

**National Human Rights Defense Network
(RNDDH)**



**RNDDH report on the functioning of the Haitian judicial
system during the year 2019-2020**

October 7, 2020

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Summary

1. Protests and anti-government demonstrations, lockdown operations, precarious security situation, outbreak of Covid-19 in Haiti followed by repeated work stoppages of judicial staff: many difficulties punctuated the legal year 2019-2020, making it a very meagre year in terms of balance sheet.

2. This almost total inertia of the judiciary has not prevented a judicial chronicle rich in scandals, the most notable of which are:

- the release of former deputy Jean Fenel TANIS in the wake of the outbreak of Covid-19 in Haiti while his case is the subject of an appeal by the Prosecutor's Office of the Court of First Instance of Croix-des-Bouquets;
- the beating of Clerk Yolette FLORENT by the titular judge of the Thomonde Peace Court, Wilfrid LARIVIÈRE;
- The beating of François Patrick BENOIT, on order and in the presence of the justice of the peace of Delmas, Ricot VRIGNEAU.

3. Many peace tribunals continue to work in unacceptable conditions: cramped space, buildings in disrepair, lack of operating equipment, absence of a moving vehicle, etc.

4. In addition, despite the difficult circumstances of the 2019-2020 judicial year, 11 of the country's 18 trial courts organized criminal hearings without the assistance of a jury during which, out of 179 cases, 139 were heard and 40 were dismissed. 224 people had to be determined by their fate. 172 were actually tried and 52 returned to prison.

5. Unsurprisingly, the review of the judicial year 2019-2020 had no impact on illegal and arbitrary pre-trial detention. Indeed, from September 2019 to September 2020, the rate of inmates awaiting trial increased from 72.37% to 78.67%, while the rate of convicted persons decreased from 27.62% to 21.32%.

6. Once again this year, an evaluation of the RNDDH and its regional structures revealed that 33 judges have just been or will shortly be enlarged, the number of judges whose mandates have not

been renewed by the Executive.

7. The judicial year 2019-2020, started against a background of socio-political crisis ended, on the assassination of the president of the bar association of Port-au-Prince, Monferrier DORVAL, an assassination that proves, if necessary, that the security situation of the country has worsened and that justice in Haiti, having been too permissive with the offenders of the Act, has failed in its deterrent role vis-à-vis the latter.

8. In light of all these comments, the RNDDH recommends that state authorities:

9. Find a viable agreement with the magistrates, clerks and bailiffs in order to allow the regularity of the judicial work throughout the country;

10. Examine the conditions under which the country's peace courts operate and provide these courts with the operating equipment, taking into account their specific needs;

11. Regularize the situation of justice on the Île de la Gonâve;

12. Certify the magistrates of the country on a regular and continuous basis;

13. Intensify criminal and correctional hearings in all trial courts in the country;

14. Strengthen the judicial inspection of the CSPJ by providing it with the adequate means of work and by making available to it the necessary human resources;

15. Investigate the functioning of the country's decanats in general and that of Port-au-Prince in particular;

16. Investigate the conduct of the deans of the eighteen (18) trial courts in the country.

I. INTRODUCTION

1. During the 2019-2020 judicial year, the National Human Rights Defense Network (RNDDH) and its regionalized structures observed the functioning of the Haitian judiciary. In this sense, the peace courts, the prosecution and first instance courts, the courts of appeal as well as the court of cassation were visited regularly and the heads of jurisdiction were met.

2. The remarks and findings made throughout the course of the 2019-2020 judicial year are now used to draw up this report in which are inserted recommendations addressed to the Haitian judicial authorities.

II. GENERAL CONTEXT OF THE 2019-2020 JUDICIAL YEAR

3. The 2019-2020 judicial year began on October 7, 2019 against the backdrop of a socio-political crisis, due to the operation to lock down all socio-economic and political activities in the country which were continuing and due to the spontaneous anti-government demonstrations, which took place. were held all over the country.

4. This led the president of the Superior Council of the Judicial Power (CSPJ) Maître René SYLVESTRE, to cancel the traditional ceremony for the launch of judicial work. However, he sent a memorandum to the staff of the Haitian judiciary, advising them of the reopening of judicial work for the period 2019-2020.

5. It should be noted that the anti-government movements have caused much damage to the Haitian judiciary. For example :

- On the night of October 25-26, 2019, the Aquinas courthouse was set on fire;
- The Jacmel peace court was burnt down on September 27, 2019;
- The Petit-Goâve courthouse was set on fire on September 27, 2019. The archives went up in smoke;
- The Saint Marc courthouse was burnt down on September 27, 2019;
- On October 17, 2019, demonstrators set fire to the first instance court in Gonaïves and the peace courts in the southern and northern sections of Gonaïves;
- On October 29, 2019, the Petit-Goâve peace court was partially burned down;
- On February 23, 2020, the peace court of the eastern section of Port-au-Prince was partially set on fire.

6. Moreover, at the end of the 2018-2019 judicial year and throughout the 2019-2020 judicial year, the country's security situation was of great concern. Harry Truman Boulevard, where the Port-au-Prince courthouse is housed, has become a very dangerous place for several gang leaders who have decided to set up their headquarters there. And, like any other citizen, members of the judiciary are attacked and often killed across the country. There are many examples:

- A few days before the opening of the 2019-2020 judicial year, on the night of 15 to 16 of September 2019, heavily armed individuals fired at the home of magistrate Ariol CINÉUS, assigned to the Court of Appeal of Gonaïves. His son Ariol Junior CINÉUS was shot three (3) times on his right arm;
- On December 31, 2019, Bob DOLCINÉ, Bailiff at the Court of First Instance of Port au Prince, was assassinated by bullets while standing in front of the Palace of Justice of Port-au-Prince;

- On January 7, 2020, at approximately ten (10) o'clock in the morning, the Deputy Judge at the Ganthier Peace Court, Antoine LUCIUS, was shot dead while in Tabarre 52;
- On January 21, 2020, armed bandits operating in the vicinity of the Port au Prince Courthouse gave those present that day a one-hour delay to abandon the premises;
- On March 9, 2020, the Deputy Judge at the Tabarre Peace Court, Master David LEBLANC, was the victim of an attempted kidnapping while they were at the crossroads of the Airport and were on their way to his home. His vehicle was hit by three (3) projectiles;
- On March 9, 2020, the investigating judge at the Court of First Instance of Port-au-Prince and former member of the Superior Council of Judicial Power (CSPJ) in 2005, Jean Etienne MERCIER, was the victim of an assault;
- On March 9, 2020, Magistrate Bernard SAINT-VIL, Dean of the Court of First Instance of Port-au-Prince, was the victim of an assault;
- On March 9, 2020, Judge Durin DURET Junior, judge at the Court of Appeal of Port-au-Prince and representative of the Courts of Appeal of the Republic to the Superior Council of the Judiciary (CSPJ), was physically assaulted by individuals dressed as policemen, in Delmas 49;
- On March 9, 2020, Magistrate Jean Bellot DONISSAINT, acting judge at the Delmas Peace Court, was physically assaulted. His cell phone was broken at Delmas 83;
- On June 19, 2020, Fritz Gérald CÉRISIER, Deputy Government Commissioner at the Court of First Instance in Port-au-Prince, was shot and murdered while in Sans Fil.

7. Because of this situation of growing insecurity, aggravated by the resurgence of kidnapping cases followed by kidnapping for ransom, activities were blocked at the level of several courts and courts, including the Palace of Justice of Port-au-Prince. After several weeks of almost total paralysis of judicial activities, on December 16, 2019, the dean of the Court of First Instance of Port-au-Prince Maître Bernard SAINT-VIL announced the resumption of activities, following a special general meeting of judges held on December 10, 2019. However, this recovery has not been effective.

