



General conditions of detention and legal status of prisoners in Haiti

November 4, 2021

1. For several years, the National Human Rights Defense Network (RNDDH) has been working to draw attention to the functioning of the country's prisons. Many promises have been made by state authorities. However, the situation has not changed except that it is getting worse every day. Indeed, characterized by the denial of the most basic rights of the prison population, this situation causes enormous harm to persons imprisoned in particular and to the Haitian population in general.

2. Today, while the eyes are fixed on the various problems facing the society, the RNDDH intends once again to put the beam on the general conditions of detention and on the legal status of the prisoners.

A. On the general conditions of detention

3. In the various functional prison centers in the country, the general conditions of detention are catastrophic. They violate the rights to life, health, physical and psychological integrity of incarcerated persons, due in particular to prison cells overcrowding, promiscuity, the spread of contagious diseases, chronic undernourishment of prisoners, limited access to drinking water, etc.

4. In the South Department, a prison is functional. This is the civil prison of Cayes. It has nineteen (19) cells of which seven (7) were burned by the detainees following the earthquake of August 14, 2021, this caused the escape of twenty-eight (28) of them. The redevelopment of this prison is still awaited, and the inmates are crammed like sardines into the cells still functional. The building environment is dirty, and garbage scattered everywhere prevents access to the prison.

5. The inmates of the civil prison of Les Cayes have no recess. A lack of water is caused by the failure of the pump that normally has to raise it from the well, which reduces its access to inmates both for bathing and for other household chores.

6. In the department of Nippes is the civil prison of Anse-à-Veau. During the earthquake of August 14, 2021, this prison suffered damage. Promises have been made by the Public Prosecutor's Office at the Court of First Instance of Anse-à-Veau for the construction and/or redevelopment of two (2) cells in addition to those that are currently functional. However, to date, nothing has been done.

7. In addition, some releases have been granted by the judicial authorities. Although these have lightened the Anse-à-Veau civil prison a little, the legal situation of the detainees who are incarcerated there is still characterized by illegal and arbitrary pre-trial detention.

8. The police station converted into Miragoâne prison, also located in the Nippes department, is facing a problem of prison cells overcrowding to the point where the police and judicial authorities propose to release those arrested, since there is no place to keep them in detention and/or detention.

9. In the West Department, six (6) civilian prisons are functional. They are located in the municipalities of Arcahaie, Cabaret, Carrefour, Croix-des-Bouquets, Delmas (CERMICOL) and Port-au-Prince.

10. *The Civil Prison of Arcahaie* has seventeen (17) cells. Of these, only three (3) are functional. The number of inmates helping is the only prison where, according to officials, the standard menu of the Directorate of Penitentiary Administration (DAP) is respected. It is also one of the few prisons to be regularly supplied with food stocks.

11. The dispensary of the civil prison of Arcahaie has four (4) beds. Three (3) of them are not installed due to lack of space. However, the prison faces a lack of medicines. Inmates of this prison are invited to participate in its interview. When they leave, they receive a pair of tennis as a gift.

12. *The civil prison of Cabaret* faces problems with the supply of food stocks, propane gas and fuel. As a result, inmates are not adequately fed. This problem has been exacerbated by the withdrawal of churches and charities that in the past provided the

prison with food, hygiene and sanitary products for the benefit of women and girls imprisoned there.

13. The prison is not supplied with electricity. Cleaning products are not available. In addition, the fuel supply problem makes it difficult to follow up on judicial extraction orders and transport sick inmates to hospital, when necessary.

14. *The civilian prison of Croix-des-Bouquets* faces a problem of understaffing of DAP agents. Indeed, after the spectacular escape recorded on February 25, 2021 of four hundred and thirty-three (433) inmates, the number of officers assigned to this prison was not increased despite the fact that this increase was approached by the new head of the prison. Prisoners are not allowed recess. The prison has no electricity. As a result, many of its services, including the registry, are sluggish.

15. The civilian prison of Croix-des-Bouquets is also affected by the scarcity of fuel. Not having it, it cannot bring up water for the daily use of the detainees.

16. *The Rehabilitation Center for Minors in Conflict with the Law* (CERMICOL) has for some time not been offering breakfast to the juvenile detainees it keeps. Only the midday meal is still distributed due to lack of supplies. As the prison generator has broken down, it only relies on the city current, which is very irregular. Often the prison spends the night in the dark.

17. CERMICOL is also facing a problem of understaffing of DAP agents. It was therefore decided not to give any recreation to children in conflict with the Law.

