



International Covenant on Civil and Political Rights

Distr.: General
6 May 2020
English
Original: French
English, French and Spanish only

Human Rights Committee

List of issues in relation to the second periodic report of Haiti*

Constitutional and legal framework within which the Covenant is implemented and right to an effective remedy (art. 2)

1. Please provide detailed information on cases where the domestic courts have directly applied the provisions of the Covenant and where the Ministry of Justice has followed up on such recommendations. Please indicate whether the State party has considered acceding to the Optional Protocol to the International Covenant on Civil and Political Rights on individual communications.

2. Bearing in mind the Committee's previous concluding observations (CCPR/C/HTI/CO/1, para. 6), please indicate whether the Office of the Ombudsman has received the additional budgetary funds approved by the parliament of the State party in 2019.

Anti-corruption measures (arts. 2 and 25)

3. Please describe the specific measures taken to effectively combat corruption and misappropriation of public funds, including criminal investigations and prosecution, particularly in the light of the report of the special senatorial commission of inquiry into the PetroCaribe fund. Please also describe the progress achieved as a result of the adoption of Act No. CL-2014-008 of 9 May 2014 on the prevention and suppression of corruption, particularly with regard to the training of judges, prosecutors and law enforcement officials. Please also comment on reports that the Act of 25 May 2017 on the organization and operation of the Central Financial Intelligence Unit has curtailed the latter's powers.

Efforts to combat impunity and to address human rights violations (arts. 2, 6, 7 and 14)

4. Bearing in mind the Committee's previous concluding observations (CCPR/C/HTI/CO/1, para. 7) and its report on follow-up to the concluding observations (CCPR/C/118/2), please provide updated information on the State party's efforts to bring to justice all those responsible for serious violations committed during the presidency of Jean-Claude Duvalier and to provide victims with fair and equitable reparation. Please provide updated information on the ongoing reform of the legal system, including the timeline for adoption and the content of the reforms intended to combat impunity and to ensure that criminal proceedings for any serious violations of human rights are effectively pursued. In the light of reports that Jean Robert Gabriel, convicted in absentia for the "Raboteau massacre" in 2000, holds a high-ranking position in the army, please explain how the State

* Adopted by the Committee at its 128th session (2–27 March 2020).



party assesses whether candidates for public office are responsible for human rights violations.

5. Please comment on reports that impunity is widespread in the country and explain what the State party is doing to combat impunity and to guarantee respect for the rule of law. Please also describe the measures taken in response to the recommendations submitted to the authorities of the State party by the United Nations Mission for Justice Support in Haiti and the Office of the United Nations High Commissioner for Human Rights concerning the attack on the neighbourhood of La Saline in Port-au-Prince on 13 and 14 November 2018, and the results achieved. Please also comment on reports that: (a) the President of the Republic has not formally condemned the killings; (b) that the victims have not been granted protection or access to remedies for redress; and (c) that an independent and effective investigation has not been carried out. Please describe the outcome of the criminal proceedings instituted against the police officers involved in the extrajudicial executions carried out in the *Tête ti Source* case in Baillergeau, the *Lilavois* case and the *Grand Ravine* case, and indicate whether compensation has been awarded to the families of the victims. Please also comment on reports that, in November 2019, gang members and some members of the National Police led several attacks against the residents of Bel-Air, which left at least three people dead and six people injured, five of whom by gunfire, including one girl. Please also describe the steps taken to bring those responsible for these acts to justice.

Non-discrimination and equality between men and women (arts. 2, 3, 25 and 26)

6. Bearing in mind the Committee's previous concluding observations (CCPR/C/HTI/CO/1, para. 8), please describe the progress made in the area of gender equality. Please also provide updated information on the fulfilment of the quota of at least 30 per cent representation of women at all levels of national life enshrined in article 17 (1) of the Constitution, particularly in public services, and on the number of women currently serving as parliamentarians, judges or prosecutors, or occupying leadership positions. Please also indicate whether a law on gender equality and non-discrimination against women has been adopted. Please describe the progress made towards repealing all provisions that discriminate against women, including those contained in the Civil Code and the Criminal Code. Lastly, please describe the measures taken by the State party to reduce the prevalence of traditional stereotypes of women and the results achieved.

Violence against women (arts. 2, 3, 6, 7 and 26)

7. Bearing in mind the Committee's previous concluding observations (CCPR/C/HTI/CO/1, para. 13), please indicate when the State party plans to adopt the preliminary draft framework law on the prevention, punishment and elimination of violence against women and girls, and whether the State party plans to criminalize violence against women, including domestic and sexual violence, incest, marital rape and sexual harassment. Please also describe the progress made towards removing obstacles to access to justice for victims of gender-based violence, including the requirement to produce a medical certificate in order to initiate a criminal investigation for rape.

8. Please describe the steps taken to reduce the number of cases of sexual and gender-based violence, especially against female minors. Please also indicate what training has been dispensed to judges, prosecutors, and law enforcement officials on this subject. Please provide statistics on the number of women who have been able to gain access to assistance, including legal assistance, and who have found refuge in shelters. Please also describe the measures taken to facilitate access to such services, and the results achieved.

