

# HAITI

## El affiliates

<b>CNEH</b>	Confédération nationale des éducatrices et éducateurs d'Haïti
<b>FENATEC</b>	Fédération nationale des travailleurs en éducation et en culture
<b>UNNOH</b>	Union nationale des normaliens d'Haïti

## Others

<b>CONEH</b>	Corps national des enseignants d'Haïti
<b>GIEL</b>	Groupe d'initiatives des enseignants En Lutte
<b>UNNOEH</b>	Union nationale des normaliens et éducateurs d'Haïti
<b>CNEH, FENATEC, UNNOEH, CONEH, GIEL</b>	La plateforme des syndicats d'enseignant(e)s haïtiens

## Ratifications

- C. 87 Freedom of Association and the Protection of the Right to Organise (1948) ratified 1979
- C. 98 Right to Organise and Collective Bargaining (1949) ratified 1957
- C. 100 Equal Remuneration (1951) ratified 1958
- C. 111 Discrimination (Employment and Occupation) (1958) ratified 1978

## Introduction

Education provision in Haiti is extremely weak and the situation has been compounded by the terrible earthquake which struck the country in January 2010. 40% of children between ages of 6-15 are not in school, only 22% of the school age population is enrolled in secondary education, only 9% continue to a vocational training institute and 1% to higher education. Over 80% of education provision is private, and most schools are run as commercial enterprises.<sup>1</sup>

## Freedom of Association

Art 35 of the 1987 Constitution guarantees freedom of association and the protection of workers' rights in both the public and private sector. However, in practice, there are a number of limitations on these rights. Notably, under the Penal Code, government consent is requested for the establishment of any association of over 20 members.<sup>2</sup>

<sup>1</sup> *Building Haiti through training and employability programmes. Michael Axmann, ILO Skills Development Specialist 6 January 2012* [http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS\\_170941/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_170941/lang--en/index.htm)

<sup>2</sup> *Article 236 of the Haitian Penal Code See Direct Request, CEACR report on Haiti, ILO Convention 87, published ILC 102<sup>nd</sup> Session, 2013*

The Labour Code was last amended in 2003 although successive governments have initiated discussions about a new Code. Since 2005<sup>3</sup>, when the 1982 Public Service Act was amended, public employees are no longer excluded from the provisions of the Labour Code.

The Labour Code gives broad powers of supervision over trade unions to the government and allows for compulsory arbitration at the request of only one party to a labour dispute. Strikes are only deemed legal when they are carried out by at least one third of the total workforce.<sup>4</sup> Solidarity strikes or politically motivated strikes are prohibited. Strikes in the public sector are not prohibited, including in education. However, they are prohibited in essential services, whether publicly or privately managed.

In the private education sector, most schools do not recognise the teachers' right to join a trade union.

### Collective Bargaining

Genuine collective bargaining is virtually non-existent in Haiti. Decree Law 4 of 1983 empowers the Labour Directorate of the Ministry of Social Affairs and Labour to intervene in the drafting of collective agreements and in collective labour disputes and is still in force. The ILO notes acts of discrimination against trade unionists, interference by companies in the affairs of trade unions, the weakness of the labour inspectorate and the judicial system with regard to the violation of trade union rights.<sup>5</sup> The ITUC has noted that the government has never fined an employer for interference in the internal affairs of a trade union.<sup>6</sup>

The ILO has requested the government to adopt measures to protect against anti-union discrimination, whether in recruitment, promotion or dismissal. It has also requested the government to provide information on the legal provisions related to the right to collective bargaining of public officials and employees.<sup>7</sup>

With the growth of the export processing zone, in July 2012, a permanent forum of bipartite dialogue in the textile sector was established, together with a minimum wage for the sector. The government has stated that it plans to set up a tripartite higher wage council to revise and determine minimum wages.