8. At the same time, the Ministry of Justice and Public Security held several meetings with the Heads of Prosecution of the eighteen (18) The country's courts of first instance have given them formal instructions to crack down on those involved in banditry. This order did not improve the situation. The then Minister of Justice and Public Security, Jean Roodly ALY, multiplied press briefings and press conferences in order to restore order in the country by «inviting» the kidnapers to change jobs. Transfers were also registered within the National Police of Haiti (PNH) where a new director was installed at the head of the Central Directorate of the Judicial Police (DCPJ) and officers of police stations, transferred.

9. The terror installed throughout the country and especially in Port-au-Prince has led the Haitian

judicial staff to question its own security. Criminal hearings with and without the assistance of a jury often end late, and magistrates are obliged to go to difficult areas both to go to their investigating chambers, to the courts and to return home. As a result, several members of the judicial staff have pleaded for the relocation of the Port-au-Prince courthouse from the bicentenary area, with a view to resuming judicial activities. In this regard, on 25 May 2020, the Professional Association of Magistrates (APM) sent a letter to the President of the Republic, Jovenel MOÏSE in order to raise with him the questions of the budget allocated to the Justice and the insecurity surrounding the courthouse of Port au Prince. It should be pointed out that this subject is divisive because many members of the judiciary, including lawyers and certain magistrates, see in the very fact of thinking of moving the courthouse of Port-au-Prince, a failure of the law in the face of banditry.

10. Finally, while the Port-au-Prince trial court is still located at Harry Truman Boulevard, this is not the case with the Port-au-Prince Court of Appeal, which, since July 3, 2020, has been relocated to Pacot. However, for the judicial staff assigned to it, the rooms are cramped.

11. The judicial year that began with the resurgence of acts of insecurity took place and ended in the same manner.

- On July 30, 2020, the house of Maître Jacques LAFONTANT, former government commissioner at the Court of First Instance of Port-au-Prince was the subject of an armed attack perpetrated by heavily armed individuals;

- On August 28, 2020, Maître Monferrier DORVAL was riddled with bullets in his residence at Pèlerin 5.

12. Moreover, the Haitian judicial system was hard hit by the appearance in Haiti of Covid-19 because, more than insecurity and work stoppages, Covid-19 paralyzed for several months, all judicial activities, all over the country.

13. It is in this context of insecurity, uncertainty and near total inertia that the 2019-2020 judicial year took place.

III. JUDICIAL CHRONICLE

14. Over the course of the judicial year analyzed in this report, the RNDDH and its regionalized structures have received a number of cases. Here are some examples:

a) Work stoppage of Haitian judicial staff

15. At least two (2) work stoppages were observed by members of the judiciary:

- From March 11 to 13, 2020, the National Association of Haitian Magistrates (ANAMAH) launched a strike order to protest against the insecurity and socio-political situation that affect the country. This work stoppage was followed by the discovery, as of March 19, 2020, of two (2)

people with Covid-19 in Haiti. As a result, since March 11, 2020, judicial activities have been stopped and only resumed in the summer of 2020.

- On July 28, 2020, a strike was launched by the clerks of the eighteen (18) courts of first instance of the country in order to demand compliance with the agreement of November 3, 2017, concluded between the Ministry of Justice and Public Safety, the National Association of Haitian Clerks (ANAGH) and the Union of Clerks of Haiti (SYGH). Even today, when this report was published, the clerks were on strike.

b) Change in the Haitian Judiciary

16. During the judicial year covered by this report, there were significant changes in the judicial system.

• Department of Justice and Public Safety

17. Jean Roody ALY, Minister of Justice and Public Security since November 24, 2018, considered as the protégé of the President of the Republic, Jovenel MOÏSE, is dismissed from his duties on March 4, 2020. He was replaced by Maître Lucmane Delile. He spent only four (4) months at the head of the Ministry of Justice and Public Safety.

18. On July 10, 2020, Maître Rockefeller VINCENT was installed as Minister of Justice and Public Security, replacing Maître Lucmane DÉLILE. Rockefeller VINCENT was Director General of the Anti-Corruption Unit (ULCC), where he spent just over five (5) months. He had been appointed to this position in replacement of Maître Claudy GASSANT who was dismissed and replaced on January 24, 2020.

• At the Public Prosecutor's Office at the Court of First Instance of Port-au-Prince

19. On October 1, 2019, Jacques LAFONTANT was appointed Chief Commissioner of the Public Prosecutor's Office at the Court of First Instance in Port-au-Prince. He replaces Magistrate Paul Eronce VILLARD who was appointed on December 18, 2018.

20. On July 24, 2020, Maître Ducarmel GABRIEL was appointed Chief Commissioner a.i. of the Public Prosecutor's Office at the Court of First Instance of Port-au-Prince to replace Maître Jacques LAFONTANT.

• Miragoâne Courthouse

21. After ordering the release of Kerton ORTÉUS on January 28, 2020, Yves Gertha ZÉPHIR, Government Commissioner at the Court of First Instance of Miragoâne and Maître Lessage SOLAGE, Deputy Government Commissioner at the Public Prosecutor's Office, were revoked on January 29, 2020. On January 31, 2020, they were replaced respectively by Jean Hernest MISCADIN Government Commissioner a.i. and Me Ronald THECIER, Deputy Government Commissioner.

• **To the Dean of Croix-des-Bouquets**

22. On April 27, 2020, Magistrate Grécia NORCÉUS, judge at the Children's Court of Port au Prince, was appointed Dean a.i. of the Court of First Instance of Croix-des-Bouquets, replacing Magistrate Lyonel Ralph DIMANCHE. She was sworn in on April 29, 2020 and took office on May 4, 2020.

23. On May 18, 2020, a few days after his inauguration, sugar was poured into the generator engine of the Croix-des-Bouquets courthouse and, all the electrical power wires connecting the generator to the courthouse building, were severed.

24. In addition, since Magistrate Lyonel Ralph DIMANCHE did not want to return the official vehicle in his possession, a car had to be rented for the dean.

• **At the Parquet de la Croix-des-Bouquets**

25. On July 6, 2020, Maître Edler GUILLAUME was installed as a government commissioner at the Court of First Instance of Gonaïves.

26. This installation was followed by a lifting of the shield because, Maître Edler GUILLAUME was involved, according to a note of denunciation the Office of Citizen Protection (OPC), in a case of sexual assault followed by assault against a lawyer who is a member of the Mirebalais bar.

27. Despite this tip note, he remained at the post.

c) File relating to the prosecution of SOGENER by the Haitian State

28. On November 8, 2019, the Haitian State filed a complaint against Réginald Marc Jean VORBE, Jean Marie VORBE, Albert Edouard Dimitri VORBE and Agnès Elizabeth DÉBROSSE, managers of the electricity distribution company SOGENER for forgery and use of forgery, criminal association, scam and money laundering.

29. After an aborted summons to the prosecutor's office at the Court of First Instance of Port au Prince, addressed to the concerned for 21 and 27 of November 2019, Jacques LAFONTANT, Commissioner of the Government of the time, transferred the file to the Dean with an indictment to inform. Dean Bernard SAINT-VIL then decided to entrust the case to the magistrate instructor Merlan BELABRE.

30. On February 28, 2020, Réginald Marc Jean VORBE cited Commissioner Jacques LAFONTANT before the Correctional Court of Port-au-Prince, for violations of liberty in the SOGENER case and requested his dismissal. On February 18, 2020, the court decided that it had no jurisdiction to hear the case.