Voluntary termination of pregnancy and reproductive rights (arts. 2, 3, 6, 7, 17, 24 and 26)

9. Please describe the measures taken to reduce the high rates of maternal mortality and morbidity and the high number of early pregnancies, including measures to increase the proportion of the budget allocated to health care and to increase access to sexual and reproductive health services. Please also describe the measures taken to decriminalize abortion and to ensure safe, legal and effective access to this procedure when the life or

health of the pregnant woman or girl is at risk and when carrying the pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably when the pregnancy is the result of rape or incest or is not viable.

Discrimination based on sexual orientation (arts. 2 and 26)

10. Bearing in mind the Committee's previous concluding observations (CCPR/C/HTI/CO/1, para. 9), please explain how the bills adopted by the Senate of the Republic prohibiting same-sex marriage and "all public expressions of support for homosexuality and advocacy of such acts", and concerning "certificates of good conduct", under which homosexuality is allegedly a ground for refusing to issue such a certificate, are compatible with the provisions of the Covenant. Please also indicate whether the State party plans to adopt a law prohibiting discrimination on the basis of sexual orientation and gender identity. Lastly, please describe the steps taken to combat the social stigma attached to the lesbian, gay, bisexual and transgender population, and the results achieved.

Right to life (art. 6)

11. Bearing in mind the Committee's previous concluding observations (CCPR/C/HTI/CO/1, para. 10) and its report on follow-up to the concluding observations (CCPR/C/118/2), please provide updated statistics on: (a) the number of complaints filed against law enforcement and security personnel for excessive use of force; (b) all investigations, prosecutions and convictions resulting from such complaints and any compensation offered to the victims; and (c) the training conducted by the General Inspectorate of the National Police, including information on its content, the number of beneficiaries and whether the training addresses Covenant obligations and is in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Please provide information on the legal standards on the use of force and firearms by the police and on the right to compensation currently in force in the State party, and on the sources of these standards in domestic law. Please also describe the measures taken to ensure that the General Inspectorate of the National Police is able to investigate police conduct independently.

12. Please comment on reports that: (a) in recent years, the number of armed gangs in different communes of the district of Port-au-Prince, the number of weapons at their disposal and the number of areas under their control have increased; (b) the National Police does not seem to have effective control over the areas where these gangs are active and does not intervene to protect civilians during their attacks, as was the case during the attack on the neighbourhood of La Saline on 13 and 14 November 2018; and (c) gangs brutalize the local population by means of, inter alia, extortion, kidnapping and rape. Please also describe the measures taken to effectively combat gang violence, to protect the inhabitants of the areas where gangs are active and to bring the alleged perpetrators of such acts to justice, and the results achieved.

13. Please comment on reports that most cases of lynching, despite their being reported on a regular basis, are not prosecuted. Please also explain what the State party is doing to prevent such practices and to ensure that those responsible are brought to justice.

Death penalty (art. 6)

14. Bearing in mind the Committee's previous concluding observations (CCPR/C/HTI/CO/1, para. 11) and the State party's acceptance, during the second cycle of the universal periodic review, of the recommendation to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (see A/HRC/34/14/Add.1), please indicate what steps have been taken in this direction.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment (art. 7)

15. Please provide updated information on the number of complaints of torture received and explain what the State party has done to bring those responsible to justice and to prevent such cases from recurring. Please also provide updated information on the current status of the draft Criminal Code and the draft Code of Criminal Procedure, which contain a definition of psychological torture. In view of the State party's acceptance, during the second cycle of the universal periodic review, of the recommendation to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, please indicate what steps have been taken in this direction.

Elimination of slavery and servitude (arts. 2, 7, 8 and 26)

16. Bearing in mind the Committee's previous concluding observations (CCPR/C/HTI/CO/1, para. 14) and reports that the exploitation of *restavecs* children remains widespread, please describe the practical impact of the measures taken to combat the practice of placing children in domestic service and to raise the awareness of the population of its negative effects. Please also comment on reports that the institutions with a mandate to protect children do not have sufficient resources. Please also provide information on the number of children exploited as *restavecs* or forced to beg or subjected to other forms of exploitation, including by mining companies, who have been able to gain access to some form of protection.

17. Please describe the measures taken to implement Act No. CL-2014-0010 of 2 June 2014 on combating trafficking in persons and any steps taken towards drafting a national plan to combat trafficking, including for the purposes of domestic slavery and forced prostitution, and the results achieved. Please also indicate what training has been dispensed to judges, prosecutors and law enforcement officials on this subject.

