion of women's participation in political life and in decision-making bodies, cooperation with the women's NGO FANM YO LA and MINUSTAH's gender equality office on strengthening the leadership skills of female candidates for presidential, legislative, or communal elections.
- Currently, the inter-agency project to support the National Dialogue to Eliminate Violence against Women is facilitating the gradual institutionalization of that Dialogue.

#### 2.5. Outlook for improving implementation of CEDAW

In its guideline document for 2004/2006, the MCFDF envisages:

- Continuing its own institution-building, in particular by endowing the departmental coordination offices with adequate resources;
- Making the National Plan to Combat Violence against Women operational;
- Sharing gender-based comparative analysis with the other ministries;
- Seeing that police facilities are in place to receive women victims of violence, along with health facilities, in order to provide victims with comprehensive care;
- Combating women's poverty;
- Systematizing monitoring of the implementation of CEDAW, the post-Beijing national plan of action, and the Convention of Belém do Pará.

In addition to those priorities, the MCFDF's 2006/2011 Action Plan commits it to adopting effective measures in the following areas:

- The struggle to eliminate violence specifically directed against women;
- The enrolment of girls in school and women's education;
- The ongoing revision of legislation;
- Recognition of the value of women's contributions to society;
- Stepped-up promotion of women's participation in decision-making;
- Protection of street girls and of those involved in prostitution; and
- The strengthening of women's organizations.

## Article 3

### Development and advancement of women

The Government's Overall Policy stipulates that modernization of the State entails the adoption of modern and effective methods to ensure that steps are taken to achieve equality between men and women. The full development and advancement of women is, however, proving to be a very laborious undertaking in terms of implementation of the post-Beijing National Plan of Action, of implementation of the international instruments ratified by Haiti, of progress toward achievement of the Millennium Development Goals, and even within the framework of the DSCRNP, where emphasis on the gender perspective is relatively weak.

It must therefore be admitted that, while the political will exists, gender mainstreaming in all government institutions is still inadequate at the inter-sectoral level. The purpose of the gender focal points is poorly understood and for them to be institutionalized in all the ministries they need to be structurally and operationally redefined.

Apart from the actions undertaken by the MCFDF, with help from some of the line ministries close to it, the impact of measures adopted on behalf of women in various different areas will undoubtedly be more noticeable in the coming years, especially after the upcoming implementation of the National Policy on Equality of Men and Women, which will be backed by a law. According to the MCFDF's 2006/2011 Action Plan, this policy will be accompanied by the establishment of a Gender Equality Observatory and a Gender Research Institute.

#### 3.1. Using actions undertaken to measure the impact of discriminatory laws to combat violence against women

Analyses and research have been conducted not only to measure the effect of discriminatory laws but also to denounce them and provide arguments for those advocating their repeal. The discriminatory laws in both the Civil and the Criminal Code have been exposed by female Haitian jurists, who, in books and case files, have denounced the discriminatory aspects of the legislative framework governing the status of Haitian women (a list of the authors concerned can be found in an annex to this report). Different sets of testimony also serve to stigmatize discriminatory practices.

#### 3.2. Efforts to popularize conventions on women's rights

There are obvious signs of such efforts, particularly the translation of the Convention of Belém do Pará into Creole ordered by the MCFDF and its dissemination nationwide. Women's organizations arranged for translation of CEDAW into Creole.

#### 3.3. Preparation of a National Plan to Combat Violence against Women

Gradual implementation of the National Plan, which began two years ago, is being headed by the MCFDF. The Plan's objectives, strategies, and expected outcomes may be summarized as follows:

- Objectives
  - To put in place a systematic data collection mechanism;



- To increase the number of services providing care and assistance and improve coordination among them;
- To prevent acts of violence specifically directed against women; and
- To strengthen the capacity of public institutions to be fully functional.
- Strategies
  - Promotion and strengthening of partnerships’
  - Promotion and integration of a multisectoral approach;
  - Strengthening of data and knowledge of violence against women;
  - Establishment of mechanisms for achieving a nationwide impact; and
  - Emphasis on operational responses to acts of sexual violence.
- Expected outcomes
  - A mechanism in place to monitor indicators of acts of violence specifically directed against women;
  - Stronger and better coordinated care and assistance services;
  - A well organized campaign to prevent violence against women; and
  - Coordination, monitoring and evaluation of the extent to which annual operating plans are actually implemented.

#### 3.4. Existence of some reception and/or guidance facilities

There are some public or private facilities for women victims of violence and other forms of discrimination that are answerable to the Ministry of Social Affairs. However, they are little known and barely used. For its part, the MCFDF is currently working, in partnership with other institutions, on the establishment of an emergency accommodation centre. Existing psychological support services are generally provided under a care and assistance agreement by private agencies: either women’s organizations or institutions working in this field. The same is true of reception facilities. In the nongovernmental sector we have:

- Kay Fanm, which provides psychological support services for rehabilitation of victims and temporary short-term accommodation (five days at most) for women, as well as more comprehensive services for minors;
- SOFA, which has day centres in different parts of the country, where women and girls receive psychological and other support;
- Gheskio and POZ, which provide psychological assistance as well as medical care;
- Fanm Deside de Jacmel provides assistance for women in the Jacmel region; and
- AFASDA, a women’s organization in the North which currently receives aid from MINUSTAH so that it can establish a small reception centre.

Unfortunately, the State lacks the funds needed to subsidize these private facilities, which are often strapped for both human and material resources.

### 3.5. Measures to popularize the Convention

Since 1994, the MCFDF has consistently striven to familiarize women and girls with CEDAW in both urban and rural areas. In a 2005 (and in some departments 2006) campaign in the form of a pilot programme for youth, UNIFEM distributed a brochure entitled “CEDEF FASIL POU KONPRANN”, based on an adaptation of the Creole version of the Convention.

Gradually, institutions involved in the promotion and defence of human rights have begun including in their training programs sessions specifically devoted to study of the Convention. The Office of the Ombudsman has also included it in its training programmes. More recently, lawyers associations have taken an interest in it and begun promoting it among law students.

Currently, no academic (mainly secondary school and university) programs include a training module on human rights in general, international instruments ratified by Haiti, or the gender-specific issue of non-discrimination against women. However, in early 2007, thanks to the initiative of the female judges association, a seminar was held at the Palais de Justice on international women’s law. In practice it transpires that justice professionals are largely unfamiliar with such international instruments. Certain judges are said to have used them to substantiate a few rulings, but it was not possible to obtain a copy of those decisions.

Like other sectors, the judiciary has only a vague inkling of what international instruments have been ratified and what they say.

More attention has been paid to the role of the police in attending to victims of violence. Thus, albeit sporadically, training programmes for police officers have been conducted, especially by international agencies in partnership with certain private institutions.

The National Dialogue on Violence against Women is currently working with the National Police of Haiti (PNH) on a project for the establishment of a protocol to govern initial attention to victims of violence. This project is being accompanied by the establishment, on a pilot basis, of reception units for women victims of violence at two police stations. More specifically, in connection with the South-South partnership with Brazil, implementation of the National Plan to Combat Violence against Women envisages a partnership with two or three police stations, training for male and female police officers, and the rehabilitation of premises that could serve as reception units.

### 3.6. The situation of women with disabilities

In Haiti, as in many other countries, women with disabilities face severe discrimination. However, it must be said that a major hurdle was overcome when a Presidential Decree of 17 May 2007 established the Secretariat of State for the Integration of Persons with Disabilities (**Secrétairerie d’Etat à l’Intégration des Personnes Handicapées - SEIPH**).

In response to pressure from associations of disabled persons and institutions working on their behalf, including some long-established bodies such as the Haitian Society to Assist the Blind (SHAA, founded 50 years ago) and the Centre for Special Education (CES, founded 30 years ago), a national policy of care for persons with disabilities and of respect for their rights is beginning to take shape in Haiti. Here, as in other areas, the part played by organized sectors of civil society

has been crucial. Thus, apart from the long-established organizations mentioned above, the Association of Parents of Mentally Retarded Persons (APMADEN, founded 15 years ago) and other groups of persons with motor disabilities or hearing impairments have joined together in the National Community Network of Persons with Disabilities (Réseau Associatif National des Personnes Handicapées - RANIPH, founded 6 years ago), a relatively new State facility established in response to those organizations actions and advocacy.

The problems faced by women with disabilities form part of this picture. Within the SHAA, an autonomous section for blind women has been constituted, known as Fanm Ayisyèn Avèg ann Aksyon (FAA-SHAA). As for the Association of Parents, the initiative was originally taken by women. Since its creation, the majority of its members have been women, many of them heads of household, as is often the case in our society. Children with disabilities are very often abandoned, rejected, and made to feel guilty by their fathers. The two women presiding over these two organizations headed the round table discussion on Women and Disabilities at the recent National Forum of the SEPH (4 and 5 October 2007), where they gave presentations on the emancipation of blind women and on the everyday life of women with disabilities and mothers of children with disabilities.

Using the community network, the MCFDF and women's organizations raise awareness and impart knowledge regarding women's rights and international Conventions (CEDAW and Belém do Pará). Following the establishment of the Secretariat of State for the Integration of Persons with Disabilities, women with disabilities who are victims of double discrimination are in a better position to make themselves heard and have their specific needs taken into account.

## **Article 4**

### **Hastening the establishment of equality between men and women**

The measures adopted by the Government to promote respect for women's rights and gender equality are not "temporary special measures," as the sense and effects of such corrective measures have not been sufficiently grasped in Haiti.

Nevertheless, one can cite:

- The awarding of certain scholarships for girls in difficult economic circumstances in 1999 and 2000.
- In 2006, the Ministry of Public Works and Communication (MTPTC) reserved a 30 percent quota for women in its labour-intensive works.
- On 7 and 8 August 2007, two days were devoted specifically to registration of female candidates for the next police recruitment round: a measure that resulted in far more applications from women than in previous years. In September 2007, women accounted for 6 percent of the Haitian National Police.

## Article 5

### Roles and stereotypes

#### 5.1. Women's perception of the stereotypical division of roles according to sex

From a sociological point of view, the notion of a “head of the family” generally refers to a division of labour based on gender: women being in charge of running the home and doing the domestic chores, while the men enter the labour market and bring back money to the household. This division strengthens men’s position in the family structure. The head of the family acquires moral authority.

In Haiti, however, this notion is fictitious. There is a very high percentage (42%) of women who raise their families on their own; hence the Creole expressions “se mwen ki fanm se mwen ki gason” or “se mwen ki rele se mwen ki reponn.” Those women are in fact heads of household.

Nevertheless, Haitian society remains highly patriarchal, a fact that explains why, culturally, it is women who take on a series of childcare responsibilities: they do the domestic chores (cook, wash clothes, breastfeed, and so on) and they also cater to their children’s emotional needs.

This implicit division of labour impacts the girls in the family, where, either alongside their mother or alone, they perform most of the domestic chores. Occasionally they might be helped by the boys, specifically for tasks requiring physical strength (moving a bed or a dresser, or carrying something heavy). When the family’s income is low, the boys may perform makeshift tasks. Generally, they have more access to leisure activities than girls because they have more free time.

#### 5.2. Women’s and men's perception of violence and sexual harassment against women

The findings of the critical route study of the MCFDF/IDB/UNIFEM/TAG, entitled “A Response to Violence against Women” reveal that the level of violence in Haiti is currently perceived as being “very high.” The findings also point to a link between intrafamilial social violence and sexual violence. According to both men and women, the most frequent manifestations of violence are physical domestic violence and sexual extrafamilial violence (rape).

Neither these men nor these women regard psychological violence as a form of violence. Forced sexual relations within a marriage or partnership are not recognized as violence either and only physical aggression accompanying those acts is counted as such.

Adult women in the community describe paternal irresponsibility as a serious and frequent form of violence.

Moreover, among the members of the community and even among service providers, there are myths and stereotypes with respect to violence that shape their attitudes to victims. Such myths do not allow them to provide the attention and care that victims need and they even encourage stigmatization of victims by the community.

### 5.3. Measures adopted to alter the socio-cultural patterns and models underlying the stereotypes and reinforcing the idea that women are inferior

The National Commission for the Education of Girls (CONEF) was established by the Government on 7 June 1999 in order to promote the education of girls, among other things through research and the dissemination of information regarding their situation. In January 2000, CONEF organized a round table discussion of gender issues in education. The Commission turned out to be ephemeral, but it left behind some positive echoes in the population thanks to publication of the work done at the round table. Those discussions provided insight into the core issues surrounding gender and education in Haiti. A number of recommendations were put forward to do with girls' right to education, gender identity and the social and cultural context, retention of girls at school, women's education and participation in economic development. It is important to note that gender-related criteria constitute essential conditions for approval of new textbooks. A study has been done of the sexual stereotypes found in Haitian schoolbooks.

On 20 January 2007, a draft agreement on equal opportunities in education was signed by the MCFDF and the Ministry of Education and Professional Training (MENFP). It sought to correct gender-related discrimination in the educational sector, such as different treatment of boys and girls, a curriculum reproducing stereotypes, rape and sexual harassment. A standing inter-ministerial commission was formed and the first joint activity was a seminar on 5 to 7 July, 2007, which brought together some 50 key players in educational circles to examine the concept of sexual stereotypes and to devise effective strategies for eliminating discriminatory practices in schools. The principal recommendation to emerge from the Indigo Pact, signed at the end of the seminar, concerned the formulation of public policy in the form of a non-sexist education law covering, among other things, training for staff and the parents of teachers, trainers, and pupils. This law must envisage a revision of curricula (including teaching aids and materials and school textbooks) and vocational guidance from the ninth year on in order to encourage girls and boys to look also at disciplines traditionally reserved for the other sex.

### 5.4. Stereotypes in schoolbooks

The following ideas have been taken from the work entitled *Les Stereotypes Sexuels dans les Livres Scolaires Haitiens* [Sexual stereotypes in Haitian schoolbooks] by Myrto Celestin-Saurel, which publishes the findings of a study conducted in 2000 in order to identify the sexual stereotypes still to be found in school textbooks used in Haiti, especially in basic education, and to point to possible ways of changing the traditional image of male and female roles reproduced in the illustrations and texts of Haitian textbooks.

This research was financed by the Inter-American Development Bank under a grant provided for the preparation of the Basic Education Project directed by the Ministry of National Education, Youth and Sports, which in 2006 became the Ministry of National Education and Professional Training, following the creation of the Ministry of Youth and Sports.

Recognized as a tool for democratizing access to knowledge and supporting diversity in the cultural values to which both teachers and pupils are exposed, this book is geared to crafting new images of men and women based on gender equity. It

involved analyzing 45 textbooks, including 30 in the humanities, 9 in mathematics, and 6 in civic education. The study found that:

- In terms of contents, both primary and secondary male characters far outnumber female characters in both the texts and the illustrations. More men than women play the leading roles. That numerical superiority could create the impression that boys are superior to girls, because they are more often cited as examples. In addition, there are few images showing men and women together.
- As for settings, most of the texts and illustrations portray men at work and women in the marketplace. The reference to public spaces occupied above all by men is unmistakable. There are more boys/men than girls/women shown enjoying leisure activities in the street and more girls/women than boys/men at home. More boys are shown at school than girls. There are more men than women shown in the forefront of the illustrations and even in the background males outnumber females. Traditionally, the woman's world is in the home or in private life, while men move in the public sphere.
- As for attitudes, women stand out for emotional qualities and men for emotional deficiencies. At the same time, the traditional evaluation of women based on their looks tends to perpetuate the idea of women as objects.
- As for roles, women do the domestic chores and child raising, while men are mainly shown carrying out professional, leisure, or sports activities. However, men play a more prominent role in political and social activities than women. Almost twice as many boys than girls are depicted as schoolchildren.
- With respect to marital status, more women than men are depicted as married.

Most of the teachers shown in schoolbooks are men. In many of the assigned reading books, the first section deals with the start of the school year or school itself. Almost invariably, the story revolves around a male teacher or schoolboy.

The civic education texts tend to be more balanced and have pictures of female doctors, judges and lawyers, as well as depicting a wider range of professional activities performed by women.

In short, sexual stereotypes exist in Haitian society, where “a man” is still thought of as pertaining to the stronger sex, served by “his wife” and daughters in the family he heads... Consequently, “the wife” is the one who serves, devotes herself and kills herself for the happiness of her family, without heeding her own needs and fulfilment as a person. Those same clichés are unabashedly reproduced in the contents of the schoolbooks analyzed.

The models shown to pupils in the schoolbooks are archaic, even by the standards of Haitian society, which is not among the most modern. The texts frequently reproduce stereotypes that reflect prejudices that no longer correspond to our new role as a society in transition.

The book concludes with some recommendations to the Ministry of Education for revising the textbooks. Accordingly, the Ministry of National Education and Professional Training has prepared an analytical grid to assist efforts by the authors and publishers of the country's schoolbooks to rid them of stereotypes.

#### 5.5. Stereotypes in the media

There are two sets of stereotypes in the media:

- On the one hand, the media are usually indifferent to the social problems besetting women, such as violence, the feminization of poverty, and difficult access to health services... Moreover, are only highlighted on March 8, or on dates commemorating symbolic events, such as November 25 or May 28. Sometimes, underneath a stereotypical picture, for instance, a newspaper might publish an ode to Haiti's "sensitive," "courageous" and "long-suffering" women. On other occasions, the media may publicize a specific activity organized by the Ministry for the Status of Women and Women's Rights, or even by women's organizations, but always in a stereotyped manner.
- On the other hand, women are under-represented in the media. In 2006, there were only four women journalists, including two trainees, among the 29 staff making up the editorial teams of the country's two largest-circulation dailies. More women work in radio and television, but they are often confined to presentation roles, which are usually assigned to them because of the stereotype that women have a pretty voice or are nice to look at. In all the media, generally speaking, women are paid less than their male colleagues.

Nevertheless, there are some cases of female directors in the media and well-known women writers of editorials. Also notable are the women working in the community radio network throughout the country, especially since REFRAKA, a member of the National Coordination Office for Advocacy of Women's Rights (CONAP), is a very vocal advocate of women's rights.

At the same time, the musical and film media exploit to the full the attraction women's bodies are said to exert. The market is inundated with pornographic films sold openly on the principal streets in the capital. In rue de la Réunion, for instance, there is a group of women who have specialized in pornography and whose films are highly sought after on the local market. Nevertheless, there are also talented actresses and female singers who have taken advantage of their audiovisual medium as an effective tool for advocating social causes.