18. For some time now, academic and professional training activities within the prison have slowed down, due to the general situation in the country. Only a few rare teachers from the professional section still continue to visit CERMICOL.

19. *The civil prison in Port-au-Prince* faces a food stock problem. Usually only one meal is offered to detainees. However, some days even this single meal is hypothetical because the replenishment of food stocks is done very irregularly and for too short a time. The ranges are not supplied with propane gas. The prison does not have fuel for its daily needs either. During the past twelve (12) months, this prison, which accommodates the largest number of inmates in the country, has only received condiment fees on two (2) occasions.

20. With the socio-political situation of the country and due to the presence in this prison of notorious bandits and people who have held decision-making positions at the state level, the atmosphere of the civil prison of Port-au-Prince is very tense.

21. In the department of Grand 'Anse is the *civil prison of Jérémie* where, after the earthquake of August 14, 2021, the general conditions of detention worsened. Like the civilian prisons in Cayes and Anse-à-Veau, damage was recorded there. However, to date, no redevelopment work has started. The door to the cell where women and girls is held is not solid, which continues to be a concern for RNDDH.

22. For some time now, the civil prison in Jérémie has not received regular food from the DAP. Charities intervene from time to time, but this help is largely insufficient. Prisoners do not have access to water for their daily needs due to the partial collapse of the Pont Estimé during the earthquake of August 14, 2021, the trucks that generally deliver water to the prison can no longer.

23. Several cases of contagious diseases but also skin diseases have been recorded in the civil prison of Jérémie although it does not have medicine and medical staff are irregularly present. The transport of detainees during judicial extractions was provided by the police station, which for some time has been unable to follow up.

24. In the South-East department, *the civil prison of Jacmel* is not regularly supplied with running water. As a result, DAP officers are often required to contribute to purchase water by truck. The water purification system failed. In addition, the prison cannot dispose of garbage. A private institution for the collection and treatment of rubbish that was in charge of it, terminated the contract that bound them to the prison, for non-payment of services for about a year.

25. The prison premises are not sufficiently lit. The prison registry and the space reserved for the head of operations do not have a chair. In the dormitory, fans and toilets do not work. Agents use buckets of water for bathing. The stoves are not supplied with propane gas. In addition, the company that supplied them with the gas decided to postpone it, because of the high debt of the prison which is reduced to using charcoal. In the infirmary, there is no medicine for the inmates. The latter also do not benefit from recreation or family visits.

26. In the Nord-Est department there are two (2) prisons: Fort-Liberté I and Fort Liberté II.

27. The courtyard of *the civil prison of Fort-Liberté I* is littered with rubbish. Inmates consume water from the well. The cells emit foul odors. They are not regularly cured for lack of cleaning products.

28. There is insufficient food in this prison, as the delay in the renewal of stocks is generally chronic. There is only one nurse assigned to the said prison to provide care to the inmates. The latter have no doctors, no medicines, no hygiene kits either. As a result, almost all of them are sick. They suffer, as they claim, from fever, cough, diarrhea, infections, rashes, etc.

29. *Inmates of the Fort-Liberté II civil prison*, also known as Morne Casse civil prison, receive only one meal a day. Food products delivered in stock are insufficient. The detainees are all sick, according to their statements. There are no doctors. There are also no medications. The only nurse who provides health care to inmates in this prison is often absent.

30. *The Morne Casse civil prison* also has no fuel or propane gas. Travel is difficult, and food is prepared over a wood fire.

31. *The civil prison of Port-de-Paix* is located in the Nord-Ouest department. This building, in very poor condition, has been falling into disrepair for several years. However, the authorities have chosen not to intervene in order to avoid its total collapse.

32. On July 7, 2021, the prison in question suffered a fire, following a riot recorded after the news of the assassination of de facto President Jovenel MOÏSE. The toilet is dirty and repulsive. The private custody institution cannot go to the prison regularly, due to the security situation in the country. The padlocks of the cells deserve to be changed for a long time. Sick inmates do not have access to medical care, as the prison does not have a nurse. The officers assigned to the custody of inmates of the civil prison of Port-de-Paix are understaffed.

33. In the department of Artibonite there are two (2) carceral centers located in Saint-Marc and Gonaïves.

34. *The Gonaïves civil prison* is facing an increase in cases of tuberculosis and skin diseases. The stock of medicines has been depleted for a long time already. It has not been renewed by the state authorities. Detainees do not have hygiene kits either. Food is insufficient at this prison and the standard menu of the DAP is not respected. The generator is broken, as are the Inverter batteries.