Liberty and security of person (arts. 9 and 10)

18. Bearing in mind the Committee's previous concluding observations (CCPR/C/HTI/CO/1, para. 15), please describe the progress made in addressing the overcrowding of prisons with pretrial detainees. Please also indicate whether the courts have been encouraged to promote alternatives to deprivation of liberty for indicted persons, taking into account the United Nations Standard Minimum Rules for Non-custodial Measures. Please also describe the measures taken to prevent and, if necessary, redress, cases of arbitrary arrest and the continued detention of prisoners who have served their sentence, and the results achieved.

19. Please describe the progress made towards ensuring the separation of convicted and remand prisoners, and of minors and adults, in the State party's prisons. Please comment on reports that the prison mortality rate has increased from 1.18 per cent to 1.4 per cent and that detention conditions have deteriorated due, in particular, to inadequate supplies of food, water, medicine, hygiene kits and cleaning products and materials, and that visits and recreation time have been scaled back or abolished altogether. Please also describe the measures taken to mitigate this deterioration in conditions. Lastly, please provide information on the conclusions reached by the commission set up in 2017 to investigate the causes of prison deaths.

Independence of the judiciary and right to a fair trial (arts. 2 and 14)

20. Please comment on reports that the executive and legislative branches have a significant influence on the functioning of the justice system, in particular the public prosecutor's office. Please describe the specific measures taken by the High Council of the Judiciary to guarantee the independence of judges and prosecutors and the effectiveness of the judiciary, and the results achieved. Bearing in mind the Committee's previous concluding observations (CCPR/C/HTI/CO/1, para. 16), please provide detailed information on the expected impact of the draft Criminal Code and the draft Code of Criminal Procedure on the enjoyment of all legal guarantees for effective access to justice, including the right to legal aid, and indicate when they will be put to a vote and

promulgated. Please also describe the progress made in translating the State party's laws into Creole.

Right to liberty of movement and right to privacy and protection of the family (arts. 12 and 17)

21. Please describe the impact of the measures adopted to prevent the phenomenon of forced evictions. Please comment on reports that, in July 2018, seven families living in the area of Pèlerin 5, adjacent to the residence of the President of the Republic, were unlawfully and violently evicted by government actors using a tractor bearing the logo of Tabarre town hall, in the presence of 50 to 60 police officers, and that 22 people, including 10 children, were made homeless. Please indicate how the authorities of the State party ensure that, in practice, no one is evicted from camps without being offered alternative accommodation. Please also provide updated information on the number of persons displaced by the 2010 earthquake and Hurricane Matthew in 2016 who are awaiting lasting solutions, and describe the measures taken in this connection. Please also describe the remedies available to victims of forced evictions and provide examples of specific cases where compensation has been awarded.

Freedom of opinion, expression and assembly (arts. 2, 19, 20 and 21)

22. Please comment on reports that journalists working in the State party do not receive support from the authorities, have their access to information restricted and suffer intimidation and attacks. Bearing in mind the Committee's previous concluding observations (CCPR/CHTI/CO/1, para. 19) and its report on follow-up to the concluding observations (CCPR/C/118/2), please comment on reports that: (a) human rights defenders continue to face difficulties in carrying out their work in the State party; (b) numerous cases of assault, threats, harassment and intimidation against them have been recorded; (c) in most cases, no thorough investigation has been carried out; and (d) the authorities have not adopted protection measures to enable human rights defenders to carry out their work. Please describe the steps taken to investigate all attacks on the life and dignity of human rights defenders and journalists, particularly following the murder of the Dorsainvil couple in February 2014, the disappearance of the journalist Vladjimir Legagneur on 14 March 2018 and the murder of the journalist Néhémie Joseph on 10 October 2019, with a view to bringing those responsible to justice. Please indicate whether the State party plans to criminalize calls for violence and to take legislative measures to protect human rights defenders.

23. Please comment on reports that, during the anti-government demonstrations that took place between September and November 2019, 66 people were killed by members of the National Police and by gang members or armed men and that 283 people were injured. Please also describe the outcome of the investigations conducted into allegations that, during the demonstration that took place on 17 October 2018, police officers were responsible for 3 summary executions and 47 instances of excessive use of force, which left 3 people dead and 44 people injured, respectively, and that, during the demonstrations that took place from 18 to 23 November 2018, 21 of the 72 victims had been subjected to excessive use of force by the police, which left 6 people dead. Please also indicate whether an investigation has been conducted into allegations that at least 41 people were killed and 100 people were injured by police officers and gang members during the demonstrations that took place from 7 to 15 February 2019. Please explain what the State party is doing to put an end to the excessive use of force by police officers during demonstrations.

Participation in public affairs (arts. 25 and 26)

24. Please explain how the right of citizens to take part in the conduct of public affairs, either directly or through representatives, is respected in practice. Please comment on reports that the general elections scheduled for October 2019 have not taken place and that the term of office of the members of the Chamber of Deputies and of two thirds of the members of the Senate of the Republic expired on 13 January 2020, thus enabling the President of the Republic to govern by decree. Please also explain how the failure to hold general elections and the act of governing by presidential decree are compatible with the

provisions of the Covenant. Lastly, please indicate when general elections are expected to take place in the State party.
