



JUST ATONEMENT INC.

justice
hope peace unity equal opportunity
golden age
progress sustainability democracy freedom
human rights harmony civilization

Just Atonement Inc.

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Just Atonement Inc. (JAI) is a global network of advocates who serve at the front lines in defending democracy, human rights, and a livable planet.

JAI was founded in the United States of America in 2017.

JAI invites and organizes legal professionals globally into a single order and aligns a vision of a peaceful, sustainable world, governed by the democratic rule of law; litigates in courts all over the world on cutting edge human rights cases to build peace and sustainability, and to defend democracy; and advocates for a vision of a true Golden Age for humanity: a world where countries settle their disputes peacefully, manage social and economic systems that are in harmony with the planet, and govern themselves through the principles of democracy, the rule of law, and human rights.

JAI submits this written submission with respect to the Universal Periodic Review of the Republic of Haiti.

Summary of Conclusions

1. JAI commends Haiti's ratification of the Paris Agreement in February 2017. We additionally welcome Haiti's plans to address climate change, as set forth in its National Action Plan for Adaptation (revised in 2017) and its March 2016 National Climate Change Policy.
2. An increase in climate-related extreme weather events poses an imminent threat to Haiti. **Urgent action is needed to forestall immediate harm to the citizens of Haiti because of the climate breakdown.**
3. The lack of a proper waste management system has long been cause for concern in Haiti. Improper waste disposal threatens and endangers various human rights including the right to life, the right to a healthy environment, and the rights of children.



4. The extractivism economy harms the environment, undermines human rights, and may perpetuate racial and colonial legacies.

Climate Change

5. Small-island developing states are widely acknowledged to be uniquely vulnerable to climate change. Haiti, in particular, is prone to natural disasters (including tropical storms, floods, and droughts) that are expected to intensify as global temperatures increase. According to the Global Climate Risk Index 2021,¹ Haiti ranked as the third in the world as most affected by the impacts of climate related extreme weather events for the period 2000-2019; this makes Haiti the most impacted country in the Latin America and Caribbean regions.

6. Haiti's acute vulnerability is exacerbated by socio-political and economic instability, limited access to resources, inadequate infrastructure, and foreign interference. Along with a lack of government transparency and accountability, these factors render climate mitigation and adaptation efforts difficult.

7. Despite these various challenges, Haiti is a participant in the Paris Agreement and submitted its Intended Nationally Determined Contribution (INDC) to the UN Framework Convention on Climate Change in September 2015. Among its primary stated objectives are the improvement of resilience to climate change-linked disasters, for example through agricultural adaptation, and the capacity to respond to such disasters.

8. A 2019 study² found a misalignment between Haiti's climate priorities and funding distribution. Haiti's \$1.1 billion climate fund is largely comprised of donations from the World Bank and the Inter-American Development Bank. Of that fund, \$269 million is reserved for disaster risk reduction, especially post-disaster rebuilding. Capacity building, agricultural adaptation, and sustainable construction of climate-resilient infrastructure are comparatively underfunded. These are key areas for improvement that would better prepare Haiti to cope with disasters and the long-term impacts of climate change.

9. The effects of natural disasters are an impediment to the full realization of human rights in Haiti. The cumulative destruction caused by climate change will exacerbate issues such as food insecurity, lack of access to potable water, limited access to shelter or the ability to make a home, limited access to education, and a heightened risk of internal displacement. Moreover, the frequency of natural disasters, such as Hurricane Matthew in 2016 and the devastating 2010 earthquake, has forced Haiti to focus on immediate humanitarian relief and rebuilding efforts, instead of addressing structural issues.

10. Finally, climate change threatens agricultural productivity in Haiti. Accounting for approximately 22% of Haiti's GDP, agriculture is the primary basis of Haiti's economy. Rising

¹ <https://www.germanwatch.org/en/19777>

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https://www.researchgate.net/publication/331493051_Analysis_of_International_Funding_for_Haiti%27s_Climate_Change_Priorities



sea-levels and flooding will result in losses in soil, livestock, and necessary infrastructure. Likewise, increasingly unpredictable weather patterns will make it difficult to plan an agricultural calendar. In these ways, climate change will circumscribe crop cultivation and reduce potential crop yields, making the Haitian population even more food insecure. **The breakdown of the Earth's climate system is imminent and may have already commenced. Haiti is not prepared at this time for the imminent climate breakdown and must take urgent and immediate steps to protect its citizens from the effects of that breakdown.**

Recommendations

11. The right to life is threatened in Haiti on account of the failure to prepare for climate change. We urge Haiti to undertake climate adaptation measures and seek assistance where available to prepare for the effects of climate change. This includes redistributing climate funds to priority areas, such as capacity building and agricultural adaptation.

