



# Human Right to Education Project

Institute for Justice & Democracy in Haiti

*Bureau des Avocats Internationaux*

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## Project Overview

The U.S.-based Institute for Justice & Democracy in Haiti (IJDH) and its Haiti-based affiliate, *Bureau des Avocats Internationaux* (BAI), launched the Human Right to Education Project (HREP) to help poor families enforce their right to universal primary education under Haitian and international law. HREP fights to provide opportunities for Haitian children and help Haiti meet the demands of a modern economy, by opening doors for Haitian children that *Brown v. Board of Education* opened for African-American students in the U.S. Like the movement that pursued the *Brown* case, HREP employs a *rights based approach* combining grassroots advocacy – lobbying, demonstrations and media work – with an innovative lawsuit on behalf of children excluded from primary school.



HREP is spearheaded by two organizations with demonstrated success bringing groundbreaking litigation in Haitian and international courts.

## Need for Project

**The right to education is routinely violated in Haiti.** Universal free primary education is a right protected by Haiti's Constitution and international human rights law, and education is highly valued by poor Haitians. Yet, only 55% of primary-school-age children in Haiti attend school. Haiti currently spends less than 3% of its GDP on education, among the lowest in the world. The low rate of expenditure demonstrates that it is not just a matter of *resources* but also of government *priorities*. Haiti does not have enough public schools – Haiti's education system is among the world's most privatized – and most families cannot afford private school. Even at public schools, numerous school fees put public education out of the reach of many parents.

**HREP assists in poverty reduction.** The children excluded from primary school come from vulnerable and disadvantaged families stuck in a cycle of poverty. Without an education, most of today's excluded children will remain trapped in the cycle their whole lives. They will not have the tools to participate in Haiti's formal economy or society. The parents of excluded children are forced to face the awful reality that their offspring are missing their best chance to escape poverty. Parents often make the desperate choice of sending excluded children to work as *restaveks* (live-in domestic servants), risking probable exploitation in the hopes that the children will have a chance at an education.

**HREP promotes sustainable development.** The large-scale exclusion of children from education hurts Haiti's society and economy for the rest of those children's lives. Many children with the talent to make significant contributions to their country never realize their potential because they cannot go to school. Haitian employers are denied the trained, educated workers they need to compete in a globalized economy. The lack of skilled workers forces companies to bring in employees from abroad, while 70% of Haiti's workforce remains under- or unemployed. Although the first beneficiaries of improved access to education will be the children allowed into school and their families, the benefits will rapidly extend throughout society, as Haiti develops a better-trained workforce and a more educated citizenry.

The consequences of the violation of the right to education in Haiti are widely acknowledged by parents, children, educators, government officials, employers and the international community, but other than HREP there are no efforts to specifically enforce that right. There are multiple efforts to build private and public schools, provide tuition support and improve education management, but none of these efforts empower parents of excluded children to advocate for themselves, nor do they apply system-wide legal and political pressure on Haiti's government.

## Project Description

HREP will force the Haitian government to improve access to primary education through a combination of lawsuits and grassroots advocacy. The project is modeled on successful initiatives in the U.S., especially *Brown v. Board of Education*, which employed the same combination to overcome entrenched obstacles and leverage fundamental social change. In this model, the two strategies reinforce each other: the lawsuit becomes a pole for organizing, while the political pressure helps force the case through the courts. The combined strength of the two strategies becomes sufficient to overcome otherwise insurmountable barriers.



HREP will file its first lawsuit in Haitian courts. The suit will rely primarily on Haitian law, and secondarily on international law. Haiti does not have a class action procedure, but the suit will be similar to a class action in that there will be several plaintiffs who will at least symbolically represent a broader group of people, and the case will be designed to maximize the benefits to the broader group. If the Haitian justice system fails to provide an adequate hearing for the case, HREP will pursue the case at the Inter-American Commission on Human Rights, and if necessary the

Inter-American Court of Human Rights.

Organized plaintiffs' groups will form the foundation of HREP's grassroots advocacy component. Several existing organizations have already expressed interest in participating in the case. The plaintiffs' groups will take the lead in the grassroots advocacy, assisted by HREP lawyers and community organizers. Plaintiffs will participate in the legal case, lobby government officials, bring their case to the media, and organize demonstrations. The plaintiffs will choose which actions are most appropriate, but an example of a powerful potential action is a massive convergence of excluded children and their parents on a single public school, all carrying Article 32 of the Haitian Constitution, which guarantees the children's access to school. In addition, Presidential and Parliamentary elections scheduled for 2010 in Haiti present an opportunity to insert education into political debate through questions raised in radio call-in programs and candidate debates.