In principle, teachers in the public sector are appointed as career public employees, on permanent contracts, following competitive examinations. As public employees, they are

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<sup>3</sup> Section 151, Decree of 17<sup>th</sup> May 2005 amending 1982 Act to establish general rules of employment in the Haitian public service

<sup>4</sup> Article 204 Labour Code amended 2005

<sup>5</sup> See Observations, CEACR Report on Haiti, ILO Convention 98, published ILC 102<sup>nd</sup> Session 2013

<sup>6</sup> See ITUC 2012 Survey of Trade Union Rights Violations, Haiti <http://survey.ituc-csi.org/Haiti.html#tabs-3> accessed 12.12. 2013

<sup>7</sup> See Observations, CEACR Report on Haiti, ILO Convention 98, published ILC 102<sup>nd</sup> Session 2013

entitled to social protection, including health, accident and maternity protection, and a State pension. The salary scale is drawn up by the Office of Management and Human Resources of the Ministry of National Education in agreement with the Ministry of the Economy and Finances, and is established by order of the Prime Minister.<sup>8</sup> Article 159 of the Public Service Act specifically states that pay and other social benefits cannot be negotiated by an individual public employee.

The Teachers Statute of 24 October 1984 established a specific career plan for teachers in the public sector and a salary scale for basic education teachers, which included increments every 4 years. In practice this Statute was never implemented. Salary increases have only been won through mobilisations and strikes. The structural adjustment programmes of the 1990's meant that fewer teachers were appointed on permanent posts and the number of contract teachers with no social benefits increased sharply.

Recruitment and appointment procedures are severely flawed. In the private sector, teacher training qualifications for appointments vary. In the public sector, graduates from the teacher training colleges are not guaranteed appointments. Instead, recruitment is based on political favours, and many teachers work without a letter of appointment or a work contract, which leaves them vulnerable to abusive situations and reluctant to engage with trade unions.<sup>9</sup> Indeed, following the earthquake, relatives often found they could not prove that teachers who had died were employed by the Ministry of Education and could therefore not claim compensation or other State benefits.

Working conditions are notoriously poor, with up to 58% of schools without toilets and 23% without water.<sup>10</sup> In the public sector, teachers in basic education often work two shifts per day. Secondary school teachers are paid by the teaching hour and often teach 40 hours per week. Salary levels do not take into account the qualifications or the number of years' experience. In the private sector, many teachers are only paid for 10 months each year. Many teachers are not aware of their rights to social security. Only a small number of public sector teachers have health insurance coverage and even then, the system does not work well. No emergency health costs are reimbursed. Regular health consultations are only reimbursed if the teacher has previously obtained a letter from the human resources department of the Ministry of Education, which requires a time-consuming trip to Port-au-Prince. Women teachers are often obliged to pay for the costs of a replacement teacher when they are on maternity leave. Private sector teachers have no old age pensions.<sup>11</sup>

<sup>8</sup> Art. 160-1 of the General Statute of Public Administration amended 17 May 2005 accessed 12.12. 2013

<sup>9</sup> p.4 'Les Difficultés De L'Enseignant Haïtien', Organisation Des Nations Unies Pour L'Education, la Science et la Culture Unesco / Port-au-Prince, Commission Nationale Haïtienne De Coopération Avec L'Unesco préparé par Lourdes Edith Joseph, Confédération Nationale des Educatrices et Educateurs d'Haïti (CNEH) Port-au-Prince, le 5 octobre 2010

<sup>10</sup> "Document de Stratégie Nationale pour la Croissance et la Réduction de la Pauvreté", Ministère de la Planification et de la Coopération, Novembre 2007

<sup>11</sup> p.5-7 'Les Difficultés De L'Enseignant Haïtien', op.cit.

The ILO last reviewed a complaint before the Committee on Freedom of Association concerning public sector teachers in March 2001<sup>12</sup>. It refers to a memorandum of understanding signed between the government and the CNEH and other unions, dating back to 1997, which included a wage adjustment of 82%, the establishment of a vocational training plan, an insurance plan and a commission to review trade union matters. The government only paid a 50% wage increase and none of the other points were implemented. When the unions took strike action in 1999, to call for the implementation of the agreement, 11 teachers, including regional and national trade union officials were suspended without pay with no explanation given and the government hired temporary teachers to break the strike and sought to establish a parallel union. The government never responded to these accusations. However, it should be recalled that over 80% of Haitian schools operate outside the public sector.

A government plan, known as the National Pact for Education was adopted in May 2010, which set out a long-term strategy for education over the next 20 years. An Operational Plan 2010-2015 was then drawn up, together with a budget. The trade unions carried out a survey about working conditions of teachers and took part in workshops on the development and validation of the Plan.