The "Ayiti Fanm" newspaper, edited entirely in Creole, is a good example of an "alternative" medium. It is produced by the Organization for the Defence of Women's Rights, ENFOFANM, which is active in the communication sphere. However, its circulation is limited, compared to the daily newspapers, and it appears sporadically.

Since December 2004, ENFOFANM has also been producing "Vwa Fanm Yo / La Voix des Femmes" [Women's Voice], a television program which covers all issues from a women's point of view. It is broadcast in Haitian Creole in order to reach as wide and varied a public as possible. It is broadcast nationwide on



Télévision Nationale d’Haiti (TNH) as well as on local privately-owned stations.<sup>5</sup> A range of gender issues are addressed in this programme (women’s health, education, violence against women, women and human rights, women in political decision-making circles, and so on). Financed by international donors and creditors, this programme has, however, been off the air for several months for lack of funds. It represents the country’s only audiovisual gender initiative.

Since the establishment of the MCFDF, numerous actions have been undertaken to get rid of stereotypes in a number of areas and thereby advance the social development of both women and men in Haiti. They include: awareness campaigns on domestic violence; training and information sessions on gender issues; periodic pronouncements in the press on various gender-related topics; the writing and distribution of leaflets; dissemination of kits providing information on the disastrous effects of discrimination against women; the production and broadcasting of spots; the production and distribution of documentaries, special broadcasts, and so on.

Since 2007, there has been a systematic effort to raise awareness of sexual stereotypes and of violence against women by, among other things, stepping up the production of radio and television broadcasts and spots. The carnival period has been targeted for a sustained effort to sensitize Haitian citizens of both sexes to the need for a change of attitudes and behaviour.

End-2007 was a turning point in terms of stepped-up sensitization campaigns, crowned by the start of a National Campaign on stereotypes and exploitation of women’s bodies. The Ministry for the Status of Women and Women’s Rights has used all large gatherings, be they new like the *Musique en Folie*<sup>6</sup> (musical madness) festival, or traditional like the carnival, to sensitize women and men in the different cultural spheres – especially composers, video-clip producers, singers, choreographers, costume designers, dancers, and so on. Other activities are ongoing, such as: information and training sessions for journalists covering cultural events, encounters with newspaper proprietors and the owners of radio and television stations, etc. The positive impact of such activities was reflected in the costumes and choreography of the 2008 carnival parade, as well as in the words of the songs. There is a report on systematic monitoring of the video clips shown during the carnival.

The MCFDF’s programme with the MENFP also envisages holding training sessions for teachers in charge of course content and school directors on stereotypes in the Haitian school system (some sessions for them were held already in 2007 in the Ouest Department). The joint programme should also include the planning of educational meetings and their monitoring and evaluation, so that lessons can be drawn from past experience. Teacher training tools also have to be developed with a view to focusing on gender equality and male responsibility.

In addition, the Ministry of National Education and Professional Training (MENFP) has produced a civic education manual for all schoolchildren, in which one chapter is devoted to sexual stereotypes. Local publishers are already taking recommendations along these lines into account in their revisions of the textbooks they produce.

<sup>5</sup> ENFOFANM website, consulted on 15 January 2008.

<sup>6</sup> A festival that brings together Haitian musical groups of different styles and is therefore a huge meeting ground for different segments of the population.

## Article 6

### Suppression of the exploitation of women and of violence against them

#### 6.1. Appraisal

Haitian households contain a high proportion of consensual unions. The most common variety is cohabitation (*place*), followed by legal marriage (*marye*), and union without cohabitation (*vivavèk*)<sup>7</sup>. Regardless of the type of union, men-women relations in the Haitian family are characterized by gender stereotypes, which grant the man the “right” to control his wife, which may sometimes result in domestic violence. Likewise, culturally accepted beliefs and values are major determinants of violence in Haiti, a country in which violence is often regarded as an acceptable way of resolving conflicts. The Report of the United Nations Special Rapporteur on Violence against Women (2000)<sup>8</sup> characterized Haiti as “an inherently and structurally violent society.”

The Special Rapporteur pointed out that sexual violence, especially rape, was a grave problem in Haiti. Used systematically as a political weapon at the time of the 1991 coup d’état,<sup>9</sup> rape has now become a regular practice of criminal gangs. These acts of aggression are reported to be more frequent in the least privileged districts throughout the country. Rapes and sexual harassment in Haitian schools are a serious problem. Likewise, there are numerous recorded cases of physical and sexual violence against young female domestics,<sup>10</sup> which often lead to them becoming pregnant.

The findings of studies conducted between 1996 and 2007 leave no doubt as to the acute nature of the problem of violence against women in Haiti.

##### 6.1.1. The CHREPROF study

The first source of violence against women dates back to 1996, when the Haitian Centre for Research and Actions for the Advancement of Women (CHREPROF) carried out a study, financed by UNICEF, to evaluate violence against both women and girls.

The CHREPROF study looked at the physical, sexual, psychological, social and political violence inflicted on women and girls, as well as other forms of violence (such as verbal violence or insults, restrictions on a woman’s freedom, refusal to support her economically, the appropriation of her property, and so on). It concluded that 70%<sup>11</sup> of Haitian women have undergone some form of violence. Nevertheless, men surveyed<sup>12</sup> claim never to have used violence against a woman,

<sup>7</sup> World Bank, 2002.

<sup>8</sup> Comaraswamy, Radica. 2000.

<sup>9</sup> *Coup d’Etat militaire qui dépose Aristide (1991-1994)*.

<sup>10</sup> Families in rural areas, in particular, often send their adolescent girls to work as unpaid domestic servants.

<sup>11</sup> The study uses a rather broad definition of violence against women, encompassing both manifestations of grave physical violence, such as rape, and cases of restriction of freedoms or refusal to provide economic support, which explains the high percentages it cites. They therefore diverge from the figures shown in other studies using different criteria for the definition of violence. The age group considered may also vary.

<sup>12</sup> The survey used a sample of 500 men to discover their perceptions of the problem.

although 80% think that violence is sometimes justified, for instance when women are “extravagant,” disobedient, or adulterous.

According to the same study, the most critical age, when violence is most common, is adolescence: between the ages of 10 and 18. This age cohort accounts for almost 38% of registered cases of violence.

#### 6.1.2. The EMMUS surveys

In 2000, the third edition<sup>13</sup> of the “Survey on Morbidity, Mortality and Use of Services” (EMMUS) included a module designed to measure domestic violence affecting women between the ages of 15 and 45. It was used again in 2005. The EMMUS are commissioned by the Ministry of Public Health and Population (MSP) from the Haitian Child Institute (IHE), which conducts them with technical assistance from ORC Macro, an American firm in charge of the international Demographic and Health Surveys (DHS) programme, and with the assistance of the Haitian Institute of Statistics and Information Sciences (IHSI), which helped determine the survey sample. As a result, a module has been established “to provide information on the prevalence of all acts of violence committed by the husband or other people against women over 15 years of age.”<sup>14</sup>

The researchers recognize that there is a culture of keeping quiet about domestic violence, “which renders data-gathering particularly difficult.”<sup>15</sup> As for ingrained notions and beliefs, the EMMUS III survey shows that 48% of women who have already suffered domestic violence think that is justifiable to hit a woman if she neglects her children, goes out without advising her partner, refuses to have sex, does not cook properly or on time, or speaks to other men.

The survey reveals that almost one third (30%) of Haitian women who have lived with a husband or partner say that they suffered acts of violence from them, be they physical, emotional or sexual, or a combination, from the age of 15. In the case of physical violence, over one quarter (27%) of Haitian women report having been hit by their husband or partner at some point since they turned 15. However, that percentage is higher among women in a relationship without cohabitation (37%) and above all among such women living in the department of Artibonite (41%).

In 46% of cases, the acts of violence are perpetrated by one or more persons other than the husband or partner. However, 32 percent of women stated that the aggressor was only their husband or partner. The EMMUS-III findings for 2000 were, in this area, very similar to those recording in 2005 (44 % and 28%, respectively).

Overall, the finding for 2007 is that 25% of Haitian women say that they have suffered acts of physical, emotional or sexual violence at the hands of their husband/partner (compared with 30% in 2000, according to EMMUS-III). In 14% of cases, there was “moderate” (8%) or “severe” physical violence. In 11% of cases, women suffered sexual violence and in 17% of cases the violence was emotional.

<sup>13</sup> EMMUS III.

<sup>14</sup> *Enquête Mortalité, Morbidité et Utilisation des Services. 2000* (EMMUS-III), <http://www.measuredhs.com/pubs/pdf/FR121/17chapitre17.pdf>.

<sup>15</sup> EMMUS 2000.

### 6.1.3. The SOFA report

The Solidarité Fanm Ayisèn (SOFA) women's organization, in collaboration with the Centre for Research and International Cooperation (CECI), published a qualitative appraisal of violence in 2002.<sup>16</sup> That paper was written in connection with the "Programme to Strengthen Prevention and Provide Services to Women Victims of Violence – PAPAFAV" and contains the findings of interviews with women and a specially selected group of persons active in the promotion and defence of women's rights in five departments.

The publication summarizes the issues faced in places where the acts of aggression take place, including problems related to the identification of the aggressors and their victims. It shows that the feminization of poverty, women's lack of economic resources, and their subordination are all conducive to making them potential victims of violence. Violence against women is practiced by various categories of people (the partner, father, brother, well-known members of the community, and even local government officials) in a number of different contexts (the home, the market, shops, the street, in church, during carnival time, and so on).

### 6.1.4. The Kay Fanm periodic reports

The nongovernmental women's organization Kay Fanm – the only organization to offer accommodation services, one of which was recently established for minors – periodically publishes reports on registered cases of violence.

In addition to its legal aid and psychological support services, Kay Fanm is a source of reliable quantitative and qualitative information.

### 6.1.5. The Survey on Violence against Women carried out in 2006 by the Mouvman Peyizan Papay (Small Farmers of Papaye Movement)

Financed by CIDA's Kore Fanm Fund, this survey examines the situation of 200 women in four rural settlements in the High Plateau and the Low Plateau of the Centre department, which is well known for its remoteness. It confirms the widespread existence of domestic violence and of sexual violence in rural areas. The combination of a quantitative and a qualitative approach yielded information on male domination of women and on how women perceive it, on the different forms violence against women takes, how it has evolved, the extent of the problem and the outlook for actions to address it.

A survey of this kind is a useful way of acquiring more in-depth knowledge of rural areas and it should be systematized at the national level. It also shows that new legal provisions on rape are unknown and that the National Plan to combat violence against women has not yet reached such remote areas. The last recommendation in the report on the survey states that it would be useful for the MPP to establish a partnership with CONAP and the National Dialogue on Violence against Women.

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<sup>16</sup> *L'Etat Général de la Violence faite aux Femmes et aux Filles en Haïti*. CECI/SOFA, September 2002

6.1.6. The study on gender-based violence in Haiti conducted in 2006 by the Ministry for the Status of Women and Women's Rights

Entitled “Une réponse à la violence faite aux femmes” [A Response to Violence against Women], this study was commissioned by the Ministry for the Status of Women and Women's Rights (MCFDF) and supported financially by the Inter-American Development Bank (IDB) and the United Nations Development Fund for Women (UNIFEM) and technically by the Bureau d'études technique d'animation d'administration et de gestion (TAG).<sup>17</sup> Its goal is to support national efforts to combat violence, especially through implementation of a “National Plan to Eliminate Violence Directed Specifically against Women.” Qualitatively, the study shows numerous - internal and external - factors that limit the effectiveness of measures to prevent and combat such violence: the silence to which women are confined by society, shame, fear, the ineffectiveness of medical, judicial and social facilities, and the lack of intersectoral coordination of initiatives.

The first stage of the study involved compiling information and analyzing Haitian legislation and studies already carried out, as well as existing governmental and nongovernmental programmes. The second stage consisted of a survey of three communes in Haiti (Cayes-Jacmel, in the Sud'Est department; Ouanaminthe, located in the Nord'Est department, and Gressier in the Ouest department). The survey followed the “Critical Route” methodology<sup>18</sup> while the semi-structured interview technique was used to elicit data from those in charge of the institutions concerned. The same approach was adopted for reviewing existing literature on the subject. For the second stage, 30 in-depth interviews were conducted with women victims of domestic and sexual violence, another 26 were conducted with service providers, and 15 discussion groups were formed in the three targeted departments. This study examined the situation of women and girls of 15 or more years of age.

According to the final report, dated March 30, 2007, the data indicate that for one woman in five (21%) of those surveyed, a man has the right to beat his spouse/partner when she goes out without telling him or neglects the children (20%). A relatively high percentage of women (between 7% and 8% for all causes mentioned) accepts that a man may beat his woman if she burns the food, stands up to him or refuses to have sex with him.

Almost one third of the women surveyed said they agreed with at least one of the aforementioned grounds. Such views are more common among uneducated women (36%), women who have had numerous children (38%), women living in rural areas (34%), and single women (32%). The highest percentage of women agreeing with at least one of the aforementioned grounds is to be found in the Centre department (42%) and in the poorest households.

According to the survey of the three communes, women victims of violence, the providers of services for them, and the members of the communes all regard the levels of violence in Haiti as very high, a reality that is echoed within the family. Thus, they perceive a link between social violence and domestic and sexual violence. According to their observations, the most frequent manifestations of

<sup>17</sup> To be more precise, by the Study Bureau's Research Section, under Mad Myriam Merlet, who is currently the Minister's Chief of Staff.

<sup>18</sup> The “Critical Route” methodology was created by the Pan American Health Organization (PAHO).

violence are domestic physical violence and sexual violence outside the family (rape). Psychological violence is overlooked or not generally considered a form of violence (according to the providers). Sexual violence within a couple is not recognized as such and only physical acts of violence in connection with such episodes are taken into account. Adult women in the commune describe “paternal irresponsibility” as a frequent and serious form of violence. Moreover, among the members of the commune and even among service providers, there are myths and stereotypes with respect to violence that may make it difficult to provide the attention and, especially, the ongoing care that victims need and they even encourage stigmatization of victims by the community. Tables 1-3 and graphs 1, 2 and 3 in Annex III show the characteristic features of the cases recorded by the MCFDF in 2003-2007.

#### 6.2. Migration-related violence

According to the National Poverty Reduction and Growth Strategy Paper (DSNCRP), seasonal migration to the Dominican Republic of poor farm workers in search of a job has been going on for several decades. They constitute a major segment of the rural workforce. These workers live in isolated sugar mill camps or “bateys” where living conditions are appalling and their rights are constantly trampled upon. They are subject to forced repatriation in violation of their rights. Despite the hardships, these displacements continue, using informal and risky recruitment channels: a sign of the despair and lack of future felt by such workers in Haiti.

The Groupe d’Appui aux Rapatriés et Réfugiés (Support Group for Repatriated Persons and Refugees -GARR) is a set of associations and nongovernmental organizations working on Haiti-Dominican Republic migration issues. Given frequent cases of rape, especially of children, in the border zone in 2007, the GARR denounced the crimes and, in addition, made recommendations to the authorities and health and justice system officials. The very detailed recommendations regarding medical certificates, procedures to be followed in providing medical care and social support, training for providers and enforcement of the Decree of 6 July 2005 on prosecution of criminals all illustrate the impact of legal measures adopted by the Government and the gradual implementation of the National Plan to Combat Violence against Women.

The phenomenon of risky migration can be observed to a lesser extent among the girls and women emigrating to Guadeloupe, Guyana and the Bahamas. Generally, these girls and women are in transit to the United States of America. Given their legal status, they are exploited on sugar and coffee plantations, as well as on construction sites. They receive a pittance as wages and are often victims of sexual violence.

#### 6.3. Trafficking in women and girls

The Republic of Haiti has a serious problem of trafficking in, and smuggling of, persons. The study by the Organization of American States (OAS) on this subject shows that more than 2.5 million people, including 1.5 million minors, are victims

of these practices. That study also contains notable statistics on the number of men involved compared with the number of women (25% and 44%, respectively).<sup>19</sup>

The MCFDF is particularly concerned about the fate of the women and children involved, as they are the most vulnerable. A draft bill to combat trafficking in persons was recently drawn up by the ministries concerned (the Ministry of Justice and Public Security, the Ministry of Social Affairs and Labour, the Ministry of the Interior and Regional and Local Governments and the Ministry for the Status of Women and Women's Rights) headed by the Ministry of Foreign Affairs, with the participation of civil society organizations, such as the GARR,<sup>20</sup> and international cooperation agencies, such as UNICEF and the Pan American Development Foundation (PADF).

Haiti has laws prohibiting trafficking in women and girls and has ratified a good number of international instruments on the subject. The domestic legislation includes:

- The 1987 Constitution (articles 16.2, 19, 88, 98, 98.3, 261, 276, 276.1, 276.2);
- The Decree of 17 November 1980 punishing illicit travel (articles 1 and 3);
- The Penal Code, articles 337 – 338 (transposition to the offences of breach of trust and fraud);
- Decree of 4 April 1974 on adoption;
- Decree of 12 September 1961, updating the Labour Code;
- Law of 24 November 1983 on the role of the Social Welfare and Research Institute (IBESR);
- Law of 10 September 2001 prohibiting corporal punishment;
- Law of 5 June 2003 on the prohibition and elimination of all forms of abuse, maltreatment and inhumane treatment of children, repealing the corresponding chapter of the Labour Code;

The international conventions, apart from CEDAW, include:

- The Convention on the Rights of the Child, ratified by Haiti on 23 December 1994;
- ILO Convention No. 182 on the Worst Forms of Child Labour, ratified on 15 May 2007;
- The International Convention on International Trafficking in Minors (October 2005);
- The United Nations Convention on Transnational Organized Crime (October 2005);

<sup>19</sup> *International Organization of Migration, 2006*, Legal review of trafficking in persons in Haiti, cited by Magalie MARCELIN and Mélanie CLERGE, who drafted the report on this study, pp. 16 and 26.

<sup>20</sup> *Groupe d'Appui au Rapatriés-és et Réfugiés-es.*

- The Additional Protocol to the United Nations Convention to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children;
- The Inter-American Convention against Trafficking in Minors, ratified in 1980;
- The Optional Protocol to the Convention on the Rights of the Child, concerning the Sale of Children, the Prostitution of Children and Child Pornography;
- The Convention on the Abolition of Child Labour;
- The Convention concerning the Minimum Age for Admission to Employment, ratified on 15 May 2007;
- The United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Entered in force on 1 July 2003;
- American Convention on Human Rights, ratified on 18 August 1979.