35. No DAP officer has been assigned to guard the inmates of this prison since the events that occurred on the night of November 7 to 8, 2019, when nine (9) women and one (1) minor of fifteen (15) years of age were gang-raped, one (1) detainee was killed and three (3) others injured, and one (1) DAP officer was injured.

36. In the Nord department, there are the civil prisons of Cap-Haïtien and the Grande Rivière du Nord.

37. *The civil prison in Cap-Haïtien* is not supplied with running water. Well water cannot be raised due to lack of electricity. And, due to the scarcity of fuel, the generator can also not be used for this purpose. For some time, food stocks have not been renewed in the prison. As a result, inmates are undernourished, which overexcites them. The managers on their side are in debt and the shops in the area no longer want to sell them on credit.

38. The prison is not cured. The private company responsible for doing so cannot travel to Cap-Haïtien both because of the fuel problem and because of the insecurity in the country. The prison therefore gives off a foul smell, a few meters around.

39. *The civil prison of the Grande Rivière du Nord* faces a lack of food. It receives water very irregularly from the National Directorate for Drinking Water and Sanitation (DINEPA). Moreover, despite the fact that its use causes itchiness, it is also this water that inmates drink.

40. The prison is not supplied with fuel. She does not assign any cell to the custody of minors; however, she does receive them. The latter are incarcerated in the same spaces as the adults.

41. The civil prisons of Mirebalais and Hinche are located in the Center department.

42. The cells of *the civil prison of Mirebalais*, located in the Center department, are dilapidated. This building, built in 1958 and damaged in the earthquake of January 12, 2010, no longer fulfills its mission. The prison often faces shortages of food stocks. The dormitory and the prison registry are inadequate and not equipped. Those in charge do not have an office. They do not have the means of transport either.

B. On the legal status of detainees

43. Besides the general conditions of detention, the legal status of detainees is also of great concern. Indeed, due to the dysfunction of the Haitian judicial system, during the judicial year 2020-2021, correctional hearings were only held rarely and criminal hearings with and without jury assistance were only carried out in some first instance jurisdictions across the country.

44. According to RNDDH's assessment of the criminal hearings which are of particular interest to us, four hundred and twenty (420) cases were fixed but only two hundred and thirteen (213) were heard and the two hundred and seven (207) other cases were referred for various reasons.

Jurisdictions	Hearings with Jury	Hearings without Jury	Fixed cases	Cases heard	Cases referred
Aquin	0	1	13	10	3
Cayes	0	1	13	9	4
Coteaux	0	1	11	7	4
Jacmel	0	2	40	28	12
Miragoâne	0	1	11	3	8
Anse-à-veau	0	1	11	11	0
Petit-Goâve	1	1	35	20	15
Croix-des-Bouquets	0	1	29	24	5
Hinche	0	2	35	34	1
Mirebalais	0	2	36	7	29
Saint-Marc	1	2	111	24	87
Gonaïves	0	1	64	30	34
Port-de-Paix	0	1	11	6	5
13 jurisdictions	2	17	420	213	207

Tableau 1

45. Two hundred and twenty-six (226) people have been fixed on their fate, as it appears in the table below:

Jurisdictions	Persons to be tried	Persons tried	Persons Released	Persons Convicted	Unknown Verdicts
Aquin	16	9	3	6	0
Cayes	18	9	0	0	9
Coteaux	11	7	6	1	0
Jacmel	62	28	0	0	28
Miragoâne	23	10	7	3	0
Anse-à-veau	14	12	4	8	0
Petit-Goâve	35	20	0	0	20
Croix-des-Bouquets	23	23	9	14	0
Hinche	40	35	7	28	0
Mirebalais	40	7	1	6	0
Saint Marc	111	24	9	15	0
Gonaïves	64	30	0	0	30
Port-de-Paix	21	12	2	10	0
13 jurisdictions	478	226	48	91	87

Tableau 2

46. To date, the RNDDH has only information relating to the verdicts which have been pronounced for one hundred and thirty-two (139) people, of whom forty-eight (48) have been released and ninety-one (91) others convicted. These hearings therefore did not have a great impact on the Haitian¹ prison population estimated, as of September 29, 2021, at eleven thousand two hundred and fifty (11,250) inmates, including two thousand and fourteen (2,014) convicted and nine one thousand two hundred and thirty-six (9,236), or 82.09% pending judgment.