### **Quality Public Education for All Campaign in Haiti**

In the aftermath of the earthquake, the Haitian Teachers' Platform estimated that 1300 teachers and 200 non-teaching staff had lost their lives, and that 4,000 primary schools and 1,500 secondary schools had been destroyed or badly damaged as well as the 3 main universities and 8 out of 9 vocational training schools.<sup>13</sup>

In November 2011, the Haitian Teachers' Platform, with the support of Education International launched the campaign for quality public education for all. The campaign highlighted the multiple difficulties facing Haitian teachers, including salary arrears (sometimes for as long as 4-6 months), teachers working for up to 4 or 5 years without a letter of appointment or work contract, very low pay levels, inadequate pensions and insurances, lack of qualified teachers, poor teacher training facilities, the lack of infrastructure, school materials and canteens. It condemned the non-respect of the State's obligation to employ teachers who graduate from the teacher training schools and universities and demanded an end to arbitrary recruitment practices based on clientelism and corruption. It called for a nation-wide programme for the recruitment and training of teachers, as well as the right to organise in the public and private sectors, the right to negotiate terms and conditions of employment and in the public sector, the need for a Teachers' Statute and regulations of salary setting in public education. It also called for union participation in the oversight of the government Operational Plan 2010-2015. An EI mission to Haiti comprising 20 representatives from 10 organisations took

<sup>12</sup> Case No 2072 Report No. 324, submitted by the National Confederation of Haitian Teachers to which Education International was associated March 2001;

<sup>13</sup> See article EI website 22 May 2013

place in January 2013, met with unions, government and politicians, to encourage the government to rapidly implement the plan, develop social dialogue mechanisms with the teachers' unions, and create a genuine public education system.

The Haitian Teachers' Platform organised a 3 day strike (27<sup>th</sup> February – 1<sup>st</sup> March 2013) to support their set of demands. The government agreed to meet the unions and review the implementation of the National Education Operational Plan. However, as one commentator noted, "Haiti is replete with education plans that have not been implemented."<sup>14</sup> A review of the Operational Plan in February 2013 revealed that only 10% had been implemented. A Programme of Priority Interventions (PIPE) 2013-2016 has been drawn up to focus resources on key areas.<sup>15</sup> To what extent have unions been involved in the PIPE?

The Haitian Teachers' Platform has continued to pressure the government for reforms, carrying out "sit-ins" during September and October, and a peaceful march. In November 2013, the Platform wrote to the government in support of its demand for a specific Teachers' Statute, which would set out a career plan and a retirement scheme. Currently teachers are earning the equivalent of the "indecent" sum of USD 180 per month.<sup>16</sup>

The Platform has also raised serious concerns about the government decision to set up an autonomous National Fund for Education (FNE) without proper Ministerial oversight or a clear mandate. It is also concerned that the sources of financing the fund are not clearly indicated, apart from a proposal to tax international phone calls and money transfers, and that the activities to be financed are in fact core responsibilities of the Ministry of Education, which should be funded by the government's regular budget.<sup>17</sup>

In January 2014, the unions carried out further strike action in support of their earlier demands, in particular the need for a Teachers' Statute and regulations on the teachers' salary scale. The government agreed to give appointment letters and contracts to all qualified public sector teachers and to set up an ad-hoc commission to negotiate the other points. On 13<sup>th</sup> February 2014, the government agreed in principle to the text of a Teachers' Statute, which was discussed with the unions over a 3 –day period. The Teachers' Union Platform is now waiting for it to be published in the official gazette.

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<sup>14</sup> *Education in Haiti World Innovation Summit September 2011*

<sup>15</sup> *Programme d'interventions prioritaires en éducation (PIPE) 2013-2016, Ministère de l'Éducation Nationale et de la Formation Professionnelle (MENPF), République d'Haïti, Port-au-Prince December 2013*

<sup>16</sup> <http://www.alterpresse.org/spip.php?article15481#.UrGYhSdInfA>

<sup>17</sup> *Argumentaire de la plateforme des syndicats d'enseignants sur le projet de loi portant organisation du FNE, 2<sup>nd</sup> December 2013*