In this area, as in others, human rights organizations and other groups in civil society are very active.<sup>21</sup> They conduct and publish surveys and organize training and sensitization courses, in addition to their constant lobbying of the authorities concerned.

Furthermore, some associations have specialized in the trafficking and smuggling of persons of both sexes. Among them is the Groupe d'Appui aux Rapatriés et Réfugiés (GARR), which, since 1991, has been repeatedly involved in receiving people deported from the Dominican Republic, helping them to reintegrate into society and sensitizing public opinion to the situation of Haitian immigrants and their families. It has denounced the trafficking and smuggling of persons on the border between Haiti and the Dominican Republic and pleaded, at home and abroad, for respect for the human rights of migrants. To address the lawlessness of the border zone, the GARR has expanded the scope of its activities to include different types of human rights violations occurring in that area.

#### 6.4. Prostitution

Prostitution is neither defined nor prohibited under Haitian law. That legal lacuna, in effect, authorizes the practice of prostitution in a number of spheres, including on the streets. Nevertheless, the Penal Code establishes punishments for offending moral standards and for indecency, without ever mentioning prostitution (Section 4 bis, Affronts to Public Decency, Decree of 6 July 2005). “Whoever commits an affront to public decency by encouraging or habitually facilitating debauchery or the corruption of young people less than 18 years of age, of either sex, shall be liable to imprisonment of between six months and two years...(Article 281). Any person who has committed an affront to public decency by committing any acts, such as molesting or other acts, likely to be an affront to the decency of a

<sup>21</sup> *Groupe d'Appui aux Rapatriés Et Réfugiés* (GARR), the United Nations Children's Fund (UNICEF), the International Organization for Migration, Catholic Relief Services, Sant Pon Ayiti, PADF, USAID, Save the Children, Plan Haïti, World Vision, *Réseau Binational Jeannot Succès de Promotion et de Défense des Droits Humains*.



person of either sex shall be punished by imprisonment from three months to one year (article 283).

Prostitution is therefore a practice that is tolerated but sanctioned socially, because prostitutes are stigmatized and discriminated against. Nevertheless, the Haitian State has made arrangements to prevent, and protect them from, sexually transmitted diseases.

The Social Welfare and Research Institute (IBESR of the Ministry for Social Affairs) is the Government agency responsible for assisting them. Presently, there is no association of prostitutes identified and recognized as such. However, in March 2007, a group of 133 prostitutes turned up at the Ministry for the Status of Women and Women's Rights to ask for assistance with giving up the practice.

## 6.5. Actions undertaken and proposed measures

### 6.5.1. Government-driven solutions

The MCFDF and the Social Welfare and Research Institute have undertaken to seek appropriate strategies for reinserting these people into society. That initiative is currently at the stage of investigating their needs in order to establish parameters for actions on their behalf.

With respect to violence, the 2006 Study conducted by the MCFDF recommends:

- With respect to developing and implementing sets of procedures for handling cases and follow-up: Preparing case management guidelines or "protocols" for the institutions involved, with a description of procedures to be followed at different stages (reception of a complaint, registration, handling [health, psychology, police and justice system], derivation, measures to protect victims and follow-up).
- With respect to protection of victims: Evaluating the resources at the communities' disposal for establishing accommodation facilities for women and children at risk.
- With respect to data gathering and research: Training the personnel in the various institutions to fill in and transmit the information in a single data sheet record of each case and to develop mechanisms for ongoing data collection and analysis. Furthermore, ensuring that periodic surveys on the prevalence of gender violence in the country are conducted on a regular basis.
- With respect to prevention and social communication: Developing a programme for educating the general public regarding violence. That programme would stress prevention, while addressing the cultural factors that encourage the hushing up of violence against women. It should include men as a target group.
- With respect to revising legislation: Seeking adoption of a specific law on domestic violence. That law needs to establish a legal framework covering manifestations of violence for which existing legislation offers no protection, such as psychological and economic violence.

- With respect to improving enforcement of existing laws: Holding training workshops for key people in the judicial system (judges, attorneys, and so on) and police officers, to familiarize them with the Decree of 6 July 2005, which increases penalties for rape.
- With respect to human resource training: Developing a programme for training and monitoring the human resources – in government institutions and in civil society -- involved with prevention and with looking after victims of domestic and sexual violence.

The Study also suggests:

- Completing the roster of organizations working to handle violence against women at the national and regional levels and distributing it to users;
- Strengthening inter-ministerial and inter-agency coordination by establishing care networks, for each main geographic region, to provide integrated services for victims of domestic and sexual violence and which assist them through to a resolution of the problem. For that, the Study suggests, local committees need to be formed with representatives of the institutions providing services (the doctor or nurse in charge of the health centre, the head of police, the person in charge of the NGO, and so on. Well-established NGOs that have already had experience of providing support and following up on cases could share that experience as a source of “best local practices.” Through its departmental offices, the MCFDF should take the lead in establishing such networks.

#### 6.5.2. Actions carried out by CONCERTATION NATIONALE and certain other institutions

These include:

- The adoption of a National Plan to combat violence against women;
- The establishment of a set of procedures for looking after victims of violence;
- A protocol of procedures to be followed in the 72 hours following a rape;
- A provisional roster of institutions providing services for victims of violence specifically directed against women;
- A Guide for Trainers and a training booklet for dealing with and helping victims of sexual violence, written for the personnel providing care;
- The development of a programme for receiving and taking care of the medical needs of victims of violence;
- The dissemination of leaflets in French and Creole on actions to take in the event of sexual aggression, the medical certificate, and so on;
- The organization, under the auspices of the MCFDF, of regional meetings to raise awareness and promote the tools that Concertation Nationale has developed;
- The completion of a data collection sheet and execution of a pilot project using it in the different institutions;

- Presentation of an analysis of 511 cases of violence recorded in certain institutions, including cases of violence against women.
- Training of personnel in the health and justice system areas involved;
- The Fondation pour la santé reproductive et l'éducation familiale [Foundation for Reproductive Health and Family Education –FOSREF], a nongovernmental organization active in the fight against HIV/AIDS among young people, has begun providing specific services for sex workers;
- The LAKAY centre, a project that uses the educational peers method in its prevention work and provides services to sex workers;
- Thanks to initiatives taken by women's organizations, comprehensive care facilities for victims of domestic and sexual violence have been established nationwide. Health centres like the GHESKIO centres provide integrated services aimed at preventing pregnancy or infection with HIV.

#### 6.6. Strengthening best practices

The following have been identified as “best practices” in policies and programmes for an effective response to domestic violence (*Egalité des sexes en matière de Justice, Meilleures pratiques*, a report commissioned by the International Legal Assistance Consortium (ILAC) at the request of the MCFDF, and carried out by the Raoul Wallenberg Institute, 2007).

All interventions must be geared to protecting the women involved.

- Simultaneous actions at every level, both national and local. At the national level, priorities include improving the status of women through appropriate policies and laws and the establishment of a social environment conducive to non-violent relations.
- A multisectoral, interdisciplinary and inter-agency approach to interventions, which requires the well-coordinated participation of the different sectors involved: health, education, justice system, the police, religious bodies, and the community.
- The execution of national strategic plans on gender-related violence, in cooperation with the Ministry for the Status of Women and Women's Rights, which is responsible for formulating policies and seeing that they are applied to gender equality issues and those of civil society organizations working in this area.
- Working with men. Prevention programmes must include working with men as this facilitates critical reflection on the cultural values that associate masculinity with violence. Such work should be with both the men who perpetrate acts of violence and the general population.
- Training of personnel in the institutions with a view to achieving short-term improvements in their knowledge and practices, but above all in order to promote a change of institutional culture.
- Reliable data, disaggregated by sex, in all spheres of activity, with a view to assessing the effectiveness of policies and programmes.

- In the health sector: training for health sector personnel on applying the standards and established procedures for handling cases in this area, as well as the setting up of specialized centres to assist victims of domestic violence and to detect cases of violence through diagnostic assessment systems.
- In the education sector: sensitization of students in primary and secondary schools and at university by including the subject of violence in the curriculum or by organizing special workshops and lectures. Training seminars should be arranged for teachers and lecturers on ways to broach these issues with their target audiences (pupils and students).
- In the justice sector: training officials in the judiciary and establishing juries specializing in domestic violence, along with institutions for the defence of women.
- In the police force: providing training for officers on how to receive complaints and guide victims.

## Article 7

### Participation of women in political and public life

#### 7.1. Appraisal

This Article covers a set of qualitative and quantitative data for tracing the development of women's representation in Haiti's political institutions, from which they were excluded for so long. The data show that women face special obstacles to their access to political office that may vary for each woman or even depending on the office in which political power is exercised.

##### 7.1.1. Obstacles to women's participation in political and public life

In a study conducted in 1999, entitled "La participation politique des femmes en Haïti; quelques éléments d'analyse" [The political participation of women in Haiti; analytical considerations], Myriam Merlet<sup>22</sup> analyzed the obstacles to women's participation in politics and identified the following causes:

- **Haitian society is patriarchal** and, as a result, the formal "political" arena is considered the prerogative of men. Some women, for their part, also think that it is incumbent upon men to exercise power and are afraid of acting "like men" in the political sphere and thereby becoming like them in their attitudes, of which they disapprove in the normal context of relations between the sexes.
- This society is also characterized as one in which parenthood is in practice exercised by the woman on her own and in which the chief focus is on the mother, which places the chief, sometimes exclusive, burden of family responsibilities on the women, 42% of whom are heads of household who regard politics as a risk as well as an activity that requires considerable financial means.
- **Women also perceive participation in political life to be a dangerous activity**, a perception stemming from the stigmata left by the repression of the Duvalier regime. Apart from that, given the precariousness of their living conditions and the absence of a national social security system, women fear for the future of their family, should they lose their lives.
- Because of their family responsibilities, especially if they are single, and in the absence of child care facilities, women have little time to get involved in politics. However, Merlet's analysis relativizes this lack of time with the following nuance: "This 'lack of time' is relative in the sense that women do devote time to certain public activities, such as religious activity. However, as they themselves stress, it is important to note the specific area in question and to consider the part women play in such activities. Indeed, there is general agreement that, in Haiti, women are not distinguished by their presence in the religious hierarchy. Even in the case of voodoo, the popular religion which has both priests and priestesses, the fact is that the latter do not enjoy the same status as priests and, in any event, there are marked gaps in the degrees of leadership exercised."

<sup>22</sup> MERLET Myriam, 2002, *La participation politique des femmes en Haïti. Quelques éléments d'analyse*, Port-au-Prince, Haiti, Editions Fanm Yo La.

- “Having said that, availability may also be construed as mental. Given the socio-economic hardships most women face and their particular precariousness, it might well be argued that women often lack the ‘mental time’ needed to invest in the political sphere.”
- Women also suffer financial constraints and Haiti has not escaped the feminization of poverty. It has reached a point at which some women’s organizations have proposed lowering the costs associated with presentation of a candidacy or that measures be adopted to provide financial support for women’s candidacies.
- Women also suffer more than men from a low level of access to formal education and most women are illiterate. Moreover, women have had less opportunity than men to develop the qualities and charisma needed to engage in political life. Quite normal functions such as public speaking, being in the limelight, having the opportunity to use leadership skills, have rarely been within women’s reach. It is perhaps worth recalling in that connection that as recently as 1982 the legal status of married women under the Napoleonic Code precluded even the conditions for their exercising such functions,<sup>23</sup> because a married woman had no legal capacity and could neither buy or sell without her husband’s consent; nor could she go where she wanted or travel without marital authorization.
- As a result of events that have left deep scars in the political history of Haiti, there is a marked tendency to regard politics as “dirty” and politicians as bent on intrigue and corruption; so much so that women fear publicizing their support for one or other of the political parties or for a woman candidate. So the reason why some women refrain from taking part in political life is to maintain their “credibility.” It is not because they are incapable of doing so.
- **The use of sex in politics is described as follows:** When women go back to the political arena, they also have to put up with attacks on them as women. Denigration here, as in all forms of violence specifically directed against women, is designed to dissuade; women are therefore afraid to be the butt of political discourse, especially because, in as male chauvinist a society as Haiti, the resulting stigmatization can be difficult to take. This is one area in which an Anti-Sexist Law is sorely needed.”

Despite these impediments, women have made forays inroads into various political fiefdoms.

#### 7.1.2. Changing patterns of female representation in political and government bodies since 1950

Throughout the world, there are inequalities in the exercise of power at variance with its democratic essence and an ongoing desire to exclude women from political power. In Haiti, since 1804, no government has practiced equal access to positions of power. Indeed, very few women have occupied positions of great responsibility in the past 20 years. Nevertheless, in 1990, in order to solve a

<sup>23</sup> BAZIN Danielle, MAGLOIRE Daniel, MERLET Myriam, 1991, *Femmes/Population/Développement Organisations Féminines Privées en Haïti* ; Volume I: *Recherches Socioculturelles sur la situation des femmes en Haïti*, FNUAP, p. 57.

political impasses, Ms. Ertha PASCAL TROUILLOT, a judge at the Court of Cassation, was appointed Provisional President of the Republic of Haiti. She presided over the country for approximately 11 months, from 13 March 1990 to 7 February 1991 (Anglade-Neptune, 1995: 97 & Narcisse-Claude, 1997: 105). During that same year, a woman submitted her candidacy for the position of President of the Republic for the first time. Over 15 years later, for the 2006 elections, there was another (Haiti's second) female candidate for the position of President of the Republic.

#### 7.1.2.1. At the Government level

The Haitian Government is headed by a Prime Minister. Between 1991 and 2008, there were 13, of whom only one was a woman: Mad Claudette Werleigh. She governed for four months, from November 1995 to February 1996 (Anglade-Neptune, 1995: 100). As for women members of the Government (ministers, secretaries of state, undersecretaries of state), the list reads as follows:<sup>24</sup>

- 1957. In the Executive, there was one woman secretary of state in the Labour Department and another woman headed the militia;
- 1987. There was one female Minister (Minister of Information) and one female Secretary of State for the Status of Women and the Family;
- 1990. There were three female ministers and one female member of the Council of State, out of 11 members of the Government;
- 1994. There were one female Prime Minister, three female ministers and three female secretaries of state.
- From 1995 to 2002, there were two to three female ministers at the start of each new administration. In 2003, of 16 ministerial positions, women held five. Men occupied all secretary of state positions. By 2005, there were only three women ministers.

Currently, women are very poorly represented in the Government (See Table 4 in Annex 3). Of the 18 ministries, only two (the Ministry of Commerce and the Ministry on the Status of Women and Women's Rights) are headed by women. This glance at the history of women's presence in government proves that, despite the formal rights granted to women, that advance has not been accompanied by the actual exercise of those rights nor has it translated into political practice. What is more, these figures essentially capture women's participation in numerical terms. Still to be studied in depth are issues relating to the quality of women's participation in power, the extent of their influence in terms of decision making and proposals for action and the degree to which their proposals have been accepted. It is to be noted that the share of professional women in public administration is 7.28% (Table 6.7 in Annex 3).

#### 7.1.2.2. At the local and regional government level<sup>25</sup>

Women are under-represented at the municipal district, municipality, and departmental government levels, which are regarded as the epicentres of local

<sup>24</sup> These data are taken from MERLET, Myriam, *La participation politique des femmes en Haïti. Quelques éléments d'analyse*. Op. cit.

<sup>25</sup> The local and regional government level comprises: Municipal District, Municipality, and Department.

power. They are rarely mayors. They can be found as second or third members of the Municipal Administrative Boards (*Conseils d'Administration communaux - CAC*)<sup>26</sup> and on the Administrative Boards of Municipal Districts (*Conseils d'Administration des Sections Communales - CASEC*). The same pattern can be observed in the two chambers of the National Assembly (Lower Chamber and Senate of the Republic). Table 6, attached to this report, highlights their participation in the periods indicated.

In 1955, there were eight female municipal councillors. In 1974 there was a strong surge in women's representation, reflected in the number of female mayors (44). In 1990, the number was down to 34 elected women: five as mayors, 17 as second member of the Board and 12 as the third member. In 1997, only 6 of the 127 mayors were women. In 2000, there was a slight increase, with 25 women being elected mayors in four Departments (Ouest, Sud, Nord, Nord'Est).<sup>27</sup> (Table 8 and 9, in Annex 3).

However, in the same four departments, there were 47 women in the CASEC, out of a total of 782, and 195 in the Municipal District Assemblies, out of 2,073. They included 22 town delegates, out of 113. In 2001, 44% of departmental delegates were women. During 2004, that share fell to 10%.

#### 7.1.2.3. At the parliamentary level

Legislative power is wielded by two chambers of representatives: the Senate and the Chamber of Deputies, which together constitute the Legislature. Each Department is supposed to be represented by three Senators and one deputy for each constituency. Women are under-represented at the decision-making level. Indeed, in 2003, 32% of the members of the Senate were women (6 out of 19). Women comprised only 4% of the Chamber of Deputies (3 out of 80). Taking both Chambers together, women accounted for only 9.1%, approximately. However, it is worth noting that in 2000, women accounted for only 3.6% (or 3 out of 83) of the Chamber of Deputies and for 25.9% of the Senate (7 out of 27). In both houses, therefore they made up only 9.1%, with men accounting for the remaining 90.9%. In 2006, four women were elected to the Senate, compared with 25 men. Four female deputies were elected, compared with 95 men. Female representation was therefore 13% and 4%, respectively. (See Table 5 in Annex 3)

#### 7.1.2.4. In political parties and movements:

Haiti's political organizations are run by men. According to a 1999 survey of a sample of political parties, only one claimed to have gender equality as a strategic objective. (Merlet, 2002: 22). Currently, two political parties are headed by women: the Rassemblement des démocrates nationaux progressistes (RDNP) and the REPAREN. In reality, nobody knows exactly how many women belong to Haitian political parties and quota rules are rarely respected when it comes to choosing candidates for elections (presidential, parliamentary or municipal). No party has yet adopted measures to reserve a certain number of constituencies for women candidates. At the current pace of advances in women's representation in politics, gender equality would not appear to be likely in the short term, unless corrective action is taken.

<sup>26</sup> The Municipal Administrative Board [Conseil d'Administration Communal] comprises three members, there being one Board per Commune.