IJDH and BAI have laid the foundation for HREP, and are now ready to fully launch the project. Preliminary legal and factual research was completed with the help of clinical students from New York University and Harvard Law Schools. The research included legal research under Haitian and international law, factual research on the obstacles to universal primary education



in Haiti and discussions with potential partners. In October 2009, BAI hired a young, energetic Haitian lawyer to work exclusively on the HREP. He has already begun to develop an action plan with BAI's grassroots advocacy coordinator, which will be implemented in HREP's Phase 1.

Phase 1 of HREP includes: 1) identifying Haitian families that cannot send their children to school and are willing to participate in the suit; 2) organizing these families into a strong advocacy group; 3) having the families attempt to enroll their children in public school, and documenting the schools' expected refusal; and 4) preparing the complaint based on the schools' refusal to enroll. Phase 1 should be completed by March 2010. Phase 2 of the project includes: 1) filing the complaint and pursuing the litigation; 2) continuing grassroots organizing and advocacy; and 3) implementing a media strategy. Phase 2 is expected to take two to three years to complete.

## **Impact**

HREP will have an impact on three important structures, the education and the legal systems and civil society. The project directly addresses the root causes of the exclusion of Haitian children, and is designed to advance systemic reform that has far reaching consequences for the future of equality and sustainable development in Haiti.

First, HREP will force the Haitian government to increase opportunities for free primary education. We recognize that the Haitian government lacks the resources to fully comply with its obligations to provide education for all, but our interviews with teachers, government officials, parents and NGOs all indicated that the government could better manage existing education resources if put under the kind of pressure that HREP will apply. Publicity from the lawsuit and any binding court judgments could also help the government attract additional resources for education, thereby increasing the government's capacity to fulfill its obligations.

Second, HREP will improve Haiti's justice system by forcing it to handle a challenging case under public scrutiny. Our experience in past impact litigation cases shows that judges and prosecutors, if given proper support, will rise to the occasion to perform at a high level in a high profile case. The HREP lawsuit will also build a constituency for the justice system, especially among Haiti's poor, by demonstrating that the courts are adequate venues for non-violent resolution of complicated societal problems.

Finally, HREP empowers marginalized individuals to directly fight for their rights. Our experience in other cases shows that this empowerment will survive the end of HREP and will provide the parents the tools they need to challenge other violations of their rights.

## **Organizational Overview**

### **Mission Statement**

IJDH and BAI fight for the human rights of Haiti's poor, in court, on the streets and wherever decisions about Haitians' rights are made. They represent the unjustly imprisoned and victims of political persecution, coordinate grassroots advocacy in Haiti and the U.S., train human rights advocates in Haiti and disseminate Haiti human rights information worldwide.

### **Organizational Partners**

The Institute for Justice & Democracy in Haiti (IJDH) and the *Bureau des Avocats Internationaux* (BAI) have a demonstrated capacity to successfully combine grassroots advocacy with pioneering lawsuits in Haitian and international courts. The BAI and IJDH have 14 years of successful enforcement of Haitians' human rights, in Haiti and abroad. The organizations employ four program tools: 1) *impact litigation* forces open the doors of Haitian, international and U.S. courts for precedent-setting human rights cases; 2) *documentation* provides public officials, human rights advocates and grassroots activists the reliable information they need to speak up for human rights in Haiti; 3) *transnational grassroots advocacy* promotes policy advocacy and network building that compels governments and powerful institutions in Haiti and abroad to respect Haitians' human rights; and 4) *capacity building* develops a corps of Haitian lawyers and advocates trained to fight for sustainable change in their country.

The BAI pioneered its trademark *victim-centered approach* in the Raboteau Massacre case, which reached trial in the fall of 2000. The case has been hailed as Haiti's best complex legal proceeding ever, and one of the most important human rights cases ever in the Americas. Both organizations participated in the case of *Yvon Neptune v. Haiti*, the only Haiti case ever decided by the Inter-American Court of Human Rights. The Court's May 2008 decision went beyond the facts of the individual plaintiff's case, to declare Haiti's prison conditions a violation of all prisoners' human rights. The Court ordered the Haitian government to adopt a plan within two years to bring its prisons up to minimum international standards.

IJDH and BAI expect to bring in several additional partners, including grassroots and educational groups in Haiti, NGOs in Haiti and abroad, and law school clinical students in the U.S.