12. As a country with low per capita carbon emissions, Haiti is placed in an extremely unfair position in remediating environmental harms for which it is largely not responsible. Nonetheless, Haiti must do what it can to protect against infringements of the right to life within its jurisdiction.

13. Haiti could consider building alliances and partnerships with other island and/or low-emitter states to consider multifaceted and international action with respect to climate change.

The Right to a Healthy Environment

14. Haiti is a signatory to the Additional Protocol to the 1988 American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (“Protocol of San Salvador”). Article 11(1) states “Everyone shall have the right to live in a healthy environment and to have access to basic public services.”

15. Realisation and enjoyment of this right is hampered by persistent unsanitary living conditions. Despite an \$8 million project³ supported by Japan to strengthen the solid waste management system, there is only one operational sewage treatment plant in the country, at Morne a Cabrit, and there is no central sewage system.

16. A poorly maintained canal system, originally constructed to channel stormwater to the ocean, serves as a *de facto* sewage system in Port-au-Prince. Toxic waste from household, commercial, industrial, and medical sources accumulate in the canals and flows through them to Cité Soleil, an impoverished and densely populated community in the Port-au-Prince region. Harmful waste also reaches Cité Soleil via official routes, as the Service National de Gestion de Résidus Solides deposits trash in an unregulated dump in the community.

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https://www.researchgate.net/publication/331493051_Analysis_of_International_Funding_for_Haiti%27s_Climate_Change_Priorities



17. Frequent flooding—which has increased due to climate change—mixes with waste to create toxic sludge that inundates schools, homes, and businesses and has created unsafe and unhealthy living conditions. In an attempt to reduce the volume of waste, many residents burn trash on a daily basis.

18. This has caused physical health impacts, such as breathing disorders, acute asthma, acute respiratory issues, bronchitis, and headaches. The toxic waste and water attract diseased mosquitos, rats, and other animals, increasing the risk of exposure to diseases including cholera, worms, and skin conditions. This contaminated water is also a breeding ground for mosquito-borne diseases (for example Malaria, Dengue, Yellow Fever, Chikungunya, and Zika). In addition, dirty water from the canals contaminates other water sources, limiting the availability of potable water. Consequently, diarrhoea—a treatable disease—is a common cause of death in Cité Soleil. Finally, burning trash causes cancer-causing chemicals, such as Agent Orange; residents are therefore susceptible to neurological damage and damage to thyroid function. These unsanitary conditions have also had widespread psychological and social impacts. In particular, children dread walking through the waste and therefore fear attending school.

19. In March 2021, a petition was submitted to the Inter-American Commission on Human Rights⁴ on behalf of children from Cité Soleil. The petition alleges that the government of Haiti has failed to provide safe environmental conditions by neglecting to dispose of trash in a sanitary manner in compliance with international standards and neglecting to provide adequate waste management services in Cité Soleil. The Haitian government's failure to protect the right to a healthy environment has in turn meant that it has derogated its responsibility to ensure the right to a dignified life and the rights of children, who are particularly susceptible to long-term adverse impacts.

Recommendations

20. We encourage Haiti to investigate the conditions at Cité Soleil and to protect the right to a healthy environment, particularly as it relates to the treatment of waste.

21. Haiti should adopt ameliorative and preventative measures as soon as possible, including but not limited to ceasing the disposal of trash in Cité Soleil and relocating the city's trash dump to a more remote area.

22. Haiti must protect the rights of children who are impacted by environmental damage.

Extractivism

23. Since 2011, the revival of Haiti's mining sector has been a priority for the Haitian government. Natural resources in Haiti's soil, including gold, are estimated to be worth 20 billion USD. Resource extraction and export thus has the potential to generate economic growth

⁴ http://climatecasechart.com/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2021/20210204_13174_petition.pdf



and financial benefits that could be used for social and infrastructural development.

24. However, extractivism can perpetuate enduring legacies of colonialism including racial, and economic inequalities. Formerly-colonized states such as Haiti are sometimes targets for corporate mining operations. These corporations and entrenched political interests often benefit from these operations at the expense of the local population and national welfare.

25. The foreign influences of the extractivism economy, including “industries, actors and financial flows, as well as . . . the economic, material and social processes and outputs, associated with the globalized extraction of natural resources,” threaten the right to self-determination. Haiti is at risk of becoming further dependent on international actors for material support due to the proliferation of this industry.⁵ As the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has stated:

“This is a racial equality concern because those who bear the greatest cost of the extractivism economy are those peoples who were formerly colonized on the grounds of false claims of their racial inferiority. In other words, it is those people who, under the colonial extractivism economy, were socially constructed as non-white or non-European that today remain subordinate, excluded and marginal within the global extractivism economy.”⁶

26. Natural resource extraction is a precarious venture with well-documented ecological and human rights implications. The global extractivism economy threatens to render entire regions uninhabitable, at both a local and global level. Of particular concern for Haitians is the imminent risk that industrial depletion will reduce water resources and further limit access to potable water.