31. However, it should be noted that in the context of this case, Rousseau LEBRUN, a bailiff operating near the Court of Appeal of Port-au-Prince, was, according to the information he himself provided, Assaulted by Government Commissioner Jacques LAFONTANT when he went to his home to serve the summons. The commissioner then physically assaulted Rousseau LEBRUN and threatened to kill him, pointing his weapon at him. The National Association of Judicial Officers of the Republic of Haiti (ANHJRH) rebelled against these threats and had considered observing a work stoppage for an unlimited period in protest. However, this work stoppage was not finally launched.

32. At the same time, the investigation of the magistrate instructor Merlan BELABRE was still ongoing when on July 7, 2020, the prosecutor at the Court of First Instance of Port-au-Prince, having received another complaint from the Haitian State, has sent a new indictment to inform the Decanat. The Dean Bernard SAINVIL decided then to split the file and to transfer this other indictment to inform the Magistrate Mathieu CHANLATTE.

33. Since then, the SOGENER case has moved forward quickly: An order was issued on July 27, 2020 in which the magistrate Mathieu CHANLATTE ordered the seizure and the freezing of property and funds belonging to the patrimony of the aforementioned accused, the seizure of the immovables belonging to them and any other property likely to constitute the proceeds of the crimes and offences for which they are prosecuted.

d) Arrest of former deputy Arnel BÉLIZAIRE

34. On November 30, 2019, former deputy Arnel BÉLIZAIRE was arrested along with seven (7) other individuals for conspiracy against state security, illegal possession of firearms and criminal association. On December 9, 2019, the government commissioner of the then Court of First Instance of Port-au-Prince, Maître Jacques LAFONTANT issued a Warrant against these people and transferred the file to the Dean for distribution to the investigation firm.

35. On December 2, 2019, the government commissioner at the Gonaïves court of first instance, Mr. Sérard GASIUS, issued warrants to bring against some twenty individuals in the context of this case.

36. On December 12, 2019, the case was transferred to Judge Annie FIGNOLÉ's investigating office.

37. On July 13, 2020, the investigating judge issued her order sending Arnel BÉLIZAIRE back to the criminal court for illegal carrying and possession of firearms.

38. Maître Rockefeller VINCENT, barely installed as Minister of Justice and Public Security, gave instructions to the chief prosecutor, Maître Jacques LAFONTANT, with a view to appealing the order. An arm wrestling ensued between these two (2) judicial officials, which led Mr. Jacques LAFONTANT to resign from his post. He sent a letter to this effect to Minister VINCENT on July 22, 2020.

39. At the same time, on July 15, 2020, the deputy government commissioner Narcisse SOLAGE appealed against the order of July 13, 2020 referring Arnel BÉLIZAIRE to the criminal court.

40. It should be recalled that it was in the context of this case that on July 23, 2020, the deputy government commissioner at the Port-au-Prince court of first instance, Maître Jeanty SOUVENIR was appointed after the resignation of the magistrate Jacques LAFONTANT. Lawyers as well as members of human rights organizations protested against this appointment, due to the involvement of Maître Jeanty SOUVENIR in acts of human rights violation. He did not even have time to be installed at the head of the public prosecutor's office, when he was dismissed and replaced by Maître Gabriel DUCARMEL.

e) Complaint against the President of the Republic

41. On January 13, 2020, the President of the Republic, Jovenel MOÏSE, declared in a Tweet that the fiftieth legislature had lapsed. Quickly, on the order of the Executive, the entry to Parliament was refused to parliamentarians whose mandates had come to an end.

42. In protest, on January 15, 2020, Senators Jean Renel SÉNATUS, Jean Marie Junior SALOMON and Dieupie CHÉRUBIN referred the matter to the Court of First Instance of Port-au-Prince in his correctional powers against the President of the Republic Jovenel MOÏSE and Jude Charles FAUSTIN, adviser to the President, for abuse of office and authority to the detriment of public affairs. The case was remitted. On February 3, 2020, Magistrate Benjamin FÉLISMÉ handed down his decision according to which the President is liable only before the High Court of Justice.

f) Return to Haiti of Emmanuel CONSTANT alias Toto CONSTANT.

43. On June 23, 2020, Emmanuel CONSTANT aka Toto CONSTANT was repatriated from the United States of America. He was arrested on the tarmac because of his involvement in the Raboteau massacre.

44. In this case, two (2) trials were conducted. The first was held on November 10, 2000 when fifteen (15) of the accused, present in the criminal court of Gonaïves, were convicted for the acts of murder, association of criminals, physical torture, illegal possession of firearms, theft, looting. The second was held in absentia on November 16, 2000. During the trial, several defendants were convicted, including Emmanuel CONSTANT aka toto CONSTANT, Raoul CEDRAS, Jean Robert GABRIEL, Louis Jodel CHAMBLAIN and others.

45. Today, Emmanuel CONSTANT, aka Toto CONSTANT, is imprisoned in the civil prison of Saint Marc. Numerous attempts were made to free him. The latest is the statement of the Commissioner of the Government of Gonaïves, Master Sérard GASIUS, according to which he does not hold any records relating to this massacre justifying the detention of Emmanuel CONSTANT alias Toto CONSTANT.

g) Assassination of Mr Monferrier DORVAL

46. On August 28, 2020, Maître Monferrier DORVAL, President of the Bar Association of Port au Prince, was assassinated at his home in Pèlerin 5 not far from the residence of the President of the Republic Jovenel MOISE.

47. The Public Prosecutor's Office at the Port au-Prince Trial Court ordered police authorities to monitor the President's residence. In this sense, the police institution has entrusted five (5) police officers of the Departmental Unit for the Maintenance of Order (UDMO) with this task. These are the following:

- Doddeley PIERRE
- Mackenson CLEUS
- Markenson PRÉVIL
- Angou M. ORCEL
- Sènèque JEAN LOUIS

48. However, to everyone's surprise, on August 29, 2020, the victim's home was vandalized, iron bars were sawn, and, among other things, the burglars took away the stick, symbol of the baton's charge.

49. The five (5) police officers who had been assigned to guard and monitor the house were arrested.

50. On September 11, 2020, they were imprisoned in the civil prison of Port-au-Prince by order of the Government Commissioner a.i. at the Court of First Instance of Port-au-Prince, Maître Ducarmel GABRIEL. In protest, the group Phantom 509 composed of agents of the PNH currently in office and former agents-tes revoked, demonstrated with violence in the streets of the capital to demand the immediate release of these five (5) police officers who according to them, have only committed an administrative error. That day, many vehicles belonging to the Haitian State as well as the premises of the Fund of Economic and Social Assistance (FAES) were set on fire.

51. The day after their arrest, on September 12, 2020, Prime Minister Joseph JOUTHE publicly stated that he did not want to enter into disputes that could undermine peace in the country. The magistrate Ducarmel GABRIEL was forced to retract, ordering the immediate release of these policemen, by means of a handwritten document which he himself wrote in haste, on Saturday, September 12, 2020. On that day, the five (5) police officers were released.

52. At the same time, the Public Prosecutor's Office stated that it had, on September 17, 2020, heard four (4) persons who had been arrested in connection with the assassination of Maître Monferrier DORVAL. These are the following:

- Modeler SÉNÉJEAU alias Abiby
- Makender FILS-AIMÉ
- Valery DORT

- Vilpique DUNÈS alias, Jah

53. They were all detained and transferred to the civilian prison in Port-au-Prince, on charges of murder, complicity in murder, armed robbery and criminal association.