<sup>27</sup> The figure refers to just those four Departments.



## 7.2. Strategies pursued or envisaged to improve women's participation

Despite the differences between women and men in the real political world, for some years now we have witnessed the emergence of fresh concern with respect to women's representation in politics.

This concern has been voiced by women's groups specifically established to promote political representation and by government authorities or power groups such as the political parties. However, apart from the incentives contained in electoral laws, the State has not yet adopted legislative measures such as the setting of a quota, aimed at fostering the presence of women at the different levels of the three branches of government, and very few political parties<sup>28</sup> have adopted specific measures in favour of women.

### 7.2.1. Government initiatives

The confluence of efforts by organized civil society (women's organizations) and by the State (via the Ministry for the Status of Women) affords an opportunity to make the question of women's participation a topic of national political debate. Through the Ministry for the Status of Women and Women's Rights, the Haitian State encourages women to take up their role as leaders in political life. Thus, the Ministry uses comparative gender analysis (ACS) as a tool with which to induce citizens to incorporate the gender perspective in all spheres of political activity.

One special measure, nevertheless, deserves highlighting, namely that adopted in the 2005-2006 elections to encourage political parties to increase the number of female candidacies. It is to be found in Article 121 of the electoral decree, which stipulates that "when a male or female candidate runs for a political party, or groups of political parties, for which fewer than 30% of the candidates are women, the amount established under Article 119 shall be reduced by two-thirds for all (male or female) candidates of the party concerned.

### 7.2.2. Civil society initiatives

Since 1986, there has been a proliferation of women's associations working to forge a society rooted in the observance of human rights and women's rights, in particular, that would enable them to participate in decision-making bodies without discrimination based on their sex.

After the collapse of the Duvalier family dictatorship, women were quick to press their demands and their desire to participate in public affairs. The march of 3 April 1986 demonstrated their resolve. The FANM D AYITI association addressed a memo to the 1987 Constituent Assembly. It resulted in new approaches to family law, which the new Constitution enshrined. Among other things, the 1987 Constitution recognizes that the State has an obligation to provide equal protection to all families, regardless of whether or not they are the fruit of marriage (Article 260) and it provides for a Family Code (Article 262), (Monique Brisson, 1989).

In 1996, a women's organization called LIG POUVWA FANM<sup>29</sup> began promoting the participation of women in political power circles at every level. Its work focused on organizing training and awareness-raising seminars in the political

<sup>28</sup> The Ouvri Baryè party and the parties affiliated with the Socialist International have one-third clauses in their statutes.

<sup>29</sup> This women's organization ceased functioning over five years ago.

sphere, radio and television broadcasts, and research into the circumstances and living conditions of women in Haiti. The Fanm Yo La organization, founded in 1999, is another civil society body dedicated to women's full participation in politics. It lobbies constantly in favour of both urban and rural women's participation at every level in the three branches of government (Executive, Legislature, and Judiciary). That is also one of the objectives of the FEMMES ET DEMOCRATIE organization. The last elections in 2006 saw the emergence of Coalition Haitienne des Femmes Leader (COHFEL) and the Réseau des Candidates pour Gagner, which campaigned actively to raise awareness and encourage women's participation in politics.

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## Article 8

### Representation and participation at the international level

#### 8.1. Appraisal

According to the Constitution, women have the right and the possibility of representing their Government abroad and of taking part in the work of international organizations on a par with men. It also provides that the candidacies of competent persons of either sex shall be accepted and treated without discrimination. Nevertheless, the fact is that 93%<sup>30</sup> of the members of diplomatic missions are men.

In 39 Haitian diplomatic missions throughout the world, including five to international organizations, the percentage of women ambassadors is 11.8% (Table 10 in Annex 3).

#### 8.2. Measures envisaged for increasing the presence of women at the international level

Nothing specific has been done in diplomatic circles to ensure greater representation of women. The whole diplomatic career plan needs to be based on objective recruitment criteria, taking skills and academic degrees into account. If necessary, special temporary measures should be adopted to ensure the appointment of a sufficient number of women.

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<sup>30</sup> Ministry of Foreign Affairs, 2007, Replies to questionnaires regarding CEDAW.

## **Article 9**

### **Nationality**

According to the Constitution in force today, women and men possessing Haitian nationality are equal before the law with respect to naturalization, regarding of whether they were born as Haitian nationals or as aliens. The Law of 8 November 1984 makes no discrimination based on sex with respect to the acquisition, change, or maintenance of nationality. A Haitian woman married to a foreigner keeps her nationality. However, Article 15 of the Constitution prohibits dual nationality. Thus, a married woman who chooses to benefit from the advantages associated with her husband's citizenship loses her own nationality.

Haitian citizenship is acquired by birth, naturalization, or by law as a special favour. Acquisition of nationality by law as a special favour dates back to the early Haitian Constitutions, particularly those of 1816 and 1843, which included a regime in favour of persons of African and Indian descent.

Furthermore, Article 7 of the Decree of 6 November 1984 stipulates that: "When a child born in Haiti of a foreign father comes of age, he or she shall be entitled to acquire Haitian nationality by means of a statement to the court with jurisdiction in his or her place of residence."

Article 49 of the Civil Code provides for the granting of Haitian nationality to abandoned or stateless children by ruling that children born in Haiti of unknown parents or of parents whose nationality has not been ascertained shall acquire Haitian nationality based on the statement of birth filed with the registrar.

Women and men have equal rights as regards residence permits and work permits for a foreign spouse.

## Article 10

### Education

#### 10.1. Presentation of the Haitian educational system and general data

The current structure of the Haitian educational system is based on a reform originally outlined in 1979<sup>31</sup> that provided for three levels of education:<sup>32</sup> basic, secondary, and higher or university education.

Basic education is spread over three cycles, totalling nine years of studies, equivalent to the six years of what used to be primary education plus the three first years of the former secondary education.

Secondary education now is what used to be the last four years of secondary education. The first six years of study (basic education) are compulsory under Article 32.3 of the Haitian Constitution.

The DSCRNP of September 2007 states that, generally speaking, the educational system in Haiti is characterized by a high degree of social exclusion and helps perpetuate inequalities through:

- Uneven quality of the education provided, which means that the poor generally only have access to low quality education;
- Limited educational services, especially in rural areas;
- The relatively high cost of education compared to the incomes of families who bear the brunt of the expenses involved. As a result, school attendance varies according to the standard of living of the head of household;
- Weak and largely ineffective regulation.

The data at the primary school level, disaggregated by sex, do not in fact point to significant gender-specific differences in access to schooling. In 2001 and 2002, the overall school enrolment rate for persons between the ages of 6 and 24 is 45.9%, the figure for girls being 45.3% and for boys 46.6%. Access is thus almost equal, as limited for boys as it is for girls, even though, in practice, different factors can lead to girls not being enrolled or dropping out, such as the social role they are assigned, early pregnancy, and traditional beliefs, especially in rural areas.

Despite this finding that access to primary education is almost equal for the two sexes, the data broken down by sex still show that literacy among women (48%) is far below the figure for men (61%). (Cf. The poverty map, 2004 version, in Annex 4)

#### 10.2. Trends in attendance rates for mainstream education

When one compares the performance of the Haitian educational system with that of the educational systems in certain other countries in the region, such as the Dominican Republic and Jamaica, the fact is that Haiti's performance is very weak (Tables 11, 12 and 13 and charts 3, 4 and 5). The first year enrolment rate in Haiti is

<sup>31</sup> This is a reference to the "Bernard Reform," which was promulgated as a law in 1982.

<sup>32</sup> Department of Planning, Control and Evaluation/MENJS, *Panorama de l'école fondamentale de base haïtienne*, January 1999.

57.3%, compared to 82.2% in Jamaica and 82.3% in the Dominican Republic. Likewise, the enrolment rate in the last year of primary education in Haiti is 35.5%. In Jamaica it is 55% and in the Dominican Republic it is 83.5%.

Nationwide, the statistics show that 20% of women and 16% of men receive no education. Furthermore, nearly 4 women in 10 (39%) and four men in 10 (40%) receive only a primary level education. Approximately 38% of women and 41% of men receive a secondary education.

In 2001/2002, only 45% of the population of between 6 and 24 years of age attended a school or a university. The last census (2003) revealed that nearly 40% of the population aged 10 or more could neither read nor write (IHSI 2003). That is true of 42% of women, as opposed to 36% of men. According to the 2007 DSNCRP, the illiteracy rate of 39% remains high, even though there has been progress from one generation to the other. Only 49% of children attend school. These low levels of education translate into limited skills.

Some studies also state that 0.8% of girls – compared to 0.7% of boys – go to university. (*A Shared Vision of Sustainable Human Development*, Government of Haiti and UNDP in Haiti, Le Natal, Port-au-Prince, 2004).

In 2005, according to the DSCRNP, nearly one third of children aged between 6 and 16 (500,000 children) do not go to school. In the 5 to 15 years of age cohort, the proportion increases to 40% or approximately one million children.

The net primary school enrolment rate is, nevertheless, slowly improving. It rose, for instance, from 68% in 2000 to 70% in 2003. Of the population aged 5 or older, 21.5% had a secondary school education, while only 1.1% had a university education (1.4% of men, as opposed to 0.7% of women). There has, however, been progress from one generation to another because, for every 10 people in the 25 to 29 years old segment, 7 know how to read and write, whereas in the older (50-54 years of age) segment, a little over 3 out of every 10 people are literate (Lamaute-Brisson 2005).

What this suggests is that the problem is not so much access to school, but the ability to retain pupils of both sexes at school. As far as education is concerned, while gender-related differences have diminished at the primary level, they still loom large at higher levels of education. Currently, boys spend more time than girls at school during the two first cycles. The school-life expectancy of girls is two years and eight months, compared to an overall average of three years and nine months for boys. (Ministry of Education, Youth and Sport –MENJS, 2003).

A high percentage of pupils (29%) also continue to repeat the first year and the dropout rate, estimated at over 6%, increases progressively from one school year to the next. That means that, in school year 2002-2003, pupils registered in the sixth year of basic education were barely 35.5% of those who had been admitted to first year (Table 8). Many pupils are thus gradually ejected from the system without having had time to acquire and master the basic knowledge deemed necessary for lifelong learning.

The dropout rate is especially high in the first cycle of basic education (29%) (MENJS, 2003) and nearly 60% of children leave school before obtaining a primary education certificate. Of the two million children attending school at the basic

education level, only 56% are of the statutory age (6 to 11). The big challenge is to get children into school and, above all, to keep them there.

Another big challenge currently facing the Haitian educational system is the problem of the over-age pupils it is called upon to manage. The fact is that children are admitted to school when they are older than they should be (because the supply of school places does not satisfy the demand for them) and, because of repetition, they are kept in the same class too long. This is now a very widespread phenomenon: 67% of children are over-age in the first year of primary education and 91% are older than they should be in sixth year. Thus, taking all classes together, children are on average more than two years older than the officially established age.

The average age at which over-age children begin school is 7 years and 11 months, although there are very marked differences within that average of up to four years. In other words, that suggests that some children are beginning their first year of basic education aged 12.

In rural areas, the problem of the average age at which children start school is even more acute. It is 8 years and 2 months, with a standard deviation of 3 years and 9 months, compared with an average starting age of 7 years and 6 months in urban areas and a standard deviation of 3 years and 5 months.

It also transpires that a good many pupils lose one year of schooling along the way; others lose up to three. The reason is that they all come from a family with several children: six, on average. Asked about their personal expectations with respect to school, 39.1% of them said that they wished to continue attending it; 11.2% preferred studying a trade; and 48.9% of these pupils said that they wished to both learn a trade and continue their studies at school. In rural areas, that desire was even more pronounced.

### 10.3 Reasons for the low enrolment rate

These have to do with:

#### ➤ **The level of income:**

At the primary level (first and second cycles of basic education), a child's education can be quite expensive for a family, despite the principle of a free basic education proclaimed by the Constitution currently in force. Indeed, the average annual cost of a pupil's education, in school year 2003-2004, varied between 1, 444 Gourdes in first year and 2,506 Gourdes in sixth year. This increase in costs occurs in both urban and rural areas.

All these costs are defrayed by parents in the private sector (the subsidy received by 12 percent of private schools at this level of education is barely significant), while in the public sector the State defrays up to 40% of the expenses. That is one of the main reasons why school enrolment is so low among children of poor families, as clearly shown in the findings of the survey of household living conditions conducted by the Haitian Institute of Statistics and Information Sciences (IHSI).

➤ **Place of residence**

The same inequality of opportunity exists, when it comes to a child going to school, between those who live in urban areas and those who live in rural areas. The differential is approximately 21%, to the detriment of a child living in a rural area.

The same is true of a pupil's success at school. The findings of the EMMUS III (2003) survey showed that: "For the great majority of women living in a union, there are primary schools within five kilometres of their home. Urban areas are generally better off in that sense than rural areas (100% within 5km, as opposed to 94.7%). This form of inequality is more marked for access to the first cycle of secondary school, where 98.4% of urban residents have such a facility within 5 km, compared to 26.2% of rural inhabitants." For pupils in rural areas, 38% of those attending the first cycle of secondary school and 45% of those attending the second cycle, it takes more than one hour to reach school.

Correlatively, low-income families are affected most by the drop-out and late enrolment problems. The population living in rural areas is particularly hard hit by the shortage of schools.

➤ **The educational qualifications of teachers**

At the first two basic education cycles level, only 10% of teachers have had a primary teacher training college (École Normale) education, and 28% reached ninth class of basic education. The problem is most acute in the private sector, which provides 92% of school places at the basic cycle level, but in which only 7.04% of teachers are qualified to teach, compared to 33.76% in the public sector.

Cases of poorly qualified teachers are more common in rural areas (25.73%) than in urban areas (3.41%). More male teachers are involved (46.53 %) than female teachers (18.65 %), and the problem is more severe in the private sector (26.20 %) than in the State sector (11.30 %).

According to a Government finding, only 35% of kindergarten teachers are truly qualified to teach pre-school children. Most of them are to be found in schools in urban areas.

It should also be pointed out that teachers are very poorly paid in Haiti. The average wage of a State school teacher is 2.5 times less than that of a teacher in a private school.

The average teacher/pupil ratio is 1:93, with approximately 50 pupils per class (pupils/class ratio of 49:1). Thus, there is approximately one teacher for every two classes. The situation is similar in the private schools network.

The combination of a shortage of teachers and weak oversight and regulation conspires to keep educational services segmented in terms of quality. The quality of State schools has deteriorated sharply in recent years at both secondary and primary levels. Nowadays, most of the pupils they cater to come from the least privileged strata in society.

➤ **The precariousness of school installations and their lack of equipment**

According to the schools census of 2003, 5% of schools are housed in an open space with just a roof over the pupils' heads. Only 42% of schools have toilets; 23% have no water; and only 36 percent have a library. A fair number of basic education



schools are housed in churches (31%) and a further 16% are in rented houses. Most function without electricity (76.8%). 84.7% of the primary schools located in urban areas and 87% of those in rural areas have neither a school canteen nor health care for children. This is particularly true of private schools in rural areas and is, in general, worse in rural areas (90.9%). Very few (44.9%) have water. Only 4.6% receive a State subsidy, while 7.5% receive support from other private bodies.

#### 10.4. Situation at the higher education level

At the higher education level, the enrolment rate is low, even though supply has expanded in recent years. Emigration since the start of the decade has helped deprive the country of qualified executives and professionals. Higher education, the bulk of which is provided at State institutions, has, over the past decade, expanded thanks to private sector educational institutions.

Even though the supply of higher education services has expanded, course still need to be revised and tailored to the country's needs, as well as to advances in teaching techniques and the expansion and diversification of technical and scientific education.

Insufficient appreciation of the work that teachers do, their low salaries, and weak regulation of higher education explain the shortage of full-time university teaching staff.

#### 10.5. Situation at the vocational training level

As for vocational training, the evaluation conducted at the time of the thematic analyses for the Interim Cooperation Paper showed that the supply is fragmented and reserved for a minority. Most workers (80%) do not meet the selection criteria required by the training programmes. Only 6 in one thousand have a diploma or certificate in a technical or professional area. They sometimes face a shortage of places in professional schools.

#### 10.6. Recommended solutions

##### **The strategies outlined in the 2007 DSCRNP recommend:**

- Establishing an initial one-year fast-track training mechanism (formation initiale accélérée - FIA) to train a sufficient number of trainee teachers and school directors;
- Strengthening the existing arrangements for initial teacher training;
- Providing ongoing training for teachers and school directors; and
- Developing and implementing an initial and ongoing training programme for training teachers in the educational sector and the technical and vocational training sector.

For its part, in March 2007, the MCFDF signed a cooperation agreement with the Ministry of National Education aimed at formalizing an ongoing series of exchanges between the two institutions on decisions needed to improve the Haitian school system for both sexes.

The 2006-2011 strategy paper envisages the establishment, by the National Dialogue, of a technical youth education unit to lend support to the Ministry of National Education, Youth and Sports and the Youth Organizations Networks

(former Youth Network of the UCC/MSPP). The goal is to develop educational programmes for youth based on the gender equality principle and awareness of the problem of violence against women.

The joint MCFDF and MENFP programme also envisages the organization of training sessions for teachers in charge of course content and school directors on stereotypes in the Haitian school system (some sessions for them were held already in 2007 in the Ouest Department). It also envisages organizing, monitoring and regularly evaluating educational meetings.

Teacher training tools also have to be developed with a view to focusing on gender equality and male responsibility.

In addition, the Ministry of National Education and Professional Training (MENFP) has produced a civic education manual for all schoolchildren, in which one chapter is devoted to sexual stereotypes. Local publishers are already taking recommendations along these lines into account in their revisions of the textbooks they produce.

## Article 11

### Employment

#### 11.1. Appraisal

##### 11.1.1. General observations

According to Article 3 of the Labour Code: “All workers are equal before the law and shall benefit from the same protection and the same guarantees. Discrimination of any kind is hereby abolished, particularly that which may arise from the intellectual or manual nature of the work, the type of work, its remuneration or the sex of the worker.” Article 317 of the same Code stipulates: “For work of equal value, women shall receive a wage equal to that paid to a male worker.”<sup>33</sup> The Code also provides for the Office of the Inspector General of Labour adopting such measures as may appear necessary, as a result of the findings of selective investigations, to ensure compliance with the law.