27. Quartier Morin, in the Nord Department, has been a target of corporate mining exploration. This region is also home to hand-dug wells and springs that are at risk of drying up if mining operations commence, due to the significant amounts of water that mining requires. Replenishment could take years, if it occurs at all. Furthermore, mining could cross-contaminate other, nearby water sources. A hydrological study, the results of which were reported in December 2018,⁷ found *E. coli* and fecal contamination in hand-dug wells in Quartier Morien. Haiti already struggles with limited access to potable water. This activity could be devastating for the population, especially the residents of Cap-Haitien who rely on Quartier Morien for water.

28. In addition to the environmental effects of mining, there are concerns regarding governance. Around 2013, the government of Haiti promulgated a draft law meant to replace its older 1976 mining law—an initial step toward the revival of its mining industry (the “Draft Law”). The first Draft Law, dated August 2014, was written with input from the mining industry. However, Haitian civil society was not consulted and the Draft Law was not made public.

⁵ <https://undocs.org/A/HRC/41/54>

⁶ *Id.*

⁷ https://chrgi.org/wp-content/uploads/2018/12/181211_Press-Release_GJC.pdf



29. In July 2017, the Haitian media reported that Senator Hervé Fourcand had presented a subsequent draft mining law to Parliament. Haitian civil society organizations unsuccessfully made numerous requests to the Office of Mines and Energy and to members of the Senate to obtain a copy of the law. However, according to the Global Justice Clinic at the New York University School of Law, the law presented in 2017 is nearly identical to the 2014 Draft Law.

30. Lack of transparency and parliamentary oversight was written into the Draft Law and, if passed, would further restrict public engagement. The Draft Law would establish a National Mining Authority (NMA) tasked with regulating the industry. There is no indication whether these regulations would be subject to parliamentary approval. A proposed Model Mining Convention would likewise set performance standards. On this point, the Draft Law does not require parliamentary approval, but only consultation with the relevant Parliamentary commissions.

31. In addition, the Draft Law contains a confidentiality clause that would require the nondisclosure of reports regarding the results of work completed under a mining title for a period of ten years. This documentation could include information on the environmental and social impacts of mining. The lack of specificity regarding how regulations will be overseen and the confidentiality of pertinent reports precludes public debate and the opportunity for interested parties to influence rules that will have short and long-term effects on the Haitian environment and population.

32. Haitians have expressed concern about the potential impacts of industrial mining operations on the environment and their livelihoods, and civil society opposition to mining has been fervent. In April 2018,⁸ 13 community organizations from Morne Pele, Quartier Morien signed an open letter to local and national government authorities. The letter emphasizes the centrality of agriculture to the livelihood of the Haitian people, expresses concern about the likelihood that mining will degrade the environment, and states opposition to proposed mining operations.

33. Citizens and organizations from Nord-Ouest department signed a similar letter rejecting extractivism in April 2020,⁹ which states: “History demonstrates how extractive industry companies often take advantage of vulnerable communities in moments of crisis, causing damage, violating human rights, and destroying ecological equilibrium.”

34. The clandestine manner in which the Haitian government has undertaken development of the mining industry and the Draft Law may demonstrate a lack of concern for Haiti’s 1987 Constitution, Articles 253-258 of which are dedicated to the environment. Article 253 emphasizes that “any practices that might disturb the ecological balance are strictly forbidden.”

Recommendations

⁸ <https://chrgi.org/wp-content/uploads/2018/05/1-Open-Letter-from-Haitian-Organizations-in-Morne-Pele.pdf>

⁹ https://chrgi.org/wp-content/uploads/2020/04/Declaration-from-NW-Haiti-Rejecting-Mining_ENGLISH_200421.pdf



35. As a ratifying party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, Haiti is bound to protect its right to self-determination under common Article 1 of those treaties. Accordingly, Haiti's mining policies should be consistent with, and defend, its peoples' rights to self-determination and to actualize the wealth of Haiti primarily for Haitians.

36. Haiti signed the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (The Escazú Agreement) on September 27, 2018. The aim of the Escazú Agreement is to "guarantee the full and effective implementation . . . of the rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters." Haiti should now ratify this agreement and give it full legal effect.

37. Opportunities for Haitian civil society and local communities to engage in decision-making processes related to environmental matters, including the development of the mining industry, should be made available.

38. The Draft Law related to mining should be redrafted. Civil society and community representatives should be consulted in order to ensure transparency, respect for human rights, and environmental protection.

39. As part of decision-making processes, Haiti should consider the extent to which private partnerships perpetuate historical legacies of racism and colonialism.

Acknowledgement

This submission was prepared by Dave Inder Comar (Stanford 2001, Stanford 2002, NYU School of Law 2005)

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