47. The courts of first instance of Cap-Haitien, Fort-Liberté, Grande Rivière du Nord, Jérémie and Port-au-Prince did not hold any criminal hearings during the judicial year 2020-2021. However, at least eight (8) prisons are located in these jurisdictions. Their total prison population until September 29, 2021 is six thousand one hundred and twenty-seven (6,127) inmates of which five thousand one hundred and fifty-two (5,152) or 84%, awaiting trial and only nine hundred and sixty- fifteen (975) condemned.

48. In addition, a comparison of the legal status of inmates from the 2020-2021 judicial re-entry to its close, better underlines the catastrophic results of this judicial year on the prison population. In fact, as of October 20, 2020, the Haitian prison population was estimated at eleven thousand one hundred and thirty-one (11,131) inmates, including

eight thousand eight hundred and nine (8,809) awaiting trial and only two thousand three hundred and twenty-two (2,322) convicted. Thus, 79.14% of this prison population were awaiting trial and 20.86%, convicted. However, as of September 29, 2021, the prison population is estimated at eleven thousand two hundred and fifty (11,250) people, including nine thousand two hundred and thirty-six (9,236) awaiting trial and two thousand and fourteen (2,014) convicted. Thus 82% of the prison population are awaiting trial against 18% convicted.

49. The 2020-2021 judicial year, which began with 79.4% of the prison population awaiting trial, therefore ended with 82% of the prison population awaiting trial, i.e. an increase of 2.6% of this group. people.

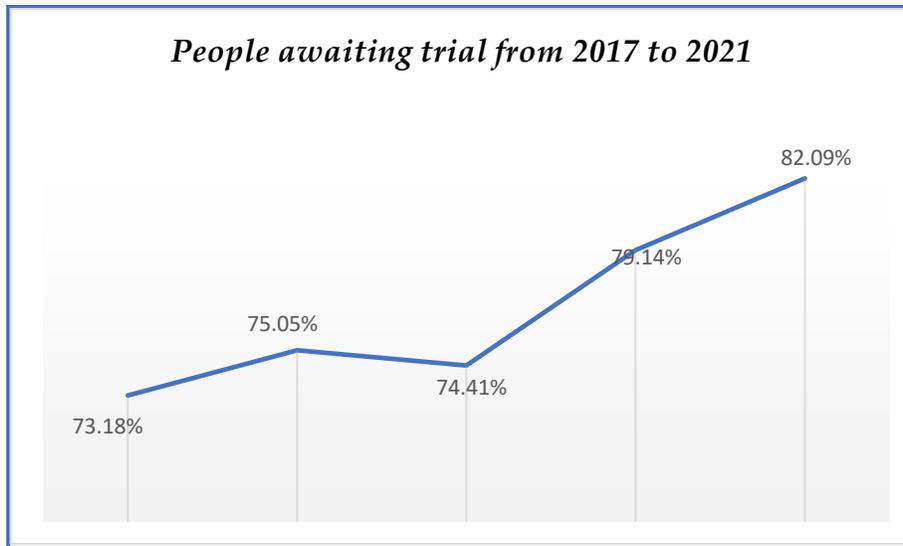
50. In fact, the evolution of the prison population over the past five (5) years indicates a total lack of will on the part of the state authorities to resolve the problem of illegal and arbitrary pre-trial detention. The number of people awaiting trial has only increased every year, except in 2019 when a slight decrease was recorded. The following comparative table and graphs bear witness to this state of affairs:

1

Year	Total	Sentenced Persons	People awaiting judgment	% of people awaiting judgment
2017	11979	2909	8767	73.18%
2018	11839	3952	8886	75.05%
2019	11529	2951	8578	74.41 %
2020	11131	2322	8809	79.14%
2021	11250	2014	9236	82.09 %

