



37th FIDH Congress from 6 to 10 April, 2010 in Yerevan

Draft resolution by Réseau National de Défense des Droits Humains (RNDDH), Haiti's FIDH affiliate organisation to the FIDH Congress in Erevan, 6 - 10 April 2010 (Armenia)

I. Supreme Judicial Council

The Haitian judicial system is a source of concern for citizens, in general, and more particularly for human rights activists. Government commissioners and judges are constantly being criticized and denounced for acts of corruption and embezzlement. As a result, the judicial system is seen, today, as a market place where Justice is sold to the highest bidder. Further, certain judges clearly live above the means provided by their fees and wages. As a consequence, the Haitian society has a great need for judicial reform that focuses on the independence of judges, a career plan, strict regulations for the functions of the magistracy, better working conditions including a reasonable salary, and sanctions against corrupt judges. It is essential to rebuild this prestigious judicial institution from the evils that have corrupted it. With this in mind, on 20 December 2007, three laws on the *Statute of the Magistracy*, *School of the Magistracy*, and *Supreme Judicial Council* were voted in and published:

Considering that article 2 of the law states that the: *independence of the Judiciary is evidenced by the existence of the Supreme Judicial Council, which guarantees the career paths of the magistrates and maintains discipline among the judges;*

Considering that article 3 of the law specifies that: *the Supreme Judicial Council shall be presided over by the president of the Supreme Court or, in his absence, the vice president of the Court”, that for over five years, the Supreme Court has been presided over by an interim president and that it is incumbent on the President of the Republic to regularise this situation by appointing the Supreme Court President;*

Considering that in April 2009, the Senate of the Republic submitted to the President of the Republic a list of names of eminent persons capable of filling the vacancies in the Supreme Court, as provided for in article 175 of the 1987 Constitution of Haiti ;

Considering that article 4 of the law describes the composition of the **Supreme Judicial Council** and *that all the members* have been selected except the President and one Supreme Court judge;

Considering that the members appointed to the Council have been vetted (*enquête de certification*) and that the enquiry report was transmitted to the President of the Republic in July 2009;

Considering that as part of the fight against the corruption ravaging the Haitian judicial system, between March and May 2009, Jean Joseph Exume, then Minister of Justice and Public Security, signed several administrative measures against dozens of corrupt judges pending the final decision by the **Supreme Judicial Council** on the charges pending;

Considering that the creation of the Supreme Judicial Council constitutes an important step towards the independence of the judiciary, and that the President of the Republic and he alone can appoint the President of the Supreme Court who also serves as the President of the Supreme Judicial Council;

The 37th Congress of the International Federation of Human Rights (FIDH), at its meeting in Erevan, Armenia, from 6 to 10 April 2010, is joining its Haitian affiliate member, the Réseau National de Défense des Droits Humains (RNDDH) in condemning the Haitian executive powers for being lax in appointing the President of the Supreme Court and establishing the Supreme Judicial Council and recommends that the Republic of Haiti establish this Council without further delay.



37th FIDH Congress from 6 to 10 April, 2010 in Yerevan

II. Conditions of detention in Haiti

The Haitian prison system systematically violates prisoners' rights. Haiti has 17 prisons. Most are former army barracks that do not meet general international standards on conditions of detention. The surface area of Haitian prisons amounts to a total of 5,041.53 sq. m, thus offering space for 2,017 prisoners, while on 28 December 2009 the prison population was estimated at 8,861. Cells lack air and light. They are overcrowded and smell foul. The toilets that exist are located near the cells and are run without respect for the most basic rules of hygiene. The prisoners do not have beds. Some have to sleep standing until they can take the place of someone who wakes up. Others tie their sheets to the bars of the cell in order to make hammocks to sleep in. Most of the prisoners are deprived of all recreation and are often obliged to relieve themselves in buckets that are left in the cell for hours.

Prisoners are not separated according to legal status or charges, despite the provisions of the **Internal Rules for Penal Institutions**, adopted in Haiti in 1999 and the **Standard Minimum Rules for the Treatment of Prisoners**, adopted by the U.N. in 1955. Potable water supply is a very severe problem. The Haitian prisons either do not have water or the quality of the water they have for the prisoners is questionable. Many prisoners get sick from the unhealthy water. Prison dispensaries do not function properly because of lack of appropriate space, equipment, drugs and qualified staff.

Considering that persons deprived of their freedom live in inhuman, degrading conditions, e.g. overcrowding, lack of privacy, too few beds, unhealthy environment, violence among prisoners, contagious diseases, shortage of potable water, extended detention awaiting trial;

Considering that the aforementioned conditions have led to several deaths recorded in the Haitian prisons, and that between January and October 2009, 62 prisoners died, compared to 54 in 2008, and that numerous prisoners fall sick every day from inhuman, degrading prison conditions;

Considering that the unhealthy condition and the lack of privacy in the prisons exposed the prisoners to all sorts of diseases such as mange, gale, scrape, tuberculosis, leptospirosis, scabies;

Considering that despite various measures taken by the public authorities to shorten pre-trial detention, the prison population is still estimated at 8,861 of which 2,172 have been sentenced and 6,588 are awaiting judgement which means that 74.35% of the prisoners are being held in remand;

Considering that the Haiti prisons offer 0.60 m² per prisoner, in contradiction to the provisions of Standard Minimum Rules for the Treatment of Prisoners which prescribes minimum space per prisoner at 4.5 m²;

Considering that freedom is the rule and deprivation of freedom, the exception; that persons deprived of their freedoms are and will remain full-fledged human beings; that national, regional and international instruments guaranteeing the fundamental, inalienable rights of persons deprived of their freedom including the right to life, health, mental and physical integrity;

Considering the May 2007 ordinance from the Inter-American Court condemning the Republic of Haiti for systematically violating the rights of registered persons deprived of their freedom and recommending that Haiti adopt emergency measures to end extended pre-trial detention;

Considering that instead of offering opportunity for amendment and rehabilitation, prisons are more like concentration camps and cause insecurity for both the prisoners and society;



37th FIDH Congress from 6 to 10 April, 2010 in Yerevan

Considering that minors who break the law are treated according to the aforementioned conditions and are put in prisons, contrary to Haitian law;

The 37th Congress of the International Federation of Human Rights (FIDH) is joining its affiliate organisation, the Réseau National de Défense des Droits Humains (RNDDH), in condemning systematic violations of the rights of persons deprived of liberty;

The 37th Congress hereby reminds the Haitian authorities of their obligation to respect and protect the fundamental rights of all Haitians, including persons deprived of liberty and urges them to build modern prisons that can provide an effective response to the present carceral problems; to urge the judiciary to do everything possible to judge persons under extended pre-trial detention within a reasonable length of time; to effectively separate prisoners according to level of crime, legal status and offence, and to remove minors from the prisons and transfer them to re-education centres, in compliance with the national law.