For its part, the 1987 Constitution stipulates in article 35 that freedom to work shall be guaranteed and that all citizens have a duty to devote themselves to the work of their choice in order to meet their needs and those of their family and to cooperate with the State in establishing a social security system. In addition, Haiti has ratified 23 ILO Conventions, including the following that have a bearing on the status of employed women:

- Convention No.29 concerning Forced Labour, ratified on 26 September 1957;
- Convention No. 100 concerning equal remuneration for men and women workers for work of equal value, ratified on 5 December 1957;
- Convention No.111 concerning Discrimination in Employment and Occupation, ratified on 9 March 1962;
- Convention No.138 concerning Minimum Age for Admission to Employment (ratified on 15 May 2007)

#### 11.2. Protection for pregnant women

Job security is in no way affected by pregnancy. Article 326 of the Labour Code stipulates that: “The employer shall be required to maintain a woman worker's job for the duration of her maternity leave and any sick leave to which she may be entitled due to inability to work as a result of an illness related to her pregnancy.” Articles 320 to 328 of the Labour Code contain the provisions relating to maternity leave. Articles 49 to 71 of the Law of 27 August 1967, amended by the Decree of 18 February 1975, instituted sickness benefits and maternity benefits through the Occupational Injury, Sickness and Maternity Insurance Office (OFATMA), which is responsible for providing protection for pregnant women.

<sup>33</sup> We should note that, with this wording, the benchmark used in the law is the remuneration paid to men.

### 11.3. Social benefits and health care coverage for workers in general and women in particular

The retirement age for civil servants is 55 for both sexes. However, access to pension funds and life insurance is essentially restricted to the formal sector, which accounts for less than 5% of employment in the country. By law, wage earners, regardless of sex, are entitled to the same benefits in terms of protection, observance and supervision of working conditions. Article 123 to 134 of the Labour Code, and the laws governing the National Old-Age Insurance Office (ONA) and the Occupational Injury, Sickness and Maternity Insurance Office (OFATMA) make no distinction between male and female workers, with respect to pensions.

Apart from the National Old-Age Insurance Office (Office National d'Assurance Vieillesse) and a Civil Pension Fund (Caisse de la Pension Civile), there is the aforementioned Occupational Injury, Sickness and Maternity Insurance Office (OFATMA). Article 21 of the Organic Law of the Ministry of Social Affairs<sup>34</sup> stipulates that: "Social insurance coverage shall be obligatory for all wage-earners, with a view to affording male and female workers and their families effective protection against occupational injury, sickness, disability, old age and maternity."

Unlike civil laws, which ignore cohabitation, social legislation provides for benefits to the woman who was cohabiting with an insured partner. Free medical care and affordable medicines have also been provided, for some time now, to men and women workers in approximately 36 factories in the capital under the auspices of a nongovernmental organization called "Développement des Activités de Santé en Haiti (DASH)."

This agency runs several facilities, including a network of clinics, which provide medical care to these workers free of charge. Some 40 doctors are also deployed in affiliated factories to provide medical care for workers needing it. There are also community pharmacies, where, for a token price, workers can purchase medicines for themselves and their families.

The same organization also participates in efforts to combat AIDS, along with a number of other institutions. Voluntary screening for workers in factories and enterprises in Port-au-Prince is provided free of charge in the DASH clinics.

There is also an insurance program for civil servants managed by a private company called GROUPE SANTE PLUS and supervised by a Board comprising:

- The Ministry of Finance, Chair;
- The Ministry of Social Affairs and Labour, Vice Chair;
- The Ministry of National Education and Professional Training, member; and
- The Ministry for the Status of Women and Women's Rights, member.

This programme was put in place by the Haitian State in 2001 in order to ensure that civil servants had swift access to high quality medical care and health

<sup>34</sup> Jean Frédéric Salès: *Code du travail annoté* [Annotated Labour Code], Organic Law of the Department of Social Affairs of 28 August 1967, *Moniteur* Nos. 80,81,84A, 84B, 84C of 18, 21 and 28 September 1967, article 21. g, page 290, Imprimerie Deschamps, Port-au-Prince, 1993.

services. It covers life insurance, accident and sickness insurance, maternity benefits, and insurance in the event of accident death or loss of limbs.

In reality, women have less access to salaried employment and most become independent workers, particularly in commerce, where they are highly vulnerable due to the precarious nature of their work and unstable incomes.

In salaried employment, many women work in domestic service and in assembly plants, which pay low wages. That phenomenon may explain the marked differences in urban poverty rates. Indeed, in the Metropolitan Area, extreme poverty is found in 26% of households in which women are the principal breadwinner, compared to 17% in households headed by a man. In urban areas, that is to say, in the towns in the country's Departments, this rate is 64% for women, compared to 48% for men.

Analysis provided by the Haitian Institute of Statistics and Information Sciences (IHSI) on the living conditions of Haitians, based on its Haiti Living Conditions Survey (Enquête sur les Conditions de Vie en Haiti -ECVH) shows that since women generally have less schooling than men they are disadvantaged in the labour market. Most of them work in unskilled jobs. They only account of 43.9% of the workforce in intellectual and scientific professions, 36.5% of jobs in intermediate professions, and 32.3% of government employees.

Women who have a formal sector job, be it in the public or the private sector stand very little chance of promotion and, although some women have recently begun to hold managerial positions, they remain the exception. Thus, a good many women prefer not to enter a government career, but rather to try their hand in business, establishing and running small and medium-sized enterprises. Based on observation, it would appear that female entrepreneurship has taken off, despite difficulty accessing financial resources, training, management, technical assistance, contacts, and social support services.

It is in the subcontracting sector that women are most numerous. There they have relatively unskilled jobs, which pay little, prevent them from progressing, and expose them to prolonged unemployment during periods of economic and technological restructuring. In that sector, opportunities for promotion are scarce and wage increases tend to depend more on subjective considerations, such as worker/boss relations, submission to sexual pressure from bosses, and loyalty to the enterprise, than to objective criteria, such as punctuality, seniority and performance. Furthermore, since women in that sector are regarded as being more disciplined and docile than men, and more willing to accept low wages, paternalism and arbitrariness shape relations between the women workers and their employers<sup>35</sup> (TAG).

The statistics available suggest that the subcontracting sector or assembly plants employed 18,475 people in 1996 and 20,524 in 1997. They include production workers, supervisors, managers, and technical personnel. Most of the jobs, however, are in production (89% in 1996). The activities in this sector may be classified under seven headings: the clothing industry, craft industry, electronics,

<sup>35</sup> BAZIN Danielle, MAGLOIRE Danielle, MERLET Myriam Merlet, 1991, *Femmes, Population, Développement-Organisations féminines privées en Haïti*, FNUAP, Port-au-Prince, p.41, in: *La situation des femmes haïtiennes* op. cit. page 165.

leather, furniture, baseball, and fishing equipment. Consequently, more women work independently (83%, as opposed to 73% for men), most of them in the retail trade.

Although salaried employment is rare in the activities carried out in rural areas, women there work in particular on family farms, sorting coffee beans, and in processing produce.

As for age cohorts, wage-earning women can be divided into a first segment of 12 to 15 year old girls hired as domestic servants or who perform traditional tasks in agriculture. There are no statistics on them. The Committee on the Rights of the Child has recommended that Haiti urgently amend Article 341 of the Labour Code which, while it establishes 15 years of age as the minimum age for paid child labour authorized by the Directorate of Labour, also provides for children being placed as domestic servants from age 12, with permission from the Social Welfare and Research Institute (IBESR). The Government recognizes that this is a violation of the United Nations Convention on the Rights of the Child, which it intends to put an end to as soon as possible.

According to Haitian Statistics Institute data for 2003, the overall rate of the active female population of 15 years of age or more is 62.2%. The rate of the working female population in the 10 years-and- older tranche is 39.3%; for 15 years and older, the rate is 46.4%.

#### 11.4. Jobs with a large number of female workers

Certain professions have a high percentage of women: secretarial work, pre-school teaching, the hotel business, dressmaking, social and community services, and health services, while other trades, such as those practiced by building contractors, bricklayers, cabinetmakers, ironworkers, drivers of heavy vehicles, mechanics, and so on are traditionally plied by men.

Even in the former professions, women are in jobs at the bottom of the ladder. In the health sector, for instance, women tend to be nurses and auxiliaries, rather than hospital directors or the deans of medical schools. Nevertheless, in 2007, a woman was elected Dean of the Medical Faculty at the Haiti State University.

In the assembly industry, women accounted for 67% of production personnel in 1996 and approximately 64% in 1997 (see Table 2). There were more jobs for women than for men in craft industry activities, the clothing industry, electronics and baseball in both 1996 and 1997.

The secondary sector has been in decline for several years. The still incipient nature of manufacturing means that this sector is not an important source of jobs for the economically active population. The assembly sub-sector has declined sharply since 1986, particularly during the coup d'état period of 1991-1994. Although it picked up somewhat from 1995 onwards, from 2004 until now the sector has made no further progress. On the contrary, the number of jobs has declined, working conditions have become increasingly precarious, and violations of workers rights more frequent.

##### 11.4.1. Domestic service

Most services sector jobs are performed by women, especially so in the case of domestic service. In fact, when the Labour Code was published in 1961, its Title V, "Labour Subject to a Special Regime," devoted a chapter to "Servants" (gens de

maison). These persons working for families were not regarded as workers on a par with those employed in the commercial, industrial, or agricultural sectors and they did not benefit from the legislative safeguards contemplated in the Code.

A draft bill has been prepared to address this category of worker, placing workers in this sector on an equal footing with those in industry, commerce and agriculture, etc. Article 1 of the bill amends Article 2578 of the Labour Code to read as follows: “Domestic service is not governed by the provisions of the Labour Code on working relations between workers and employers in the industrial, agricultural and commercial sectors. Nevertheless, all domestic workers must enjoy all the benefits granted by law and all the following rights....”

As for children placed in domestic service, the Government is concerned about their situation and the Committee on the Rights of the Child has confirmed the Government’s intention to address this issue in the draft Children’s Code. In that vein, on 15 May 2007, the Government ratified aforementioned ILO Convention No. 138 and Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

The Labour Code’s provisions on “children in domestic service” are to be found in Chapter IX, Articles 341 to 356.<sup>36</sup> The Law makes placing children in domestic service subject to certain conditions with respect to age, State supervision, parental consent, and the legal status of the employer. It establishes a general principle whereby “Anybody who has one or more child servants shall be obliged to treat them as a good father, to provide them with decent accommodation, suitable clothing, and healthy and sufficient food, and to enrol them at school or in a vocational training centre, allowing them to pursue the courses offered by that centre on a regular basis and arranging for them to enjoy healthy leisure time.” Such a person is responsible for the physical and moral protection of the child in domestic service and is liable to punishment if he or she fails to abide by the aforementioned obligations. In exchange, the child performs domestic chores. Articles 341, 346 and 350 of the Labour Code state that a child in domestic service must perform unpaid and indeterminate domestic tasks. How widespread the use of child servants is difficult to gauge. If they are “invisible,” that is, among other things, because they are girls. The survey carried out by the Institut Psychosocial de la famille (IPSOFA)<sup>37</sup> revealed that 74.6 percent of the 250,000 children working as servants are girls. Doing domestic chores in a home that is not their own is perceived as a mere extension of their duties. There is no sense of their being employed.

The provisions of the Labour Code have never been observed. How child servants are treated depends on the economic means and entire discretion of the person “employing” them. In reality, these children living in virtual slavery do not have access to health care, proper nourishment, or education, much less leisure time.

In fact, the Government disapproves of this practice and the IBESR no longer grants permission for children to be placed in domestic service, so that current cases are illegal. However, the fact is that, although the State has legislated on the matter,

<sup>36</sup> Law on the prohibition and elimination of all forms of abuse, violence, maltreatment or inhumane treatment of children, 29 April 2003, *Moniteur* no 41, 5 June 2003. Article 1- Chapter 9 of the Labour Code on “children in domestic service” is annulled.

<sup>37</sup> IPSOFA: Restavèk, *la domesticité juvénile en Haïti*, p. 62, Concept Page.

the solution to the practice will only come from a reduction in the extreme poverty of the families that place their children in domestic service.

#### 11.4.2. Presence of women in independent institutions and in the private sector

The same inequalities are to be found even in the autonomous and independent institutions of the Haitian State. They rarely have a female manager or woman Chair of the Board. Today, only one in 10 of the members of the Comptroller General's Office (Cour Supérieure des Comptes et du Contentieux Administratif) is a woman. Only two of the nine members of the Provisional Electoral Council are women. Banque de la République d'Haiti (BRH), the country's central bank, has never had a women Governor nor a female Chair of its Board of Directors.

As for the private sector, there are no statistics to tell us how many women head enterprises in Haiti. However, it is clear that there are not many of them, judging by the low number of women Presidents of the Employers' Associations in 2002: 10.5%, compared with 89.5% male Presidents ( Jn-Baptiste, 2003: 27).

The private sector branch that regularly employs a high percentage of women is the banking sector (Manigat, 2002: 417), in which a large number of jobs have been created in recent years. They recruit some of the most talented women, often offering them salaries markedly higher than those found elsewhere in either the public or the private sector, without counting additional benefits.

For lack of data, it is impossible to provide a breakdown of jobs in the banking sector by sex. However, it is safe to say that more women are employed in lower positions than in decision-making posts. Information gathered on membership of eight Boards of Directors of private commercial banks in 2002 confirms that only there were only four women, compared to 45 men, and only three of the women.

#### 11.4.3. Women farm workers

Women play an especially important role in the agricultural sector and in rural families, yet the Labour Code contains no specific provisions regarding them. Indirectly, it is the Labour Code that introduces the notion of women farm workers: women performing these kinds of tasks are regarded as simply providing auxiliary labour supplementing that performed chiefly by the head of the family, that is to say, the man.

#### 11.4. Wage equality

The wages scale in effect in public administration establishes wages to be paid for different functions regardless of sex. There is, therefore, no discrimination as to wages, although few women reach senior positions. However, some who have completed advanced studies do occupy top positions.

As for women workers in industry, "Working hours, wages, and social protection vary, but overall conditions are exploitative. That may not be the general rule, but it is the dominant tendency."<sup>38</sup> Furthermore, unlike male workers, female workers may have their jobs revoked at the discretion of the employer and the benefits they are entitled to never exceed eight days. The protection offered by the

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<sup>38</sup> MANIGAT Myrlande, 2002, *Etre femme en Haïti hier et aujourd'hui*, Imprimeur II, Port-au-Prince, Haiti, p.392.



Code is purely theoretical and the regulations in force are widely ignored by both employers and employees.

#### 11.5. Sexual harassment in the workplace

At work, individuals of both sexes sometimes encounter delicate situations based on sex in their relations with their employers or colleagues.

Many women in the assembly for export sector cite sexual harassment and abuse by their male superiors, but such acts are rarely denounced. The victims hesitate to make a complaint. Such cases are generally known through hearsay or by peers.

Although Haitian legislation makes no reference to sexual harassment as such, Articles 278-288 of the Penal Code address cases of indecent assault<sup>39</sup> and establishes punishments for it. Sexual harassment at work is, moreover, a matter of grave concern in certain industries and trade unions in Haiti. For example, Compagnie de Développement Industriel (CODEVI) and its trade union underscore in Article 6.3 of their Collective Bargaining Agreement of 2005 that “the Parties acknowledge that sexual harassment is a reprehensible act and shall strive to discourage it in the workplace. They shall cooperate to prevent sexual harassment situations, especially by establishing appropriate sensitization and training mechanisms to be agreed upon by the Parties.”

Some women’s associations (SOFA, Kay Fanm, etc.) and the Centre for the Advancement of Women Workers (Centre de Promotion des Femmes Ouvrières) in Haiti lobby constantly against the practice of sexual harassment with the groups concerned (employers, workers, government officials and private sector executives). They encourage victims to denounce their aggressors and file a complaint.

#### 11.6. Female unemployment/The importance of so-called "open" unemployment

Surveys conducted since the end of the 1990s by the Haitian Institute of Statistics and Information Sciences (IHSI) have cast light on the structure of unemployment in Haiti. These data show a high rate of overall unemployment (approximately 30% in 2000), associated with a predominance of deskilled and precarious jobs (Table 11)

There has also been a process of regional differentiation of unemployment rates, with the rate tending to be higher in urban areas (the overall rate for all age groups in the Port-au-Prince Metropolitan Area is 46%). Among young people of 15 to 24 years of age the rate ranges from 62% to 50%, while for women the overall rate is 32%. According to the same source, 60.7% of the female (potentially) economically active population is unemployed, compared to 43.1% of the male workforce.

#### 11.7. Measures adopted by the Government to reduce the inequalities encountered

The Haitian State has not yet adopted special measures to address the multiple gender-based constraints and conditions affecting women in the labour market, in both the structured and non-structured sector. Actions undertaken so far form part of an overall effort to improve the living conditions of the population, be it through the

<sup>39</sup> Indecent assault (*attentats aux mœurs*) may also include involuntary sexual molesting, discourse, repeated sexual gestures by a superior to an employee.

provision of labour-intensive jobs (HIMO) or through the social peace programme (PAS).

The Ministry for the Status of Women and Women's Rights has recently submitted a draft bill to Parliament on domestic work performed by women. In addition, through the Gender-Mainstreaming Directorate (DPAG) it established three years ago, the Ministry has been working on gender mainstreaming in the policies, programmes and projects of other government institutions. One could cite, for instance, the Ministry's partnership with the National Institute of Vocational Training (INFP) through the Vocational Training Programme Coordinating Unit's 1627/SF-HA vocational training programme for 30,000 young people, which is designed to achieve the inclusion of 30% of girls in categories of jobs traditionally reserved for men.

## Article 12

### Equal access to medical services

#### 12.1. Appraisal

##### 12.1.1. General observations on access to health care and global statistics

As a result of the decline in the living conditions of the population, Haiti's health sector is precarious. The health system suffers from problems of unequal access, limited coverage, and low quality services, for which the poor have to defray a disproportionate share of the cost.<sup>40</sup> Doctors and nurses are heavily concentrated in the metropolitan area and health infrastructure is in a total state of disrepair.<sup>41</sup> (Etude Sur La Violence Domestique Et Sexuelle En Haiti [Study on Domestic and Sexual Violence in Haiti], March 2007). The findings of the survey on access to primary health care services illustrate how precarious such services are nationwide. Only 26 communes out of 133 have a relatively acceptable level of access to care.