## IJDH Board Members

**Brian Concannon Jr., Esq.** (see below).

**Dr. Paul Farmer, MD, Ph.D.**, founder of Partners in Health, Professor at Harvard Medical School, and Deputy UN Special Envoy to Haiti. Dr. Farmer has spent much of the past 25 years in Haiti, but his current primary residence is in Rwanda. Dr. Farmer changed the way the world treats infectious diseases among the poor by proving that top quality healthcare can be provided in resource-poor settings. Dr. Farmer brings unique and successful experience in implementing programs in Haiti and excellent relationships with Haitian health officials, the international healthcare community, and major donors to Haiti. As Deputy Special Envoy, he has a unique ability to advocate that the international community and Haitian government implement reforms suggested by HHRPP's experience. Dr. Farmer is a MacArthur Foundation "Genius Award" winner.

**Laura Flynn** is a self-employed author, teacher, and activist. Ms. Flynn lived in Haiti from 1994-1999, and was a co-founder of the Bay Area Haiti Action Committee. She has excellent relationships with grassroots leaders in Haiti and in the U.S. Haiti solidarity community.

**Ira Kurzban, Esq.** is an attorney with Kurzban, Kurzban, Weinger & Tetzeli, and Adjunct Professor of Law at the University of Miami and Nova Southeastern University. He is one of the pre-eminent immigration and refugee lawyers in the U.S., and has fought Haitian refugee cases for thirty years, three of them up to the U.S. Supreme Court. Attorney Kurzban was U.S. General Counsel for the Haitian government from 1991-2004. He has excellent relations with the Haitian diaspora community in South Florida and with former and current Haitian government officials.

**Bryan Stevenson, Esq.** is Executive Director of the Equal Justice Initiative of Alabama and a Clinical Professor at NYU Law School. He brings 25 years' successful prison advocacy, as well as legal non-profit management experience. Attorney Stevenson is one of the most successful and well-known death penalty advocates in the U.S., and a MacArthur Foundation "Genius Award" winner.

**Irwin Stotzky, Esq.** is a Professor of Law and Director of the Center for the Study of Human Rights at the University of Miami. He has advised the Haitian and Argentine governments on transitional justice issues, and represented Haitian refugees in U.S. courts. Professor Stotzky has written books on transitional justice in Haiti and Latin America.

## **Key Management**

### **Mario Joseph, Av., Managing Attorney, Bureau des Avocats Internationaux**

Attorney Joseph has co-managed or managed the BAI since 1996, and has practiced human rights and criminal law since 1993. The *New York Times* called him “Haiti’s most respected human rights lawyer.” He spearheaded the prosecution of the *Raboteau* Massacre trial in 2000, one of the most significant human rights cases anywhere in the Western Hemisphere. He has represented dozens of jailed political prisoners, in Haitian courts and in complaints before the Inter-American Commission on Human Rights. In 2009, Attorney Joseph received the Judith Lee Stronach Human Rights Award from the Center for Justice & Accountability and the Katherine and George Alexander Human Rights Prize from the University of Santa Clara Law School. He has testified as an expert on Haitian criminal procedure before the Inter-American Court of Human Rights and in U.S. courts, and served on the Haitian government’s Law Reform Commission.

Attorney Joseph is also an educator, and a graduate of Haiti’s Teachers’ College. He has extensive experience teaching human rights and legal issues to grassroots advocacy organizations, human rights groups and victims’ organizations. He appears frequently on television and radio in Haiti to explain legal issues. Attorney Joseph speaks Haitian Creole, French and English.

### **Brian Concannon, Jr., Esq., Director, Institute for Justice & Democracy in Haiti**

Attorney Concannon co-managed the BAI in Haiti for eight years, from 1996-2004, and worked for the United Nations Human as a Human Rights Officer in 1995-1996. He founded IJDH, and has been the Director since 2004. Attorney Concannon helped prepare the prosecution of the *Raboteau* Massacre trial in 2000, one of the most significant human rights cases anywhere in the Western Hemisphere. Attorney Concannon has represented Haitian political prisoners and victims of political violence before the Inter-American Commission on Human Rights, and represented the plaintiff in *Yvon Neptune v. Haiti*, the only Haiti case ever tried before the Inter-American Court of Human Rights.

Attorney Concannon has received fellowships from Harvard Law School and Brandeis University and has trained international judges, U.S. asylum officers and law students across the U.S. He is a member of the Editorial Board of *Health and Human Rights, An International Journal*. He speaks and writes frequently about human rights in Haiti. Attorney Concannon speaks English, Haitian Creole and French.