54. The file was transferred to the Dean. However, on September 22, 2020, the Registry of the Court of First Instance of Port-au-Prince told the RNDDH that the file has not yet been distributed to an investigating judge.

h) Judges who died during the 2019-2020 judicial year

55. The attention of the RNDDH and its regional structures was particularly drawn to the fact that fifteen (15) magistrates lost their lives during the judicial year analyzed by this report. In addition to those who fell due to widespread insecurity, many others also died. These include:

Name	Function	Assignment	Date of Death
Pierre-Charles René	Incumbent Judge	Marmelade Peace Court	december2019
Merceda Pascal	Deputy Judge	Tribunal de paix de Desdunes	January 17 2020
Luccius Antoine	Deputy Judge	Annex of the Tribunal de Paix de Fonds-Parisien	January 7 2020
Peggy Cinord	Judge/Investigating Judge	Tribunal de Première Instance de la Croix-des-Bouquets	February 24 2020
Arincx Manigat	Deputy Judge	Annex of the Tribunal de Paix de Sainte Suzanne	March 6 2020
Ramses Auguste	Deputy Judge	Tribunal de Paix de la Grande Rivière du nord	April 11 2020
G, Dukerne Auguste	Judge	Court of Appeal of Hinche	April 12 2020
Jean Joseph Bien-Aimé	Deputy Judge	Tribunal de Paix de Capotille	May 27 2020
Serge Pierre	Deputy Judge	Tribunal de Paix, section Est de Port-au-Prince	June 9 2020
Mimose Janvier	Judge	Court of Appeal of Port-au-Prince	June 13 2020
Garno Duval	Deputy Judge	Tribunal de Paix de l'Anse-à-Veau	July 2 2020
Llejuste Laumidas	Deputy Judge	Tribunal de Paix de Carrefour	July 23 2020
Bernadin Pierre	Deputy Judge	Tribunal de Paix de Capotille	September 7 2020
Fanord François	Deputy Judge	Tribunal de Paix de Desdunes	September 11 2020
Cherfils Auguste	Président	Special labor tribunal of Port-au-Prince	September 2 2020

IV. SCANDALS IN THE HAITIAN JUDICIARY

a) Misappropriation of funds by the Heads of Jurisdiction of Fort-Liberté

56. Two (2) individuals were arrested for illicit drug trafficking. They were sentenced by the criminal court of Fort-Liberté to pay to the Haitian state a fine of two million five hundred thousand (2,500,000) gourdes. The fine was paid by the convicted.

57. The heads of jurisdiction Robert CADET and Herode BIEN AIMÉ respectively dean and government commissioner at the court of first instance of Fort-Liberté, went to the Directorate General of Taxes (DGI) of Fort-Liberté where they paid two million (2,000,000) Gourdes and lent the balance of five hundred thousand (500,000) gourdes for the organization of criminal assizes.

58. They agreed with the DGI that the five hundred thousand (500.000) gourdes will be reimbursed as soon as the Superior Council of the Judiciary (CSPJ) has paid the costs for the organization of criminal assizes with and without jury assistance.

59. Dean Robert CADET and Government Commissioner Hérode BIEN AIMÉ claim to have the receipt of the DGI as well as all the proof of the expenses granted for these assizes. However, they were laid off in November and December 2019, respectively.

60. Today, Maîtres Robert CADET and Herod BELOVED do not know if the five hundred thousand (500,000) gourdes were actually returned by the judicial authorities to the DGI.

61. It should be noted that according to the information collected by the RNDDH, the CSPJ often suggests to the heads of jurisdiction to use loans to cover the expenses related to the organization of criminal foundations.

b) Disappearance of the body from the crime at the Port-au-Prince Dean

62. On December 12, 2019, the Dean Bernard SAINT-VIL was in office when the clerk Diego Juanito POMPÉE came to ask him for permission to put in his office, some body of the crime of great value because, the safe installed in the room of the clerks-It is often the object of opening or attempted forced opening.

63. On December 20, 2019, Dean Bernard SAINT-VIL learned that some bodies of the crime have disappeared, including a large sum. He recommended that the clerk prepare a detailed report.

64. It should be noted that there is no evidence of a break-in at the door to the dean's office or the filing cabinet where the bodies of the crime were located. In addition, according to the inventory compiled by the clerk, wallets, jewelry and a total of three hundred thousand (300,000) gourdes distributed in three hundred (300) denominations of one thousand (1000) gourdes, were taken away.

c) Release of Handy DUVERNAY

65. On August 19, 2020, Handy DUVERNAY was released on the order of Jean Emmanuel RENE, government commissioner a.i. at the prosecutor's office at the Court of First Instance of Petit-Goâve.

66. It should be recalled that, Handy DUVERNAY aged twenty-six (26) years and originally from Léogâne, was imprisoned on January 16, 2016 for forgery, use of forgery and burglary to the prejudice of Marie Judith MARCÉUS HENRY.

67. On March 6, 2018, Handy DUVERNAY was tried and sentenced to five (5) years imprisonment for the above offences. To everyone's surprise, on August 19, 2020, magistrate Jean Emmanuel RENE ordered the release of the detainee in question, who should have completed his sentence in 2021.

d) Release of Jean Fenel TANIS, Edrique POMPEE and Kess Huss CAMPBELL

68. On April 16, 2020, former Member of Parliament for Cayes/ Île-à-Vache, Jean Fenel TANIS, Jean Edrique POMPÉE and Kess Huss CAMPBELL, sentenced in 2019 to pay a fine of one hundred thousand (100,000) Gourdes each, were released despite the appeal filed by the prosecutor of the Croix des Bouquets on their file.

69. Indeed, on April 15, 2020, the Court of First Instance rendered its judgment, the operative part of which is presented as follows: For these reasons, the Dean by delegation, acting in the office of the judge of habeas corpus, declares himself competent to know the request of the applicants, the Sieurs Jean Fenel TANIS, Edrique POMPEE and Kess Huss CAMPBELL; let us adopt in part the Public Prosecutor's Brief at the hearing, declare illegal their detention because of exceeding the reasonable time limit within which they were to be tried. Consequently, orders the immediate release of Sieurs Jean Fenel TANIS, Edrique POMPEE and Kess Huss CAMPBELL, if they are not retained for any other reason: Grants provisional execution without surety and on the minute of this order notwithstanding all remedies of appeal, Appeal, appeal and defence. As the bailiff Jean Frantz VALMOND for the dispatch of this order, this under the law.

70. It should be recalled that, as part of this case, on March 5, 2019, Jean Fenel TANIS, Jean Edrique POMPÉE and Kess Huss CAMPBELL were arrested in Ganthier, with 491.5 kilograms of marijuana in their possession, then kept at the police station of the Croix des-des-Bouquets, for about two (2) months, before finally being imprisoned in the civil prison of this jurisdiction.

71. On May 10, 2019, during a correctional hearing chaired by Judge Pierre Absorbe PIERRE LOUIS, Jean Fenel TANIS, Jean Edrique POMPÉE and Kess Huss CAMPBELL were each sentenced to pay a fine of one hundred thousand gourdes (100,000) for the benefit of the Haitian State, for the illegal possession of narcotics for personal use, in accordance with Article 60 of the Law of August 7, 2001.

72. The named Kess Huss CAMPBELL, as for him, was not only sentenced to pay the fine of one hundred thousand (100,000) gourdes but also to deportation since he is a Jamaican.

73. On May 13, 2019, the convicts paid their fine and were waiting to be released when the next day, May 14, 2019, an appeal was filed by the Croix-des-Bouquets Public Prosecutor's Office. So they were not released.