Haiti's health system consists of a three-tier pyramid:

1. The primary care level, at the bottom of the pyramid, consists of grass-roots institutions organized within the UCS;
2. The second tier consists of recourse to specialized care at the departmental hospital;
3. The third tier, at the top of the pyramid, consists of the care provided by university and specialized hospitals.

Despite the range of these services, only 28% of the population is covered. Over half (58%) of health establishments are health dispensaries, and more than one third are health centres. In many rural areas, services and, much less a range of services, are largely unavailable. What is more, medicines are unaffordable.

The Table on access to health care paints a sombre picture:

- **Physical access:** health posts are nearer to households.
  - 29.4% of households are within 5km of a hospital
  - 53% are within 5km of a Health Centre
  - 67.2% are within 5km of a health dispensary

#### **Morbidity is highest among poor households: 31.5%**

- In urban areas, the rate is: 35%
- In urban areas it is: 20%

Nevertheless, measures to eliminate discrimination in health care are rooted in the Constitution of the Republic and international human rights instruments. Haiti subscribed to the resolutions of the Alma Ata Conference on Primary Health Care in Russia in 1978 to guarantee "Health for All by 2000." It ratified the Convention on

<sup>40</sup> Haiti ranks No. 138 out of 191 countries in the world in terms of overall health system performance. It has the lowest score of any Latin American and Caribbean country (WHO, 2000).

<sup>41</sup> WHO and World Bank, 2002.

the Elimination of All Forms of Discrimination against Women (CEDAW) in July 1981, thereby committing to the adoption of measures to eliminate all discrimination with respect to women's health.

Likewise, Article 19 of the Constitution of 1987 stipulates that "The State has the absolute obligation to guarantee the right to life, health, and respect of the human person for all citizens without distinction, in conformity with the Universal Declaration of the Rights of Man." Article 23 declares: "The State has the obligation to ensure for all citizens in all territorial divisions appropriate means to ensure protection, maintenance and restoration of their health."

In 1994, the Government signed the Cairo resolutions on health of the population and reproductive health. In 1995, the Beijing Platform of Action obligated it to guarantee equality in health care.

The Health Sector Policy Paper published by the Ministry of Public Health and Population in June 1996 and revised in 1999 sets out to achieve a sustainable improvement in the state of health of the population through a comprehensive approach and quality health care. That policy is based on Primary Health Care (PHC) principles and is designed to respond to the population's demands for equity, social justice and solidarity.

The 2005-2010 Strategic National Plan for Health Sector Reform is a well thought out document that favours an approach based on equity, efficiency, and citizen participation to lower Haiti's morbidity and mortality rates and increase access to quality health care. In this document, sexual and reproductive health is placed squarely at the forefront of the health system.

Unfortunately, health indicators show the acuteness of the issue of access to health care. Maternal mortality has increased sharply from 4.57 to 5.23 and then to 6.3 per 1,000 live births (or 457, 523 and 630 per 100,000 live births) in the EMMUS II, III and IV surveys, respectively, which covered the years 1986, 2000, and 2006. Only 24% of births between 2000 and 2006 were assisted by qualified medical personnel: the lowest rate in Latin America and the Caribbean, while the aforementioned mortality rate is the highest in the region. And yet, for the past five years, some US\$20 million per year have been invested in maternal health. Average life expectancy for women in Haiti is 55 years, compared to 52 for men.

The infant mortality rate has declined over the past two decades but, at 57 per one thousand live births, it is still the highest in the Americas and one of the highest in the world.

It is clearly therefore essential to redefine intervention strategies with respect to governance and the leadership of the Ministry of Public Health and Population (MSPP) and of all other partners in implementing a uniform plan that addresses priority issues and solves them in order of importance.

Among young people, sexually transmitted diseases and undesired pregnancy in adolescents are major concerns. However, the prevalence of HIV/AIDS appears to be declining. Major endemic diseases still have a significant impact, like HIV/AIDS (with a prevalence of 2.2% among people aged between 15 and 49 and of 3.1% of pregnant women).

<i>Disease</i>	<i>Whole country</i>	<i>Urban areas</i>	<i>Rural areas</i>
HIV/AIDS	2.2%	5.9%	2.9%
Tuberculosis	70% (detection rate)	-	-
Malaria	3.5%	-	-

Health problems are exacerbated by only partial coverage of the population's drinking water needs, even though there has been some improvement in that area. Coverage rates are estimated as 54% in Port-au-Prince, 46% in secondary towns, and 46% in rural areas, according to a PAHO/WHO report cited by the Ministry of Public Health and Population.

#### 12.1.2. Insufficiency and poor distribution of human resources

It is difficult for the health sector to ensure effective medical coverage of the whole country because human resources are scarce and often poorly distributed. A large majority of doctors are concentrated in the metropolitan region (Health Directory of the Haitian Medical Association–AMH, 1999) and, in general, specialists are hard to come by even in the administrative centres of the health districts. Moreover, most (80%) of those doctors are deployed in the large hospital complexes, which means that there are few of them available in secondary establishments. This makes it difficult to achieve the goal of guaranteeing primary health care to all at the lowest possible cost.

The quantitative and qualitative insufficiency, as well as the poor distribution, of human resources, represents a major constraint on the supply of health services. It is estimated that Haiti has 1,850 doctors, the vast majority (90%) of whom work in the Ouest Department. Of those doctors, only 37% are general practitioners, the rest are specialists:

- 14% are gynaecologists/obstetricians;
- 11% are paediatricians;
- 7% are surgeons;
- 4% are anaesthetists.

In 2003, there were 730 doctors and 1,013 nurses in the public sector (MSPP). Like the doctors, the nurses are concentrated in the metropolitan area. There were 1,449 medical auxiliaries. Eighty percent of births are assisted by traditional midwives, known as “matrones” (PAHO/WHO, 1999).

Taking these figures, it transpires that in Haiti there are:

- 2.5 doctors for every 10,000 inhabitants;
- 1 nurse for every 10,000 inhabitants; and
- 2.5 medical auxiliaries per 10,000 inhabitants.

There is, in addition, a chronic shortage of material, equipment, and medicines at all levels in the system.

The chronic shortage of qualified personnel and the lack of supervision also mean that standards are not met. The failure to respect rules and the absence of

supervision make it difficult to evaluate the performance of medical personnel and to identify their training needs.

#### 12.1.3. Difficulties in financing the health sector

Although health is invariably considered a priority by the Haitian authorities, that is not always reflected in the budget allocated to the sector. In 2006-2007, it was 8.5% of the national budget. That placed health in fourth position among the Government's financial priorities, even though it is considered a determinant of economic growth. At the same time, the last survey (EMMUS IV) mentions that 41% of the population has affordable access to the health programmes and projects currently under way in the health sector.

It must, however, be said that there has been a steady increase in the financial resources assigned to the sector. Over the past three years, according to data provided by the Administrative and Budget Directorate (DAB) of the MSPP, the public investment budget rose from 24,430,281.01 for 2004-2005, to 41,463,300.91 Gourdes for 2005-2006. Most of that money was used for health infrastructure rehabilitation works, which enabled some health establishments to offer a more serene environment in which they were in a better position to fulfil their role as providers of care. As for other investments in the health sector, donors and creditors make a strong contribution, especially to finance activities related to fighting and treating AIDS, tuberculosis and malaria.

As for the operating budget, DAB figures for the same period show a similar picture: 871,239,001.32 Gourdes scheduled for 2004-2005, rising to 962,707,807.27 Gourdes for 2005-2006. As these data show, the Treasury has made a substantial effort to progressively increase the sums allocated to the sector. Despite that, particularly in terms of the operating budget, more than 75% of the sums scheduled were spent on wages, thereby reducing the budget for purchasing the materials and equipment needed for the health care establishments to function properly.

#### 12.1.4. Sexual and reproductive health

In the area of care for vulnerable groups in the population, that is to say, women of childbearing age, pregnant women, and children under five years of age, the Ministry of Public Health and Population has adopted a whole set of measures designed to ensure cost-free health care. In 2005, the Ministry for the Status of Women and the Health Ministry signed an agreement ratifying that decision. Given that women are the driving force behind development, it was also decided to place reproductive health at the forefront of the health system. The Ministry thus intends to make its contribution to the economic growth the country yearns for by stressing interventions on behalf of women.

With respect to the fertility rate and use of contraception, the average number of children per woman declines as income rises. Modern contraceptive methods are not used widely enough: only 24.8% of women with a spouse/partner use them. Birth control correlates with the level of formal education:

- Only 24.7% of women with a spouse/partner and without any formal education practice contraception;
- The figure rises to 40.4% among women who have received a secondary education.

From 1994 onwards, according to the EMMUS surveys, a growing percentage of women with a spouse/partner is using a modern method of contraception.

- 13 % in 1994-1995, according to EMMUS II;
- 22 % in 2000, according to EMMUS III;
- 25% in 2005-2006, according to EMMUS IV.

The EMMUS-IV data show that the fertility rate of Haitian women is still high because, at current levels, each woman would on average give birth to 4 children during her fertile life. That fertility is also precocious because 14% of girls under the age of 20 had already had at least one child or else were expecting one at the time of the survey. Comparison with earlier surveys shows that since 1998, when the second EMMUS survey was conducted, the fertility rate has declined slightly, from 4.8 children per woman to 4.0 in 2005-2006.

#### 12.1.5. Maternal health and maternal mortality

The adult mortality rate in 1994-2000, according to EMMUS III, was 6.2% for women and 5.4% for men, which revealed an abnormally high death rate for women.

The maternal mortality rate for 1994-2000 is estimated at 523 maternal deaths for every 100,000 births. In other words, 1 in 7 deaths of women in Haiti aged between 15 and 49 are maternity-related. Thus one Haitian woman in 38 risks dying during her childbearing age, according to the EMMUS IV survey for 2007.

In short, the maternal mortality rate increased substantially from 523 deaths per 100,000 live births in the year 2000 to 630 per 100,000 live births five years later (2005). The most frequently reported causes are: haemorrhage, anaemia, high blood pressure due to eclampsia, infections and dystocia. Most of the deaths could have been avoided with a good health care referral – counter referral system, and if a network of health establishments had been in place with proper facilities and diagnostic and therapeutic prenatal care resources. We should note that, despite the increase in the maternal mortality rate, 54% of pregnant women received the recommended four pre-natal check-ups and 27% of them had three.

As for births assisted by qualified personnel, the situation has noticeably improved because the figure of 80% of women giving birth at home cited in the EMMUS III survey for 2000 fell to 75% in 2005-2006, according to the EMMUS IV survey. In other words, over one quarter (26.1%) of births are now assisted by qualified health personnel.

Systemically, access to health services is hampered by low health coverage, the cost of services, organizational shortcomings in the provision of care, and lack of integration of related programmes (Nutrition, the Expanded Programme on Immunization (EPI), STDs/AIDS). The most frequently noted causes are: haemorrhage, anaemia, high blood pressure due to eclampsia, infections and dystocia.

Having made the sexual and reproductive health of women one of the priorities of its “National Strategic Plan for Reform of the Health Sector, 2005-2010,” the Ministry of Public Health and Population has endeavoured to ensure implementation of its policy by providing pre- and postnatal care free of charge. More than four women in five (85%) have benefited from such care. Among women with at least a secondary school education the percentage benefiting is 96%, compared to 73%

among women with no formal education. Likewise, in the wealthiest quintile, 95% of women receive pre-natal care. In the poorest quintile, the figure is 72%. With the promulgation of its decree in 2005, making prenatal care free of charge, the MSPP crossed another hurdle in its efforts to implement its policy.

As for nutritional status, more than two to three women in every five (46%) are anaemic. Women in Haiti also suffer from chronic energy deficiency. For 16% of women, their body mass index is less than 18.5 kg/m<sup>2</sup>, while 21% are overweight or obese (BMI>25.0).

#### 12.1.6. Infant mortality

There is a downward trend in infant mortality from:

- 151.2 ‰ in 1989;
- To 131 ‰ in 1995;
- To 74 ‰ in 2000; and then
- To 57 ‰ in 2006

Nevertheless, further effort is needed to further expedite that downward trend, which would be possible if institutions boosted the resources needed really to attack the actual causes of such deaths: neonatal bacterial infections (30%), prematurity and/or hypotrophy (22%), respiratory infections (9.1%), malnutrition (8.2%), infectious diseases of diarrhoeic origin (7.5 %), AIDS and neonatal tetanus. The data show that 57 infants per 1,000 live births die before they reach their first birthday anniversary; of every 1,000 infants who reach age 1, 31 die before they are 5 years old. Overall, the risk of dying between birth and the age of 5 is estimated at 86%, or one child in 12.

The statistics also show major variances in mortality: the infant mortality rate is much lower in urban areas than it is in rural areas (58‰ as opposed to 76‰).

The vicious Infection□Malnutrition circle can be curbed by strengthening and expanding the services provided to children through the Integrated Management of Childhood Illness or IMCI strategy proposed by the Pan American Health Organization/World Health Organization (PAHO-WHO) and adopted by Haiti.

#### 12.1.7. Family planning, contraception, abortion

With respect to family planning, almost all women aged 15 to 49 know about contraceptive methods, be they modern or traditional. The data, as far as modern methods are concerned:

- The pill (96%);
- Injections (98%);
- Implants (less well known);
- The male condom (98% - the most widely known method).

The findings show that modern family planning methods are used slightly more frequently by women with a spouse/partner in urban areas (28%, compared to 22% in rural areas). Among sexually active women not living with a spouse/partner, the use of contraception is higher (41%).



Use of contraception also increases with the level of education: 19% among women with no formal education, compared to 31% among those who have had a secondary school or higher education.

It is estimated that family planning needs are not met for 38% of women with a spouse/partner (EMMUS 2005-2006).

Abortion, which is frequently used as a family planning method, is mentioned in Haiti's Penal Code, which, without defining it, classifies it as a crime. This rigid legislation, which dates back to the 19th Century, needs to be addressed by the Government, medical specialists, and defenders of women's rights. As worded, Haitian law precludes even the notion of therapeutic abortion. To protect women's rights, it would be advisable to decriminalize abortion and establish the terms and conditions governing voluntary interruption of pregnancy.

Along with the other family planning methods, there is also the possibility of voluntary sterilization, in the case of women by tying the Fallopian tubes; for men a vasectomy.

These and all the other above-mentioned forms of contraception are within the reach of all women. Family planning is closely tied in with international aid, especially in respect of hormonal methods (the pill, injections, implants). Those methods are therefore recommended in all public and semi-public institutions, in both urban and rural areas.

As a corollary to family planning, those institutions have, for the past decade or so, been running campaigns twice a year to encourage screening for breast and cervical cancer. They have also formed a partnership with the public sector, represented by the MSPP and the MCFDF, to promote mammograms and Papanicolau ("Pap") tests or vaginal cytology.

## 12.2. HIV/AIDS prevalence rates among women

In the fight against HIV/AIDS, fairly significant progress has been made in bringing down the seropositivity prevalence rates, according to estimates made by Policy Project and the Haitian Children's Institute (IHE).

<i>Seropositivity Prevalence Rate</i>	<i>Year</i>
5.92%	1996
5.29%	2001

**Among pregnant women** attending prenatal clinics, a sentinel sero-surveillance survey shows the following:

<i>Seropositivity Prevalence Rate</i>	<i>Year</i>
6.2%	1993
3.1%	2004

According to EMMUS IV (2005-2006), 2.2% of persons aged 15-49 are seropositive.

<i>Seropositivity Prevalence Rate</i>	
<i>Men</i>	<i>Women</i>
2.0%	2.3%

This seropositivity prevalence rate is slightly higher among women than men. The men:women coefficient it represents is equivalent to 1.15 women per 1 man, or 115 women infected for every 100 men. These figures confirm that women and girls (the less educated, poorer segment of society, who know little about their bodies and reproductive functions and have little sexual negotiating capacity, and who tend to submit to dominant social trends) are more vulnerable than men to infection with HIV. That vulnerability is due to both socio-economic and cultural factors. Furthermore, prevalence increases steadily with age, up to the 30-34 years of age group among women, when it reaches a high point of 4.1%. The high point for men is later (40-44 years of age), when the prevalence rate is 4.4 percent.

These outcomes reflect the strengthening of the partnership between the public and the private sector, as well as the major investment financing provided by bilateral and multilateral cooperation agencies. The results achieved also owe much to the awareness campaigns directed at the general public.

Despite this major rallying effort, the epidemiological profile of the disease and the need to bring care to remote municipal districts, the number of HIV/AIDS patients who can be treated still falls far short of the goal of 25,000 who should be receiving antiretroviral drugs. Much remains to be done in numerous areas to sensitize at-risk groups to the need for them to be more responsible in their sexual behaviour while at the same time strengthening and diversifying community activities aimed at consolidating the significant gains made in this area.

The data available today testify clearly to a close link between AIDS and tuberculosis. It is estimated that 50% of people diagnosed with tuberculosis simultaneously develop AIDS, according to GHESKIO Centre data. Thus, the MSPP's efforts to combat the devastating effects of the AIDS virus also markedly reduce their impact on patients suffering from tuberculosis.

At the same time, the Ministry of Public Health and Population is in the process of completing the drafting of its latest national strategic plan to combat HIV/AIDS in 2007-2012. Two core strategic courses of action have been identified:

- An expansion of health institutions' coverage of persons living with HIV/AIDS (PWA);
- Improved quality of the services provided to PWA;
- Improved community interventions on behalf of PWA thanks to the formation of support groups; and
- Strengthening the management capacity of affected family members through training and supervision of those dealing directly with the sick person.

Fortunately, the fight against this pandemic is now being conducted on such a scale that, according to current thinking, it should no longer be handled exclusively by the health sector, but rather through multi-sector involvement.

**As regards familiarity with prevention and transmission factors**, virtually the entire Haitian population has heard of HIV/AIDS. Moreover, 81% of women aged between 15 and 49 know that the risk of contracting HIV/AIDS can be reduced by using condoms and restricting sexual relations to just one faithful and uninfected partner. Among men of the same age group, the percentage is slightly higher (90%). Overall, nearly one third of women (32%) and 41% of men may be regarded as having a thorough knowledge of HIV/AIDS.