Tableau 3

¹ Source : *Direction de l'Administration Pénitentiaire (DAP)*

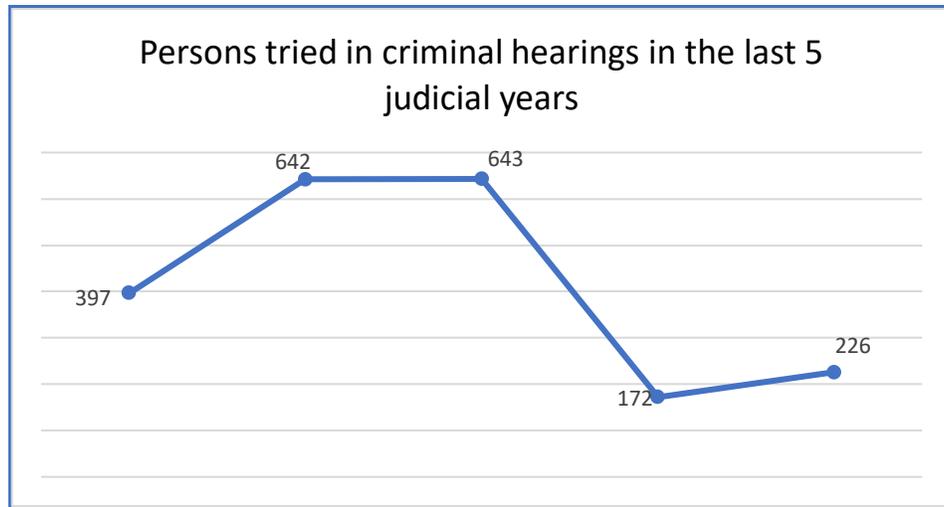


Graphe 1

51. In the last five (5) judicial years, barely two thousand eighty (2,080) persons have been tried in criminal hearings, which proves that the judicial authorities do not want to make any effort to seriously impact illegal and arbitrary pre-trial detention.

Judicial year	Persons tried
2016 - 2017	397
2017 - 2018	642
2018 - 2019	643
2019 - 2020	172
2020-2021	226
	2080

Tableau 4



Grappe 2

A. Comments and Recommendations

52. While the attention of the entire population is drained by the general human rights situation in the country and the insecurity that punctuates life, detainees remain and remain forgotten. For several years, they have been victims of cruel, inhuman and degrading treatment. Similarly, their rights to judicial guarantees are constantly violated. But, over the last five (5) years, their situation has worsened and, the above information, concerning sixteen (16) of the nineteen (19) functional prisons in the country or 84% of them, illustrates this state of affairs.

53. The RNDDH considers, however, that, more than the deterioration of the general conditions of detention and the legal status of detainees, the indifference of the State authorities towards them is worrying. Indeed, in recent years, prison officials have informed the authorities concerned that detainees are subject to a regime of solitary confinement because they do not have any time for recess. They also alerted them to the fact that food stocks were often broken and that they did not allow them to respect the standard menu of the DAP, nor to provide two (2) meals a day to the detainees. The country's prison officials have gone into debt to feed them and credit is no longer granted to many of them because of non-payment. Yet nothing has been done by state authorities to improve this situation.

54. In addition, lack of water for bathing and cleaning spaces, cell overcrowding, unsanitary conditions, foul odors, lack of health care, lack of medicines and sanitary and

hygienic materials, absence or lack of medical personnel: this is the case. day-to-day environment of detainees, more than 82% of whom are waiting to be tried for the offenses with which they are accused.

55. For their part, members of the judiciary know that by deciding not to work for longer or shorter periods and by choosing not to regularly conduct criminal hearings with and without jury assistance, that the first victims will be the inmates. This did not stop them, since in the past three (3) years, justice has only operated for three (3) or four (4) months a year. Consequently, for this same period, the number of people tried in criminal hearings has drastically decreased. It went from six hundred and forty-three (643) people during the 2018-2019 judicial year to two hundred and twenty-six (226) during the 2020-2021 judicial year.

56. It was also reported to RNDDH that a significant number of convicted prisoners transferred to other prisons have finished serving their sentences. However, they are being kept in detention, their new prison does not have the means of judgment concerning them. For other imprisoned detainees, their files are not forwarded to the investigating offices by the prosecution.

57. In view of this alarming diagnosis of the Haitian prison system, the RNDDH reminds the prison and judicial authorities that the detainees remain and remain human persons, enjoying their fundamental rights to life, health and food. And to a sufficient minimum of life, rights enshrined in the Haitian Constitution and regional and international conventions ratified by Haiti. The only restriction or loss they experience is their freedom of movement. This is the reason why, once again, the RNDDH recommends that the prison and judicial authorities:

- Regularly provide all civilian prisons in the country with sufficient food stocks;
- Redevelop civilian prisons in the far south which were damaged by the earthquake of August 14, 2021;
- Increase the number of officers assigned to the custody of detainees, taking into account international standards in this area;

- Systematically and without delay, forward the files of the persons against whom a deposit order is issued;
- Organize correctional and criminal hearings as quickly as possible to reduce the unacceptable number of people awaiting trial;
- Send to prisons the files of inmates who have been transferred, for the release of those who have finished serving their sentence.