74. On April 13, 2020, in support of the spread of Covid-19, the lawyers of Jean Fenel TANIS, Jean Edrique POMPÉE and Kess Huss CAMPBELL filed an appeal in habeas corpus before Judge Sully L. GESMA, representative of the dean, requesting the release of Jean Fenel TANIS, Jean Edrique POMPÉE and Kess Huss CAMPBELL, due to their advanced age and fragile health, exposing them to Covid-19. On April 17, 2020, they were released.

75. As part of this case, on April 21, 2020, Me Lucmane DÉLILE, then Minister of Justice and Public Security, laid off without pay the Deputy Government Commissioner Wilner ELIASSAINT and the Prosecutor's Office, Sary ROMAIN.

76. In addition, on April 27, 2020, Dean Lyonel Ralph DIMANCHE, as well as the Judges of Siege Sully L. GESMA and Pierre Apsorbe PIERRE-LOUIS, were dismissed from their posts.

e) Benoit Case: Beatings and Threats in the Presence of a Delmas Justice of the Peace

77. On May 5, 2020, at about eleven (11) hours in the morning, Magistrate Ricot VRIGNEAU, PNH agents as well as many heavily armed individuals, broke into a property adjoining that belonging to the BENOIT, with a tractor, knocked over the wall between the two (2) properties to enter the BENOIT one. They said they were carrying out a judgment. Subsequently, on order and in the presence of the Justice of the Peace of Delmas, Ricot VRIGNEAU, Jean François Patrick BENOIT, Claudius LHOMME and Steevens DÉSIR were brutalized and severely beaten before being arrested and taken to the court of peace, bloodied.

78. On the same day, the magistrate agreed to transfer to hospital only Jean François Patrick BENOIT, at the insistence of human rights organizations.

79. To date, no follow-up has been provided to the file by the judicial authorities.

f) Blocking the Trial Court of Cap-Haitien

80. On May 29, 2020, Master Linx JEAN, dean of the court of first instance of Cap-Haitien received a letter of lay-off with pay of the CSPJ. On the same day, he requested a justice of the peace to make an inventory of the equipment he left with the dean and to note the return of the vehicle he had at his disposal.

81. According to the information gathered by the RNDDH, Mr.Linx JEAN was laid off because of a decision in favor of an inmate Nadine VALCOURT, imprisoned for five (5) years, in connection with the murder of Nikette DUBOIS, killed on December 27, 2014.

82. Nadine VALCOURT had a decreased vision for some time. And the dean was required to order the release of the detainee so that she could go for treatment by a specialist. For having given a favorable response to this request, the dean was laid off.

83. At the same time, Master Jean Ralph PRÉVOST was chosen to replace Master Linx JEAN.

84. The lawyers of the bar of this jurisdiction blocked the installation of Jean Ralph PRÉVOST, arguing that the latter, as investigating judge, did not process his files within the time limit set by law. He is one of the judges whose inmates are never removed from prison.

85. No criminal hearings could be conducted during the summer of 2020 as court activities were blocked.

g) Assaults by Justice Yolette FLORENT of the Thomonde Peace Court

86. On August 13, 2020, the titular judge of the Thomonde Peace Court, Wilfrid LARIVIÈRE, physically assaulted the clerk, Yolette FLORENT, by giving her several blows to the face, seriously wounding her.

87. According to the information gathered by the RNDDH, a dispute broke out between the clerk and the magistrate after the latter had seized the seal that was on the magistrate's desk. Wilfrid LARIVIÈRE is laid off by the CSPJ, pending the results of the ongoing investigation, conducted by the judicial inspection of the CSPJ.

V. COVID-19 AND LEGAL RIGHTS

88. Following the presidential decree of March 19, 2020, the judicial authorities examined the situation of persons deprived of their liberty and concluded that the prisons had to be decongested quickly, out of fear that the introduction of disease into the prison space will turn the prison into a slaughter.

a) Adoption of criteria for releasing inmates

89. It was decided to develop criteria on the basis of which at-risk individuals would be released. Eleven (11) criteria have been established by the judicial authorities:

- a. Advanced age of inmates - over sixty-five (65) years of age - with the exception of inmates sentenced to life imprisonment;
- b. Comorbidity factor reported prior to Covid-19, with the exception of lifers;
- c. Preventive detention for an act that carries a correctional sentence;
- d. Order of removal to be tried for a crime other than kidnapping, rape on minors-es and murders, whose preventive detention has already exceeded two (2) years for all jurisdictions and four (4) years for the jurisdiction of Port-au-Prince;
- e. Order for Removal to Trial in Corrections;
- f. Excessive detention for convicted offenders, due to the nature of a sentence denominated in forced labor;
- g. Detention of sentenced persons who have served their sentence but not released-es because of the lack of a trial mechanism followed by an exequatur from the prosecutor's office;
- h. The fact that an inmate has served 80% of his temporary sentence and has had good conduct with the exception of prisoners sentenced for kidnapping, rape of minors and murder;
- i. The fact that prisoners are prevented from committing a crime;

- j. The fact that detainees are deemed to be without records with the exception of crimes of kidnapping, rape of minors and murder;
- k. The escapees recovered corresponding to the legal situation of the categories: 4, 9 and 10.

90. Lifers and any inmate involved in serious criminality are not eligible for these special measures.

91. Echoing the choice of these criteria, on March 27, 2020, the then Minister of Justice and Public Security, Mr. Lucmane DÉLILE announced that he had adopted a set of measures to release the detainees who are imprisoned for having committed minor crimes. According to him, these release decisions will be ordered through correctional hearings within prisons. He took the opportunity to recall that the kidnappers as well as other individuals involved in the commission of acts of great banditry, will not be taken into account.

b) Conducting ad hoc hearings and releasing detainees

92. On the basis of these criteria, several jurisdictions have decided to release certain detainees. Thus, from 20 March to 1 April 2020, at least sixty-nine (69) prisoners held in the Croix-des-Bouquets civil prison under the orders of the magistrates of this jurisdiction were released. Many did not meet the above criteria. The cases¹ of Maxony GERMINAL, John RÉMY alias Yvener or Mafia and Don NARCISSE, can be taken as an example.

93. In addition, between March and May 2020, some correctional hearings were conducted:

- At Croix-des-Bouquets, Cabaret and Port-au-Prince. These hearings were held in the civilian prisons of these communes;
- In Saint-Marc. These hearings were held in the court.

94. At the same time, in June 2020, prison and judicial authorities were invited to work on a list of detainees eligible for presidential pardon.

95. At least four hundred and fifteen (415) inmates were selected. However, their choice was questioned by human rights organizations, which led Prime Minister Joseph JOUTHÉ to pass the instructions to the then Minister of Justice and Public Security, Mr Lucmane DÉLILE, to stay the release of these pardoned inmates.