### 12.3. Measures adopted by the Government and other actors to reduce the health care burden on women

#### 12.3.1. The Government's health policies and strategies and their effectiveness

The Ministry of Health and Population's health programmes and services are directed at the population as a whole. However, since it falls mostly to women to provide care at both the family and professional level, it is they who bear the brunt of the health burden. Thus, the difficulties in accessing services encountered by certain groups, including women and disabled persons, are above all related to the dearth, under-equipment, and remoteness of health infrastructure, to the lack or shortage of programmes specifically targeting the young and women and men of all age groups, school and professional environments, and the absence of facilities to enable disabled the young and women and men of all age groups, school and professional environments, and the absence of facilities to enable persons with disabilities to enter public buildings.

As for the disabled, the debate on the precarious nature of the conditions in which they live has been taken up nationwide. It was one of the factors leading to the establishment last May of a Secretariat of State for the Inclusion of Persons with Disabilities.

In the specific case of sexual and reproductive health services, specially trained human resources in prenatal care clinics counsel expectant mothers and keep them informed of what they need in terms of vaccinations, obligatory biological tests, and proper nutrition in order to keep track of their pregnancy and prevent risks of pregnancy-induced hypertension.

#### 12.3.2. Measures relating to access to primary health care, and sexual and reproductive health care

With a view to improving the organization of health services, the Ministry of Public Health and Population (MSPP) has proposed a new classification of institutions whereby health dispensaries (*dispensaires*) and ambulatory health centres become First Tier Health Services (Services de Santé de Premier Echelon - SSPE). The idea behind that decision, taken a decade ago, is to replace somewhat obsolete health establishments with a new organizational model with standardized services. The typology envisages a health system pyramid in which the SSPE is the bottom level, located in the Municipal Health Unit (Unité Communale de Santé) or UCS. For lack of human, material and financial resources, this process has taken a long time and currently only six UCS are operational.

**The Minimum Services Package (PMS) strategy that the Government has also adopted** aims to guarantee the provision of health care. Depending on the complexity of the institution involved, the PMS is based on the principles of equity, social justice and transparency. It comprises:

- Comprehensive child care;
- Management of pregnancy, birth and reproductive health;
- Management of emergencies requiring surgery;
- Efforts to combat transmitted diseases;
- Environmental sanitation and the provision of drinking water;
- The availability of, and access to, essential medicines;
- Basic dental care; and
- Participatory health education.

The third strategy that the Government has embarked on is the establishment of a network of Municipal Health Units (UCS), as the cornerstone for the revamping of the supply of services referred to in the Ministry of Public Health and Population's policy paper. This base is defined as a formal technical and administrative microsystem with service provision features linked to the supply of health services and health personnel, on the one hand and, on the other, to structural – geographical, demographic and institutional – factors.

Establishing the UCS poses a real challenge for the Ministry and, despite the investment financing granted, only six of the 11 entities scheduled to come on stream at end-2007 are operational, when the idea is to divide the national territory into 56 UCS by 2012. The difficulties of implementing this model are both structural and short-term, given that their operation depends to a large extent on both the pooling of locally available resources and strong participation by the population through its natural leaders and the established authorities.

#### 12.3.3. Measures to combat HIV/AIDS

AIDS has triggered a genuine social and political movement, following the emergence of the first cases of HIV infection in the early 1980s and the increasing stigmatization of Haitians, who at that time were regarded by the United States Center for Disease Control and Prevention (CDC) as risk factors. The Préval/Alexis Government of 2006-2011 made preventing and combating the disease one of the priorities of its Overall Policy Paper of June 2006. In December 2006, it instructed all government agencies to participate in the process of developing a Multisectoral National Strategic Plan and to develop Sectoral Plans based on it.

AIDS has therefore been taken into account and included in both the National Poverty Reduction and Growth Strategy Paper, which is currently being drawn up, and the 2008-2012 Multisectoral National Strategic Plan, which has already been written as a continuation of the 2002-2006 Plan with an eminently multisectoral approach.

It is the benchmark paper in terms of its perpetuation of core interventions in the programme and improvement of the quality of services provided to – and socioeconomic conditions of – persons infected by and living with

STDs/HIV/AIDS. It is based on six fundamental principles: universality, entirety, equity, quality, solidarity and self-determination.

Strategic and institutional measures adopted in order to raise public awareness of the risks and effects of HIV/AIDS date back to 1998, when Strategic Plans were devised and eventually covered the 1988-1992, 2001-2002 and 2002-2006 periods. This last Strategic Plan, aimed at reducing risk, vulnerability and impact, was implemented by the Unit for the Control and Coordination of Programs to combat STDs/HIV/AIDS, a unit in the Ministry of Public Health and Population (MSPP) established for that purpose.

Despite certain shortcomings related to lack of coordination and under-exploitation of the multisector strategy, this Plan did help achieve greater access to – and availability of – screening services as well as better therapeutic care for Persons Living with Aids (PWA) and better management of actions to prevent mother-to-child transmission of the disease (PMCT).

A Multisector Coordination Mechanism (CCM) has been established to ensure coordination of the funds allocated by the Global Fund via the SOGEBANK Foundation for programmes to combat STDs/AIDS, malaria and tuberculosis, along with a Unit to Coordinate and Oversee Programmes to Combat STDs/HIV/AIDS (UCC/MSPP).

In addition, specific programmes have been established for young people (UCP/Jeunes) along with a binational (Haiti-Santo Domingo) programme for cross-border control and for fighting tuberculosis, malaria and STDs/HIV/AIDS.

The CCM is a forum for exchanges of views and decisions between the public and the private sectors regarding priority programmes and constitutes an example of a public/private partnership in which civil society is represented. The PMCT programme established seven years ago has led to a decline in the HIV/AIDS prevalence rate among pregnant women.

The participation of civil society and women's organizations led in 2003 to implementation of the Response to HIV/AIDS project, which aims to reduce risk, vulnerability and the impact of HIV/AIDS. It promotes access to treatment with antiretroviral drugs, mass awareness campaigns directed at girls, boys and men, the establishment of a Programme to Prevent Mother-to-Child Transmission (PMCT) and a Programme of Rehabilitation of Sex Workers (La Kay), mass dissemination of male condoms and, more timidly, female condoms, popularization of Voluntary Counselling and Testing (VCT), and blood donation that is secure for the donor and devoid of any risk of contamination for the beneficiary.

One characteristic of the Haitian health system is that the private and the public sectors have cooperated in efforts to combat the HIV/AIDS pandemic since it began and that partnership has extended to other major endemics. Thanks to that, we have managed to reduce the seropositivity prevalence rate from 5.9% to 2.2%. Nevertheless, we still need to combat the feminization of the epidemic.

## Article 13

### Social and economic benefits

#### 13.1. The social security system

The Haitian Constitution recognizes the right of all citizens to social security. A law of 10 October 1949 creating the Haitian Social Insurance Institute (IDASH) was amended on 28 August 1967 to establish, on the one hand, the Occupational Injury, Sickness and Maternity Insurance Office (OFATMA) and, on the other, the National Old-Age Insurance Office (ONA), which manages the Haitian private sector workers' pension fund and guarantees each insured benefits in the event of disability and upon retirement. In 1974, management of the health component was assigned to OFATMA.

For its part, ONA also grants short-term loans to affiliated members (which are frequently used to pay school fees) and mortgage loans.

Despite these institutions, the social policies in effect in Haiti do not manage to provide individuals of both sexes and the different types of household with the statutory and regular benefits they need to meet their basic needs. Only 3% of the Haitian population has social insurance coverage, which is the lowest coverage rate in the region; the regional average being 39%, according to data published by ONA's National Directorate. Informal sector workers, who account for 90% of employment in Haiti, are totally excluded from it. Micro-entrepreneurs and independent workers have never been explicitly included in any canvassing strategy, much less farm workers. And then, social security does not extend to housing allowances, children's school fees, their maintenance, nor to assistance for low-income households, nor are there any unemployment benefits.

Some women have been able to obtain accommodation from the public enterprise for the promotion of low cost housing (EPPLS) and from the new social housing program run by ONA, known as ONA-Ville, at a lower price.

The situation is worse for persons with disabilities who do not receive any government help for care and education, except for sporadic contributions from the Social Assistance Fund (CAS) or special government subsidies in specific cases.

However, ONA and OFATMA have announced measures to expand insurance coverage to sectors that do not yet have it. OFATMA, in particular, has embarked on an awareness campaign directed at domestic workers.

Civil servants and their families benefit from social insurance coverage known as "Assurance-Vie" run by the Haitian state through a Council comprising the Ministries of Finance, Social Affairs, Health, Education and the Status of Women. However, no statistical data are available for these two public institutions.

Another network for extending social protection in the form of micro health insurance to approximately 2% of the population of the country has been run for several years now for and by informal sector workers. It is executed by microfinance institutions and NGOs working in the area of health, combining the solidarity principle with cost recovery mechanisms. Access to health services is tied to a periodic and small contribution by the beneficiaries. Women and men working in the informal sector both have the same obligations.

### 13.2. Access to bank loans, mortgages

Access to bank loans is very restricted in Haiti. Generally speaking, women's living conditions make it impossible for them to fulfil the requirements for such loans. As a result only a few obtain them.

The Agricultural Credit Bureau (BCA) of the Ministry of Agriculture, Natural Resources, and Rural Development uses a refinancing mechanism to support 133 alternative financial intermediaries who grant loans to the poor on concessionary terms. The Economic and Social Fund (FAES), with the support of the Inter-American Development Bank (IDB) and the World Bank (IBRD), also finances loans to the poor, especially women.<sup>42</sup>

Certain private institutions working in the microcredit sector have lending programs for low income women and informal sector (women) vendors. They include, for instance, *Fondation d'Aide à la Femme* (FHAF), FONKAZE and the Mouvman Fanm CEPHA Microcredit Project. Generally speaking, most of the microcredit institutions' customers in Haiti are women. These customers work independently (83% women compared to 73% men), mainly in commerce. Most of them work in the informal sector (83%).<sup>43</sup> Interest rates range from 3% to 5%. The amount lent is between 1,500 Gourdes and one million Gourdes, depending on the institution, and the term is under-one-year.

### 13.3. Women's access to sports, cultural and recreational activities

Sports activities are not necessarily included in school curricula.

Furthermore, role stereotypes significantly limit access to cultural, sports and recreational activities by most girls from poor areas. Most of their free time is devoted to domestic chores during the week and to helping their mothers in commercial or other income producing activities.

In principle, women are not excluded from sports, cultural and recreational activities. They can take part in competitions in Haiti and abroad, regardless of their marital status or social status, without gender discrimination. However, economic and time constraints explain to a large extent why so few women take part in sports, above all competitive sports.

Even when they belong to a sports federation, few of them reach management positions (there is only one woman president of a federation [handball]), and only two of the 12 members of the Olympic Committee are women.

However, numerous women are to be found in the plastic arts and in handicrafts. In terms of visibility, men predominate but women, especially with a low level of formal education, often practice their talents behind the scenes. Women also take part in dancing, singing and the theatre but they do particularly well in all types of literature and several have written histories of Haiti.

Finally, women are at the forefront of religious activities, especially in voodoo rites, in which many become priestesses. Women also play a predominant role in preparing for and performing in carnivals.

<sup>42</sup> REPUBLIC OF HAITI, UNITED NATIONS, 2000, Joint Assessment, p. 59.

<sup>43</sup> LAMAUTE BRISSON Nathalie 2002, *L'Economie informelle en Haiti, de la Reproduction urbaine a Port-au-Prince*, p. 42.

## Article 14

### Rural women and development

#### 14.1. The living conditions of rural women

Generally speaking, rural populations are regularly deprived of basic services and it is difficult to ensure that essential resources for development reach them. As a result, poverty is especially acute in rural areas and that has particular consequences for women. A combination of factors, including emigration by the men, which increases women's workload, illiteracy (more common among women), the deterioration of the rural economy and rapid environmental degradation result in the feminization of rural poverty. Overall, the data available suggest that the tasks women perform in rural areas have increased, but not the quality of life.

##### 14.1.1. General presentation of the state of affairs

In Haiti 60% of the population live in rural areas where the population density is 286 inhabitants per km<sup>2</sup>. 51.8% of this population are women, which means that there are 98 men for every 100 women. Half are under 21 years of age and only 5% are over 64.

Rural women account for 57.62% of the female population of Haiti. Because of the extreme poverty, many migrate towards the Haitian cities, especially Port-au-Prince (Ouest), Cap-Haitien (Nord), Cayes (Sud) and Gonaives (Artibonite). This massive exodus caused by the ruinous decline of the local economy exacerbates the poverty of the country.

The sanitary conditions of rural families are highly precarious due to lack of infrastructure and education. Piped drinking water facilities are rare. Families spend up to eight hours fetching drinking water, a task that normally falls to women and children. Furthermore, the long distances that have to be travelled along rough roads in order to leave the outlying areas and get to areas where key activities take place (markets, plantations, etc.) and places where public services are provided (schools, health centres, mayor's office, etc.) are additional factors that make daily life difficult for women and girls. In 1992, the International Fund for Agricultural Development ranked Haiti among the 14 countries in Latin America with the most severe poverty rates.

The main activities of rural populations are agriculture, commerce, livestock farming, and handicrafts. However, rural women devote themselves largely to informal commerce and growing subsistence crops and they are therefore particularly subject to economic insecurity. The life led by rural women is complex and difficult, because they are hardest-hit by poverty. According to the survey carried out by the Haitian Institute of Statistics and Information Sciences (IHSI) on living conditions in Haiti (ECVH-2001), for every 10 Haitians living in poverty eight live in rural areas with an income of between US\$1 and US\$2 per day.

Farms and production areas are poorly linked to the main consumption centres. As a result, harvesting and transportation to markets are carried out under extremely difficult conditions. Produce is frequently not harvested at all for lack of adequate technical resources. Some produce is not sold or is sold at very low prices, which reduces income and discourages innovation and the adoption of improved production techniques. The poor state or lack of roads makes motorised



transportation expensive and at the same time increases the risk of investing in agriculture, while reducing farmers' revenues.

The distribution and marketing of produce, for which women are responsible, takes place under archaic conditions. The transportation on foot of fruit and vegetables from the countryside to the towns with the women carrying large baskets on their heads or else transported in dumping trucks unsuitable for carrying passengers and the absence or poor organisation of public markets all represent violations of women's rights.

In the family sphere there is a high percentage (42%) of women heads of household. Moreover, many rural women live with their partner under common law arrangements, a status that is not covered by Haitian legislation. Women living under these conditions are deprived of all rights in the event of separation or death, especially the right to inherit from their partners property accumulated together during many years of work. Legislative reform is required to address this and to make the law conform to the real circumstances of Haitian women, especially those in rural areas.

#### 14.1.2. Access to education and to information on women's rights

According to the poverty map of Haiti, 48.6% of Haitian women are literate, a figure markedly below that for men (60.1%). The literacy rate for rural areas is 38.6%, under half the rate for the metropolitan area (82%). It correlates very closely with age, ranging from 18.1% for the population aged 60 or older to more than 75.4% for the population between 15 and 19 years of age.

Although the most recent survey by the Haitian Institute for Statistics and Information Sciences (IHSI) on Living Conditions in Haiti (ECVH-2001) shows that the rural population is declining, the gap between it and urban residents in terms of ability to read and write indicates that school infrastructure is clearly insufficient and that schools are poorly equipped. Only 47.1% of girls in rural areas receive schooling. These difficulties are probably related also to the fact that the most widely used language is Creole when the Haitian school system is French-speaking.

As for access to information on women's rights, the lack of human and financial resources of the government authority concerned, namely the MCFDF, does not so far enable it to ensure national coverage on a permanent basis for dissemination of information on women's rights to the entire rural population. Women's organizations and certain NGOs working with women provide information and training programs through specific actions and small projects. It is important to point out that CEDAW and the Inter-American Convention known as the Convention of Belém do Pará have both been translated into Creole. However they have not been widely disseminated in Haiti's 10 departments.

Various awareness and information campaigns have been conducted to commemorate important dates for women's rights in the 10 departments: International Women's Day (March 8), National Day of the Haitian Women's Movement (April 3), International Day of Action for Women's Health (May 28), World Rural Women's Day (October 15) and the International Day for the Elimination of Violence against Women (November 25).

#### 14.1.3 Access to health care

The rural population, especially women, suffer severely from lack of access, or very little access, to basic public infrastructure, such as hospitals and health centres. According to the findings of the EMMUS-IV survey,<sup>44</sup> more than one in four women (29%) lives close to (within 5 km of) a hospital. However, 40% of women have to travel 15 km or more to reach that kind of establishment. Indeed, very few women living in rural communities have a hospital within 5 km (8% percent compared to 65% in urban areas). More exactly, 59% of women in rural areas have to travel 15 km or more to reach a hospital, 56% have to travel 15 km or more to reach a private doctor's office, and 33% have to travel 15 km or more to reach the nearest pharmacy.

For lack of money and given the proximity of traditional midwives, 90% of rural women give birth at home. The maternal mortality rate, which covers women in both urban and rural areas, is 630 for 100,000 live births. Women are also highly exposed to HIV/AIDS and to sexually transmitted diseases, in as much as their economic dependence on their spouse or partner or their desire to achieve social standing with that partner, do not allow them to negotiate protected intercourse, even if they have been informed and made aware of that possibility.

#### 14.1.4. Limitations on access to land and ownership of property

The survey by the Haitian Institute for Statistics and Information Sciences (IHSI) on Living Conditions in Haiti (ECVH-2001) notes that 80% of rural households have access to land. Access to land should not in itself pose a problem in rural areas. The problem, rather, has to do with women's access to the income generated by the land, to share in the event of separation or inherit should the spouse die. The stagnation of the agricultural sector due to problems of access to financing, technology and means of production, and to the high transaction costs with respect to property rights and the insecurity of land tenure pending an agrarian reform and a cadastre, are other elements adding to the difficulties of rural women. Here we should recall that in both rural and urban areas, married women were restricted in their rights to ownership of property until the Decree of 8 October 1982, which recognised their legal status.

#### 14.1.5. Access of rural women to loans

There exists a National Decentralised Credit Plan of the Ministry of Natural Resources and Rural Development (MARNDR), an investment code of the Ministry of Commerce and Industry (MCI), a banking charter of the Ministry of Economy and Finance (MEF) and general regulations of the National Council of Cooperatives (CNC), but in reality the terms on which loans are made (the requirement to put up collateral and guarantees) restrict access to them for the least privileged segments of the population, so that banks' financial services are reserved for a minority. Attempts to use microcredit to expand the market are still limited in terms of the capitalisation opportunities it affords for the poor.