VI. FUNCTIONING OF PEACE TRIBUNALS

96. During the 2019-2020 judicial year, the RNDDH visited many of the country's peace tribunals. Here are some findings:

- **Operation of the Peace Courts of Anse-à-Veau Jurisdiction**

97. In the jurisdiction of Anse-à-Veau, the peace courts have great difficulty working. There is a shortage of judges. For example:

- Only one (1) judge is assigned to the Arnaud, Grand Boucan and Petit-Trou de Nippes Peace Courts.
- In the Azile Peace Court, only two (2) judges are called upon to serve the population; Three (3) justices of the peace shall be assigned to the Peace Court of Anse-à-Veau; • Of the three (3) judges assigned to the Petite Rivière des Nippes Peace Court, only one (1) is still present.

b) Operation of Southern Department Peace Courts

98. In the Department of the South, there is no means of locomotion available to the peace courts. Warrants are not executed. In addition, the population of the municipalities dependent on the Southern Department, as well as the lawyers who work there, complain about the numerous acts of corruption registered in these peace tribunals.

c) Dysfunctional Peace Courts and/or Inappropriate Accommodations

99. Many peace courts do not work, while others are housed in inappropriate buildings. There are many examples. Here are some of them:

- The doors of the Court of Peace in Bonbon, in the department of Grand 'Anse, have been closed since the last events that led to the fire of its premises;
- The doors of the Peace Court of Saint Michel de l'Attalaye are often closed. For example, on December 27, 2019, at noon, a delegation went there but could not meet with anyone, the only judge present on that day having been required to make a finding;
- The Ouanaminthe Peace Court is housed in the administrative complex consisting of nine (9) cramped rooms. The court consists of six (6) judges, seven (7) clerks, two (2) messengers, one (1) secretary, one (1) security guard and one (1) hiccups. No housekeeper is assigned to this court.
- A brand new building has been built for more than three (3) years to house the Maïssade Peace Court. It has never been inaugurated while the court is located in a cramped, dirty and poorly maintained space;
- The space at Thomassique Peace Court is cramped. At least four (4) justices of the peace, eleven (11) clerks and more than eleven (11) security officers are assigned to this court. Consequently, working conditions are very difficult. Judges often leave the court between two (2) hours and three (3) hours in the afternoon at the latest. In addition, for approximately three (3) years, the Thomassique Peace Court has not received any operating costs from its guardianship proceeding.
- The Court of Peace of Arcahaie lodges in a cramped and decrepit building, eaten by termites. When trucks pass, pieces of concrete sometimes come loose from the ceiling. It

should be noted that this premises are in fact a complex hosting the peace court and the civil registry office of the commune.

- The court, for its part, has a courtroom whose floor is collapsed in certain places, a confined security room called to receive the accused of both (2) sexes as well as the space of the registry with three (3) offices. A fabric acts as a curtain to separate a small part of the room, in order to accommodate the archives and the court deposit.
- The Court of Peace of Arcahaie has no housewife. It does not have a computer or typing machine and, for ten (10) years, the court premises have not been supplied with city power.
- For two (2) years, the Court of Peace of the Petite Rivière de l'Artibonite has lodged at the Palace of 365 Doors, the former premises to be the subject of rehabilitation work. However, the firm Ecogénie Plus had requested four (4) months for the completion of this work financed by the public treasury, under the supervision of the Unit of Study and Programming of the Ministry of Justice and Public Safety.

d) Judicial Personnel and Courts operating under unacceptable conditions

100. Many peace courts operate under unacceptable conditions, exposing the judicial personnel assigned to them. Here are some examples:

- Three (3) security officers, one (1) secretary who have not been paid for seventeen (17) months, are assigned to the Lascahobas Peace Court. The annex of this court, located in Laroy, Cas area, has no police to ensure the safety of the building and the judicial personnel.
- The Cerca Cavajal Peace Court is housed in a prefabricated building. There is no fence, which concerns judges when they sit. The court also has no means of travel.
- The Court of Peace of Boucan Carré lodges in a private house rented for the occasion. There is no appointment of Chief Clerk of the four (4) Clerks assigned to this Tribunal.
- The Cabaret Peace Court is located in a market, a position that affects the operation of the court and limits access to vehicles on the building yard.
- The Thomazeau Peace Court houses in a complex that houses five (5) institutions: the Office for the Protection of the Citizen (OPC), the National Identification Office (ONI), the offices of the Civil Registry, the Town Hall, the National Directorate of Drinking Water and Sanitation (DINEPA). Some sections of wall cracked since the earthquake of January 12, 2010, have been patched. However, the traces are still visible, despite the paint that was put on it. The court has no clean energy. Office equipment is not enough. Security officers on their side do not even have a stick to do their jobs.

- The Cornillon Peace Court has no security guard. He stays in a prefabricated installed on a part of the land hosting the police station of the commune, next to the offices of the Civil Registry and the ONI. Court rooms are cramped. With the floor hollow, in several places there are signs of collapse. The court does not have a toilet. People go to the court to relieve themselves. Staff return home or request permission to use their own washrooms. The Cornillon Peace Court is not powered by electricity.
- The Peace Court in Port-de-Paix does not have sufficient office equipment, nor does it have rolling stock.
- Since October 2017, justice is administered on the island of Gonâve by a family, Mesguerre JULIEN, the only justice of the peace assigned to the Peace Court of Anse-à-Galets is the father of John Cadet JULIEN, the only justice of the peace assigned to the Peace Court of Pointe-à-Galets Raquette. The process of recruitment of new judges, launched in 2018 by the CSPJ did not succeed. Consequently, for nearly three (3) years, the magistrates Mesguerre JULIEN and John Cadet JULIEN, increasingly denounced, behave on the island, as overlords.
- The Kenscoff Peace Court, built in 2014, faces a lack of resources and materials to fulfill its mission to the community. For some time now, there has been no secretary, no hiccups, no security guard. Moreover, there is no registry in court. As the building does not have a pump, the water cannot be distributed to the different rooms of the building.
- Since 1998, the Thomonde Peace Court has been housed in the administrative complex that also houses the Town Hall and the National Identification Office (ONI). The poorly maintained toilets are unbearably nauseating, to the point where every noon, the staff of these institutions is forced to take refuge on the courtyard of the complex. In 2018, the construction of a new building to house the Thomonde Peace Court began. Work has been completed since 2019. However, even today, for reasons unknown, the inauguration of the building is still not completed.

The Thomonde Peace Court has three (3) justices of the peace. They are Master Wilfrid LARIVIÈRE, titular judge and Masters Dieunot ANTOINE and Moïse RENAUD, substitute judges. Two (2) clerks are also assigned. They are Oliman DESROSES and Yolette FLORENT.

In December 2018, at the instigation of the magistrate Dieunot ANTOINE, Rigaud FRANÇOIS was introduced into the Tribunal as an ad hoc registrar. However, the latter drafts the warrants, draws up the minutes of findings, sits during criminal hearings and administers the court registry. He actually behaves like the chief clerk of the court. Moreover, for a little more than three (3) years, the titular judge of the Thomonde peace court, Wilfrid LARIVIÈRE, has decided to keep and manage the seal, which considerably slows down the functioning of the court, the magistrate being neither regular nor punctual in his position.

It is in this context that on August 13, 2020, the latent conflict that existed between the judges of this court and the clerks broke out. Clerk Yolette FLORENT was physically assaulted by titular judge Wilfrid LARIVIÈRE. If disciplinary sanctions have been taken against the magistrate, to

date, the investigation of the CSPJ has not yet concluded.

VII. CRIMINAL HEARINGS REVIEW

101. During the 2019 – 2020 judicial year, criminal hearings were conducted in eleven(11) of the eighteen (18) trial jurisdictions in the country. At least one hundred and seventy-nine (179) hearings were scheduled, one hundred and thirty-nine (139) were heard and forty (40) were postponed.

Jurisdiction	Files without jury assistance	# of cases heard	# of cases referred
Anse-à-Veau	13	10	3
Cap-Haïtien	20	16	4
Croix-des-Bouquets	9	9	0
Grande Rivière du Nord	11	11	0
Hinche	21	17	4
Jacmel	15	15	0
Miragoâne	17	1	16
Mirebalais	7	0	7
Petit-Goâve	11	11	0
Port-au-Prince	15	15	0
Saint-Marc	40	34	6
Total	179	139	40

102. Two hundred and twenty-four (224) persons were to be tried however, one hundred and seventy-two (172) were actually tried and fifty-two (52) others returned to prison.

Jurisdiction	Persons to be tried	Persons tried	Persons returned to prison
Anse-à-Veau	17	14	3
Cap-Haïtien	20	16	4
Croix-des-Bouquets	14	9	5
Grande Rivière du Nord	9	9	0
Hinche	21	17	4
Jacmel	44	39	5
Miragoâne	17	1	16
Mirebalais	7	7	0
Petit-Goâve	11	11	0
Port-au-Prince	15	15	0
Saint-Marc	49	34	15
Total	224	172	52

a) Remarks on Conducting Criminal Hearings

RNDDH report on the functioning of the Haitian judicial system during the year 2019-2020

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103. Observation of these criminal hearings revealed that:

- The criminal hearings held during this judicial year are meagre and therefore have had no impact on the situation of people in illegal and arbitrary preventive detention; Indeed, on September 12, 2019, at the entrance of the judicial year, the Haitian prison population was estimated at ten thousand nine hundred and five (10,905) prisoners including seven thousand eight hundred and ninety-three (7,893) awaiting trial and three thousand twelve (3,012) sentenced. On September 22, 2020, it is ten thousand nine hundred and seventy-four (10,974) detained-es of which eight thousand six hundred and thirty-four (8,634) awaiting judgment of two thousand three hundred and forty (2,340) condemned. As a result, 2.18% of people awaiting trial since the 2019-2020 judicial year, have been tried.
- On December 11, 2019, the Court of First Instance of Gonaïves delivered its verdict in the Clifford H. BRANDT et al. case. Carlo Bendel SAINT FORT was sentenced to seventeen (17) years, Edner COMÉ, Pierre Ricot PIERRE-VAL and Clifford H. BRANDT were sentenced to twenty (20) years in prison. In addition, a number of civil rights have been taken away from them. For example, they will not be able to vote or conduct banking transactions.
- At the Miragoâne Trial Court, a criminal hearing without jury assistance was scheduled from 2 to March 10, 2020. It could not be carried out as the lawyers had decided not to plead because the Legal Aid Office (BAL) had not kept its commitments to pay them before the hearings. The lawyers appeared in court but remained on the court, without a gown. The Crown representative had to request that the scheduled hearings be postponed. And, the people who were to be tried were turned back into prison.
- Criminal hearings for sexual violence have been very rare this year. However, a few decisions nevertheless attracted the attention of the RNDDH, including the one pronounced on April 3, 2020, against Pastor François JEAN NOËL who was sentenced to forced labor for life for the rape of a minor of thirteen (13) years.

VIII. NO REAPPOINTMENT OF JUDGES

104. During the 2019-2020 judicial year, the RNDDH again investigated the non-renewal of the mandates of judges of the country’s trial courts. In this sense, the RNDDH can affirm that the judicial system has ninety-eight (98) investigating judges and ninety-seven (87) sitting judges at least. Thirty-three (33) of them are at the end of their mandate or their term has just ended. The following table presents the situation broken down by court of first instance.

Jurisdiction	Investigating Judges	Sitting Juges	Judges at the end of their term or whose terms are not renewed
Anse-à-Veau	3	4	1
Aquin	4	4	3
Cap-Haïtien	6	3	2
Cayes	8	0	1

Coteaux	2	2	0
Croix-des-Bouquets	10	13	6
Fort-Liberté	3	2	0
Grande Rivière du Nord	2	6	0
Gonaïves	5	11	0
Hinche	3	3	1
Jacmel	5	2	4
Jérémie	2	1	1
Miragoâne	9	4	5
Mirebalais	7	3	0
Petit-Goâve	3	5	2
Port-au-Prince	22	20	5
Port-de-Paix	3	2	2
Saint-Marc	6	4	0
Total	98	87	33

IX. STATUS OF CHRONIC CASES

105. The RNDDH investigated a number of cases that had made headlines in the past and for which complaints were filed and a court case was opened. The status of some of them is as follows:

a) File of former Senator Onondieu LOUIS

106. On August 6, 2019, Jimmy FERVIL, Anel NELSON and André AUGUSTE were arrested near the branch of the Unibank located at Rue Darguin, Pétion ville by the Central Directorate of the Judicial Police (DCPJ) for money laundering. They had close ties with former Senator Onondieu LOUIS.

107. On August 16, 2019, the report of the DCPJ was sent to the prosecutor's office at the Court of First Instance of Port-au-Prince and then transferred to the dean of the said court who chose the magistrate instructor Jean Osner PETIT PAPA.

108. On September 4, 2019, Senator Onondieu LOUIS went to the Instructor Magistrate's Office without being summoned. After his audition, he went home.

109. A month later, on October 4, 2019, a dismissal order was issued by the magistrate in question.

b) Record of the seven (7) foreigners arrested on Haitian soil

110. On February 17, 2019, at the Rue des Miracles, eight (8) individuals including seven (7) foreigners and one (1) Haitian were arrested with in their possession several high-caliber firearms. The file was transferred to the office of the magistrate instructor Jean Osner PETIT-

PAPA. To date, no follow-up has been carried out.

c) Assassination of Avidor MATHURIN at the Caribe Convention Center

111. On August 22, 2018, Avidor MATHURIN, a security officer assigned to the Caribe Convention Center was killed by Frantz JUMEAU an agent of the PNH seconded to the personal security of former President Michel Joseph MARTELLY.

112. On 30 August 2018, the case was received by the Public Prosecutor's Office and transferred to the investigating office of Magistrate Brédy FABIEN. On January 15, 2019, Frantz JUMEAU, who had been imprisoned in the civil prison of Port au Prince, was released on the order of Judge Bredy FABIEN who granted him provisional release. Since then, the file has not moved.

d) Police blunder recorded in Grand-Ravine

113. On November 13, 2017, as part of an operation conducted in Grand-Ravine and turned into a police blunder, several people lost their lives. Agents of the National Police of Haiti (PNH) have been indexed according to the report of the General Inspection of the National Police of Haiti (IGPNH), transferred to the prosecutor of Port-au-Prince on December 26, 2017. Magistrate Brédy FABIEN has been appointed by Dean Bernard SAINVIL for the investigation of this case. The order is still not issued.

e) Contract signed between the Haitian State and the German firm DERMALOG

114. On August 19, 2019, several citizens filed a complaint at the registry of the Court of First Instance of Port-au-Prince, against the Haitian State for abuse of authority, misappropriation, abuse of powers and influence peddling under the contract between the Haitian state and the German firm DERMALOG. Judge Rénord RÉGIS was chosen to examine this case.

115. On June 10, 2020, another complaint was filed with the Registry of the Dean in question by another group of citizens. This time, the magistrate Mathieu CHANLATTE was chosen for the judicial investigation of the case.

116. The folder, split, stagnates because no progress has been recorded.

f) La Saline Massacre

117. The file relating to the massacre of La Saline perpetrated on 13 and 14 of November 2018 was distributed to the office of the magistrate instructor Chavannes ETIENNE. The dean Bernard SAINVIL pressured this magistrate instructor to meet two (2) of the main persons indexed in this massacre, namely Pierre Richard DUPLAN and Fednel MONCHÉRY. Subsequently, a recusal application was filed by these two (2) accused. Since then, the file has been stagnant.

g) Assassination of Father Joseph SIMOLY

118. On December 21, 2017, Father Joseph SIMOLY was assassinated in Petion-Ville. Five (5) individuals were arrested in connection with this case. They are Jonathan SERVIL, Julner JEAN, Josly PHILOGENE, Jean Louis PIERRE and Noël AUGUSTIN.