The DAI-FINNET database<sup>45</sup> showed in September 2002, for all the microcredit institutions surveyed, that women received more microloans than men

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<sup>44</sup> These data best serve to indicate trends.

<sup>45</sup> Cited by Danièle Magloire in her presentation of the *Konsèy Nasyonal Finansman Popilè* (KNFP) survey on microcredit institutions in Haiti in November 2003.

(they account for 60% of the clientèle) and that loans averaged 13,500 Gourdes. However the terms for the loans, which carry high interest rates, do not facilitate the social advancement of women nor do they substantially improve their living conditions (DSNCRP 2007).

#### 14.2 Government-led solutions

At the end of its 2006 report, the Ministry of Agriculture, Natural Resources and Rural Development (MARNDR) recalls that agriculture is the mainstay of the national economy because it contributes almost 30% of GDP (2002) and accounts for approximately half of all jobs. It remains the predominant rural activity.

Women participate in the rural economy as farmers and they are mainly responsible for marketing produce. Moreover, they are active in livestock farming and in agricultural processing. However, there is still no development plan specifically incorporating women in the rural economy.

The National Growth and Poverty Reduction Strategy Paper (DSNCRP 2007), which accords priority to domestic output, proclaims the principles of gender equity but does not explicitly take into account women's needs and strategic interests. However, the MARNDR has developed solid partnerships with United Nations agencies, especially the FAO, or regional agencies, such as Inter-American Institute for Cooperation on Agriculture (IICA), as well as with NGOs working in the sector and producers' associations. Programs specifically addressing women are carried out within this framework, including microcredit and training in farming techniques, management and organization.

One of a series of regional symposia, the National Symposium on Issues facing Micro, Small and Medium-sized Enterprises in Haiti's agroindustrial sector organised by producers and held in Port-au-Prince on 11 and 12 May 2007 under the auspices of the MARNDR, drew attention to certain aspects of women's participation particularly in fruit, vegetable and coffee farming.

Haiti has more than 9,000 banana and cassava processing units. These units generally belong to women's organizations, which use their own capital to run them. In the case of fruit, in addition to the medium-sized private enterprises that employ female labour, there are also numerous small family enterprises in which women are prominent. Coffee, which is still the leading export crop in Haiti, is produced by some 200,000 families. Most of them are grouped together in associations or cooperatives. Traditionally, women perform the first three stages of processing, that is to say, picking, washing and sorting.

Currently women in rural and peri-urban areas receive assistance for livestock farming from the government or NGOs or even public-private partnerships. Goat and chicken farming is systematically encouraged. Since 2004, 3,000 livestock units have been installed with the help of VETERIMED, a Haitian NGO, in the Nord, Nord-est, Plateau Central, Sud, and Sud-est departments.

Programs are under way designed to include women in activities traditionally reserved for men. In order to encourage women to devote themselves to cattle breeding, which is considered a man's job, they have been given cows on a revolving loan basis in order to allow several members of an association to become interested in this type of livestock farming. In order to help the members of these women's associations to manage their business activities (cow loans, chicken and

goat breeding, fruit processing, marketing loans, etc.) they have been given training sessions on managing businesses and credit. In the specific case of 300 women members of associations that benefited from such sessions in 2006 (AFLIDEPA de Limonade [Nord] and Fanm Merger de Bon Repos [Ouest]) the MCFDF helped pay for that training.

The Ministry for the Status of Women and Women's Rights has attempted to introduce concern for women's needs and interests in policies and projects for rural areas. Thus, when the Agrarian Reform was being introduced in 1996 -1997, the MCFDF attempted to make sure that women, too, would benefit from access to land and other agricultural resources. Inter-ministerial agreements were signed and MCFDF teams were dispatched to the Artibonite valley to sensitise women to their rights. However the reform came to an abrupt end and the National Institute for Agrarian Reform (INHARA), which for the past eight years has been unable to have its bill adopted, now performs only land security operations.

More recently, in November 2005, with a view to encouraging female entrepreneurship and diversification of revenue sources for women, especially women heads of household, the MCFDF signed a tripartite agreement with the MARNDR and the Haitian Association for the Promotion of Livestock (AHPEL) to provide single-parent families on the outskirts of Port-au-Prince near Cite Soleil with hen-farming units. The initial phase was conducted as a pilot project with 25 families. It now occupies 500 families and is supervised by AHPEL. Given the success of that project, the MCFDF has included an appropriation in its 2007-2008 investment budget to encourage larger-scale projects for including women in livestock and farming activities. The current hen-farming projects are part of the government's poverty alleviation program, in a partnership between the MCFDF and the Agricultural and Veterinary Medicine Faculty of Haiti's State University, FAMV-UEH. This set of projects is in its initial phase and is being conducted with 75 women's groups in four departments: Nord Ouest, Ouest, Sud and Artibonite. The Faculty looks after the technical side while the MCFDF supports efforts to strengthen women's groups.

Some detailed studies have been carried out on small farmers in Haiti, including some specific studies on women in rural areas. The best known work on women's participation in the economy was written by a Haitian economist, Mireille Neptune Anglade, "L'autre Moitié du Développement" (1986), in which the data on rural women provided a starting point for research. The partnership between the MCFDF and the MARDR should lead to an updating of the statistics broken down by sex and of the quantitative and qualitative surveys in order to fine tune policies in favour of rural women. These efforts will be greatly facilitated if the strengthening of the departmental coordination offices of the MCFDF and their institutionalization in the form of Departmental Directorates materialises, as envisaged in the organic law of the Ministry.

In line with current government policy on gender mainstreaming, the MARNDR has appointed a gender focal point to work with the DPAG. This appointment reflects a political determination which, as in the case of the other ministries, will have to be evaluated in terms of the concrete programs and projects it gives rise to. As for the Millennium Development Goals to which Haiti is committed, women's access to resources is essential for the autonomy required for their participation in sustainable development. Moreover, as stipulated in the

International Covenant on Economic, Social and Cultural Rights, access to resources is one of women's economic and social rights.

#### 14.3. The role of civil society

Civil society organizations and NGOs, especially women's organisations, are attempting to improve the situation of women in rural areas through campaigns to increase awareness of their rights; efforts to mobilise their political participation; community and women's health training programs; efforts to combat violence, HIV/AIDS, sexual stereotypes; free legal advisory services; and small projects aimed at increasing women's income.

Backed by the Women's Movement in the country's 10 departments, women's organizations have developed even in remote areas. The Women's Social Action League, the oldest of the women's organizations, had already established branches in several departments, including Sud-est and Sud. As of 1986, the Movement expanded and began to put down roots in rural areas. A Women's Small Farmers Congress has been held annually in Papaye in the Central Plateau since 1987, organized by the Papaye Small Farmers Movement (MPP). The songs created on those occasions circulate throughout the country and the words of the songs calling for women's rights help to inspire and rally numerous other Fanm Vanyan groups in a number of regional communities. There are currently several regional or local organizations, some of which have joined to form a federation. One of the priorities of the MCFDF Action Plan for 2006-2011 is support for women's organizations.

## Article 15

### Equality before the law and in civil matters

#### 15.1. Reforms that have eliminated legal discrimination against women

Since 1944, married working women have been authorized by decree-law to dispose freely of their wages and the benefits derived from them. In 1950 women obtained the right to vote and to be candidates and in 1975 they were allowed to be members of a jury.

A decree of 8 December 1982 recognized the equal status of spouses and, in particular, the rights of a married woman to the full exercise of her legal capacity. In that same chapter, parental authority replaced paternal or the husband's authority. It is exercised jointly by both spouses, who jointly administer the communal property; any disposal of that property requires the consent of both.

In 1987 the Constitution proclaimed the equality of men and women before the law and equal rights with respect to the protection and enjoyment of human rights. Under the Decree of 8 October 1982 each of the spouses can ask the other for divorce on the grounds of adultery (Article 12) without the woman being obliged, as had been the case under the Civil Code, to prove that the man's adultery had been committed under the conjugal roof. Moreover, with the amendments to the Criminal Code under the decree of 6 July 2005, adultery was decriminalised, which led to the elimination of discriminatory provisions that had assigned far more severe penalties for women than for men.

In addition, on 11 December 2007, the MCFDF presented the Senate with three draft bills regarding:

- The equality of domestic workers' rights with those of all other workers;
- The equality of rights of persons living in a consensual union (commonly referred to in Haiti as "plaçage") with those of persons living under marriage bonds; and
- The obligation of men to practice more responsible paternity and the right of all children to know both parents.

These three draft bills are the fruit of almost 10 years of consultation among the principal women's organisations in all the regions, members of parliament and representatives of the Government, including the MCFDF, the MJSP and the MAST.

In addition, at the request of the Ministry for the Status of Women and Women's Rights, the Raoul Wallenberg Institute of Human Rights and Humanitarian Law conducted a study entitled "Gender Equality with respect to Justice: Best Practices," which includes a survey carried out in several countries on best practices in legislation and policies and on the progress achieved in those countries in the following five areas:

- Voluntary interruption of pregnancy
- Cohabitation
- Establishment of paternity
- Conjugal violence; and
- Rape.

The report on this study, delivered in May 2007, is a major tool for the continuation of the legal and institutional reforms undertaken by the Government of Haiti in order to eliminate discrimination against women.

#### 15.2. Ongoing inequalities

- The previous provisions of the Civil Code, whereby a married woman had no other home than that of her husband and was obliged to live with him and to follow him wherever he considered it best to reside, were attenuated by the Decree of 8 October 1982. That Decree provides that “the spouses choose the family residence by common accord.” However, that provision is annulled by another provision in the same decree according to which “the conjugal home shall remain that of the husband.”
- Although henceforth the spouses jointly administer the communal property and each one is at liberty to enjoy and dispose of his/her own property, the new reform stipulates that the powers of the spouses “may be limited by the matrimonial regime they freely adopted and by provisions that are essential for the unity and peace of the home and for the benefit and interests of the family.” This leaves the door open to interpretations that discriminate against women, for instance in a judge’s assessment of what constitutes criteria for maintaining the “unity,” “peace in the home” and “benefits and interests” of the family.
- On criminal matters, even though rape is defined as a ‘crime,’ judges often find it difficult to admit that a woman may not have contributed to the emotions surrounding a rape (“affectivité du viol”), at least by adopting a provocative stance; the burden of proof then becomes heavier for her. There is, therefore, a very strong temptation to find mitigating circumstances for the perpetrator of the rape. Fortunately recent decisions in this area show that a change has taken place with respect to such prejudices.

Thus, despite legislation which is moving in the direction of eliminating discrimination against women, the fact is that women are often the object of discriminations that are especially common in family life.

## Article 16

### Equality within a marriage and family law

Article 259 of the 1987 Constitution recognizes all forms of union.

The Fourth General Population and Housing Census revealed that 50.8% of the population aged 10 and older are single; 44.1% are living in a union and 5.1% were “other.” *Plaçage* or consensual union is the most common form of union in rural areas (53.1%) while marriage predominates in urban areas (47.9%). The aforementioned survey carried out by TAG provides an accurate picture of the legal and practical status of family relationships and is the principal source for the comments that follow.

The government intends to implement the constitutional requirement that a family code be developed to ensure protection and respect for the rights of the family and to define the manner in which paternity can be ascertained. The same applies to the obligation of courts and other government agencies responsible for the protection of the rights of the family to be accessible, free of charge, in the smallest unit of the national territory.

Meanwhile, there are still a number of gaps in legal and de facto arrangements as the following sections point out.

#### 16.1. The right to enter into marriage

Women have the same right as men to choose their spouse freely. Nevertheless, there are still cases of forced marriage, especially when a girl becomes pregnant or is raped. In addition, a girl’s consent may be heavily influenced by the parents or third parties because, contrary to the Constitution which established 18 as the minimum legal age for both sexes, Article 133 of the Civil Code sets the minimum age required for marriage at 18 for men and 15 for women.

That provision, which is incompatible with both CEDAW and the United Nations Convention on the Rights of the Child, will be the subject of an amendment establishing the same age for both men and women.

#### 16.2. The denial of legal recognition for consensual unions

Consensual unions, best known in Haiti as “*plaçage*,” are not recognized under Haitian law, even though most couples live in relationships of that nature. That denial of recognition leads to serious discrimination against women and their children.

As stated in the explanation of the reasons for drafting the aforementioned draft bill on consensual unions, “the stipulations of the Haitian Civil Code of 1825 only addressed the rights, duties and obligations of members of families constituted by marriage. All the protections envisaged therein were for legitimate families, nothing was envisaged for de facto spouses.” None of the laws published subsequently to guarantee the various rights of spouses has had anything to say about families constituted outside the bonds of marriage, except one article in the law on the National Insurance Office (ONA) addressing the guarantee of an employee’s insurance for his common law wife.



More than 45% (45.4%) of Haitian women of childbearing age live in one form or other of the unions found in Haiti, “plaçage” being the most common (50.7%). Thus, current legislation fails to address the realities of family life in Haiti.

The fact that all the legal guarantees provided by law for married women do not apply to those in common law unions constitutes a violation of women’s rights, which needs to be amended by new legislation. Since civil legislation says nothing about the rights of spouses in consensual unions, women have only managed to win recognition of their right to a share of the property following a partition by appealing to the court of cassation.

A decree of 29 January 1959 grants natural children the same rights as legitimate children. However, in order to eliminate all the inequalities and injustices associated with legal recognition of marriage only, all legal provisions for the protection of married women must also apply to women in common law unions.

#### 16.3. Use of the husband’s or wife’s own name

In Haiti, a married woman adopts “by right” the name of her husband. A law dated 10 May 1920 ruled that, if the marriage breaks up, the woman loses, among other benefits, the use of her husband’s name:<sup>46</sup> a provision that is detrimental above all to professional women, especially in the liberal professions, who are already known by the husband’s name.

Thus, according to the spirit of that law inserted into the Civil Code, granting the husband’s name to the wife constitutes a kind of upgrading of her status in society. The custom extends also to women in consensual unions, who are referred to by their partner’s name. In other words, the effect of marriage or of a consensual union is to relegate the woman’s initial name to the background. However, nothing prevents a married woman from keeping her maiden name and adding her husband’s to it.

#### 16.4. The problem with the period of time required before remarriage

Article 213 of the Civil Code still in force prescribes that “A woman may not remarry until one year after the dissolution of her previous marriage.” That period of time, referred to as “widowhood,” is designed to preclude any uncertainty as to the paternal filiation of a child born of a second marriage or a second relationship after the dissolution of marriage bonds. However, given the progress achieved by science, that waiting period is no longer justified.

#### 16.5. Equality of rights and duties within a marriage

The law accords equal rights to spouses following partition of the communal property and courts and tribunals often recognize women’s unremunerated contributions to the communal property. However, it should also be borne in mind that, by law, in the event of a disagreement between the spouses, the husband’s word takes precedence.

#### 16.6. Childcare and custody

The interest of the child takes precedence and, regardless of who is awarded custody of the child, both parents remain obliged to contribute to her or his maintenance and education in accordance with their means. A parent failing to pay

<sup>46</sup> Abel Nicolas Léger: Article 287 of the Civil Code.

alimony for two consecutive months may be imprisoned until the debt is paid. A Government Superintendent is responsible for enforcing such a decision. In practice, enforcement is rare. Another option is to seek attachment of assets held by a third party, including the debtor's employer.

All children, whether born in wedlock or not, have the same rights. However, a natural child's right to inheritance is dependent on prior recognition by the father.

#### 16.7. Strengthening the obligations of the father even out of wedlock

The main provisions and innovations of the draft bill on paternity and filiation are as follows:

- Article 262 of the 1987 Constitution provides for the publication of a law on the search for affiliation;
- Since publication of the Civil Code in 1825, such a search has been considered illegal and it was therefore left entirely to the discretion of the father whether or not he declared the birth of a child out of wedlock to the Registrar;
- That prerogative granted to fathers was reinforced under the laws of that time by the explicit ban on registrars recording in the registry "any child born of an incestuous or adulterous act." By "child born of an adulterous act" the law meant a child one of whose biological parents is married to another person, while "child born of an incestuous act" is one whose biological parents are related in the first or second degree of consanguinity.

In reality, that ban does not prevent children being registered solely by their mother or by other relatives who have no legal impediment. That gives rise to two types of situation:

- Children of an unknown father (because the form used to certify the birth based on the mother's statement makes no mention of the name of a father);
- Children whose biological parents are not those declared to the Registrar, which constitutes a falsity (punishable under the Penal Code).

It follows that it is essential that legislation be passed to induce fathers to take responsibility for the consequences of their acts by recognizing their children. Without the birth certificate, which only the father can currently obtain, if he wishes – except if he is married –, the mother of a child has no means of obtaining from the courts the alimony contemplated for the child, which in principle is supposed to be a contribution of both parents. The contents of the draft bill are reproduced in an attachment to the report.

#### 16.8. The rights of divorced women

In marriages subject to the communal property regime, the property is divided equally between the spouses, even if the wife did not disburse anything toward the purchase of those assets.

Apart from the communal property regime, there is also a separation of goods arrangement. According to the provisions of Article 1321 of the Civil Code, if "the spouses have opted for separation of property in their marriage contract, the wife

retains full powers to administer her movable and immovable goods and disposes freely of her income.” Article 1322 adds to the foregoing: “Each of the spouses shall contribute to the expenses of the marriage, as agreed in their contract, and if no such agreements are contained therein, the wife shall contribute up to one third of her income.” Furthermore, if a separated wife left the enjoyment of her property to her husband, the husband shall only be obliged – should his wife sue him or the marriage is dissolved – to declare the existing assets; he shall not be liable for those consumed up to that point (Article 1324).

As for dowries, the law devotes some 30 articles to the subject. However, the most important are Article 1326 (“All that a woman brings or is given under a marriage contract constitutes a dowry, unless there is a clause to the contrary”) and Article 1328 (“the dowry may not be constituted or even increased during the marriage”). In short, regardless of the regime, the law establishes separation of property if it is not already stipulated in the regime chosen by the spouses.

The rights of divorcées are limited by the provisions of Article 1248 of the Civil Code, which stipulates that if the wife does not formally request partition of the communal property within three months and 40 days of the divorce resolution it shall be deemed declined in favour of the husband. Although it is currently in force, this law does not conform to Articles 3 and 8 of the Decree of 8 October 1982, which uphold the principle of joint administration of the communal property.

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