119. On January 15, 2018, the Prosecutor's Office before the Court of First Instance of Port-au-Prince was seized. Investigating magistrate Etzer ARISTILDE was appointed on January 28, 2018 to conduct the judicial inquiry. Still today the population is awaiting the conclusions of its investigations.

h) File on the Squandering of PetroCaribe funds

120. During 2018, more than sixty-five (65) citizens filed complaints against state officials who squandered Petro-Caribe funds. On February 7, 2018, Investigating Judge Paul PIERRE was appointed to conduct the investigation. After a few months, the prosecutor's office at the Court of First Instance of Port-au-Prince asked the investigating magistrate to stay the investigation which prompted the magistrate Paul PIERRE to deport himself from the case on 14 May 2018. Dean Bernard SAINVIL then chose Magistrate Ramoncite ACCIMÉ. Since then, no progress has been recorded in this case.

i) Record of the fire at Radio-Télé Kiskeya

121. On December 21, 2018, the premises of Radio-Télé Kiskeya were destroyed by fire. On January 18, 2019, a formal complaint was filed at the Registry of the Court of First Instance in Port au-Prince. Judge Chavannes ETIENNE was chosen for the judicial investigation of the case. To date, no follow-up is recorded.

j) Dossier concerning the murder of journalist Néhémie JOSEPH

122. On October 10, 2019, Néhémie JOSEPH, a journalist with Radio Mega and Panique FM, was assassinated in Mirebalais. Magistrate Erode TERCIUS had initially been appointed. However, he refused to work on the file because of a lack of means to ensure his safety. The file has been transferred to Magistrate Samson JEAN. No progress has been recorded.

X. COMMENTS AND RECOMMENDATIONS

123. Launched against the backdrop of a socio-political crisis aggravated by insecurity and the appearance of Covid-19 in Haiti, the 2019-2020 judicial year was not successful.

124. The two (2) major work stoppages observed during this year by the magistrates and clerks respectively, have dealt a major blow to the organization of criminal hearings with and without jury assistance.

125. Despite the almost total inertia of the Haitian judiciary, many facts have caught the attention of the RNDDH among them, the assassination of Master Monferrier DORVAL and the return of

the contumax Emmanuel CONSTANT alias Toto CONSTANT in Haiti after several years on the run.

126. Similarly, many scandals have splashed the Haitian Justice for the period analyzed: the aggression by the titular judge of the Thomonde Peace Court, of the clerk Yolette FLORENT the release of the former deputy of Cayes/ island-à-Vache Jean Fenel TANIS and others by the judicial authorities of the Croix-des-Bouquets, the disappearance of the bodies of the crime at the Decanat of Port au Prince, etc.

127. Despite the numerous warnings issued by the RNDDH and its regional structures, many peace courts and judicial personnel assigned to these tribunals still operate today in unacceptable conditions, in buildings that are falling into disrepair, without toilets, in prefabricated, in private houses, near markets, etc. Others lack a minimum of resources in order to work for the respect of rights to judicial guarantees: no office equipment, no rolling stock, no security guards, insufficient judges, clerks, etc.

128. The RNDDH deems inadmissible that for three (3) years, on the Isle of Gonâve, justice is administered by the JULIEN family. Mesguerre JULIEN, the only justice of the peace assigned to the Anse-à-Galets peace court, is the father of John Cadet JULIEN, the only justice of the peace assigned to the Pointe-à-Raquette peace court.

129. It is therefore regrettable that the Superior Council of the Judiciary (CSPJ), repeatedly alerted on the situation of these courts has not yet intervened.

130. In the wake of the outbreak of Covid-19 in Haiti, eleven (11) criteria were adopted by the judicial authorities to decongest the country's detention center. However, in a total boondoggle, some people were released, others benefited from ad hoc correctional hearings while, four hundred and fifteen (415) detainees were to benefit from presidential pardon. If this boondoggle led the then Minister of Justice and Public Security, Maître Lucmane DÉLILE, to reverse all presidential pardon decisions and to annul them, it remains that the Haitian judicial system has proven its inability to manage emergencies because, were it not for providence, the detainees would have perished long before the Haitian judicial system realized it.

131. Criminal hearings were held in eleven (11) of the eighteen (18) trial jurisdictions in the country. Two hundred and twenty-four (224) persons were to be tried however, one hundred and seventy-two (172) were actually tried and fifty-two (52) others returned to prison. The court of first instance in Saint-Marc heard the most cases.

132. In this regard, the RNDDH regrets on the one hand that the criminal hearings could not be carried out in all the courts of first instance of the country. On the other hand, given the number of people in pre-trial detention for blood crimes, it is unacceptable that no measures have been taken to organize criminal hearings with jury assistance.

133. For their part, the correctional hearings were too scattered and irregular to impact the rate of

illegal and arbitrary pre-trial detention. Moreover, even the judicial authorities met in the context of this report had difficulty providing accurate information about these correctional hearings.

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134. Thus, it will be noted that the work of the Haitian judiciary during the year 2019-2020 had no impact on illegal and arbitrary preventive detention. Indeed, on September 12, 2019, at the close of the judicial year 2018-2019, the Haitian prison population was estimated at ten thousand nine hundred and five (10,905) detained including seven thousand eight hundred and ninety-three (7,893) awaiting trial and three thousand twelve (3,012) convicted. On September 22, 2020, at the close of the judicial year 2019-2020, the Haitian prison population is ten thousand nine hundred seventy-four (10,974) detained-es of which eight thousand six hundred thirty-four (8,634) awaiting judgment of two thousand three hundred forty (2340) convicted. As a result, only 2.18% of those awaiting trial since the start of the 2019-2020 judicial year have been tried and, the rate of preventive detention increased from 72.37% to 78.67% therefore increased by 6.3% while that of convicted persons increased from 27.62% to 21.32%.

135. Moreover, the RNDDH deems unacceptable that the decanat of the court of first instance of Port au Prince distributes the files on the basis of acquaintances in order to protect the members of the power in place as well as their relatives and allies. Because of this working method, spectacular cases that have marked the judicial news are stagnating while other cases move forward quickly. In this sense, the RNDDH believes that the CSPJ must keep an eye on the functioning of the various decanats of the country and on the behavior of the deans of these decanats.

136. Finally, the RNDDH believes that due to the number of cases that stagnate at the level of the Justice and taking into account the numerous massacres and armed attacks that remain unpunished, the Haitian judiciary plays an important role in the establishment and persistence of the climate of insecurity in the country. Indeed, the impunity that prevails in the country strengthens and reassures the offenders to the Law which makes that the Haitian judiciary actively participate in the process of trivialization of the rights to life and judicial guarantees of the Haitian people.

137. Based on the foregoing, the RNDDH recommends that the relevant authorities:

- Find a viable agreement with the magistrates, clerks and bailiffs in order to allow the regularity of judicial work throughout the country;
- Examine the conditions under which the country's peace courts operate and provide these courts with the operating equipment, taking into account their specific needs;
- Regularize the situation of justice on the Île de la Gonâve;

- Certify the country’s judges regularly and on an ongoing basis;
- Increase criminal and correctional hearings in all trial jurisdictions in the country;
- Strengthen the judicial inspection of the CSPJ by providing it with adequate means of work and by making available to it the necessary human resources;
- Investigate the functioning of the country’s decanats in general and that of Port-au-Prince in particular;
- Investigate the conduct of deans of the country’s eighteen (18) trial courts.

Work Cited

¹ Covid-19 and Release of Detainees: RNDDH warns the judicial authorities of Croix-des-Bouquets RNDDH - Com.P/A20/No1