



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

**Second periodic report submitted by Haiti under
article 40 of the Covenant, due in 2018***


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Introduction

1. The Republic of Haiti submitted its initial report under the International Covenant on Civil and Political Rights to the Human Rights Committee of the United Nations in October 2014. In accordance with article 40 of the Covenant, the country is now submitting its first periodic report, covering the period from October 2014 to October 2018.
2. The report is a clear demonstration of the Haitian Government's commitment to fulfilling its obligation under the Covenant to submit regular reports to the Human Rights Committee of the United Nations.
3. The present report was drafted by the technical secretariat of the Haitian Interministerial Human Rights Committee and then approved by that Committee. Created by order of the Prime Minister on 26 April 2013, the Interministerial Human Rights Committee is responsible for coordinating and harmonizing public policy in the field of human rights and, consequently, for overseeing any work involved in the consultation for and the preparation and drafting of reports on the implementation of international human rights treaties.
4. It sets out, first, the measures taken by the Government to safeguard the rights and freedoms recognized in the Covenant and, second, the responses to the recommendations made by the Human Rights Committee of the United Nations following submission of the initial report in October 2014.
5. A participative and inclusive approach was adopted to the drafting of the report, which took place in several stages: the compilation of information from the institutions concerned; technical discussions between the members of the technical secretariat of the Interministerial Human Rights Committee; and a workshop, on 4 October 2018, at which civil society was consulted about the report and then approved it. Lastly, the report was submitted to the Government for adoption by the Council of Ministers, before being sent to the Human Rights Committee of the United Nations.

I. Developments in the political and institutional system of Haiti: the human rights situation

6. Unfortunately, Haiti was unable to hold peaceful elections in the period 2014–2016, a situation that led to political upheaval and unrest in the country.
7. The turbulence of that period represented an obstacle to respect for human rights. There were numerous allegations of illegal use of force by law enforcement officers. In some cases, individuals were reported killed. Other reports concerned instances of ill-treatment and illegal or arbitrary arrest by members of the National Police force.
8. Acts of violence, vandalism, assault, destruction of public and private property, and aggression were also reported during that period.

II. Measures taken by the Government to safeguard the rights and freedoms enshrined in the International Covenant on Civil and Political Rights

9. The measures relate to the provisions of articles 1–27 of the Covenant.

Article 1

Right of peoples to self-determination

10. Since its foundation, the Republic of Haiti has recognized the right of every people to be the master of its own destiny. Article 1 of the first Haitian Constitution – that of 1805 – states that: “The people inhabiting the island formerly called St. Domingo hereby agree to

form themselves into a free State, sovereign and independent of any other power in the universe, under the name of the Empire of Haiti”.

Right to dispose freely of natural wealth and resources

11. Since Haiti is a sovereign State, article 8 (1) of the country’s Constitution establishes the principle of the inviolability of the national territory.¹ It “may not be alienated either in whole or in part by any treaty or convention”. Commitment to that sovereignty explains the organization of property rights in respect of national territory.

12. Haiti, through its Constitution, also proclaims its right to dispose freely of its wealth in order to contribute to its economic development and ensure the well-being of its population. Consequently, article 36 (6) states that: “The law shall establish regulations governing freedom to prospect for and work mines, or bearing earths, and quarries, ensuring an equal share of the profits of such exploitation to the owner of the land and to the Haitian State or its concessionnaires.”

13. Such activities can only be conducted in accordance with titles and permits duly issued by the competent authorities. Several legal provisions govern mines, natural mineral deposits, subsoil assets and any other natural resources originating in Haitian territory.

14. Article 1 of the decree of 10 October 1974 regulating natural mineral deposits, subsoil assets and any other natural resources originating in the territory of the Republic of Haiti and declaring them property of the State provides that: “Natural deposits of minerals, deposits of liquid or gaseous hydrocarbons, mineral springs and hot mineral springs, geothermal energy, other concentrations of natural energy and, in general, natural resources belong to the Haitian nation. They are separate from ownership of the land and constitute a specific area of public property, which is managed by the State in accordance with the rules set out in this decree and the regulations issued to implement it.” Consequently, private-sector bodies cannot appropriate any of the nation’s subsoil assets.

15. In addition to the decree of 10 October 1974, three others have been adopted to strengthen the legislation on mines:

- The decree of 3 March 1976 encouraging mineral exploration throughout the national territory and adapting the extant legal structures to the realities of that industry
- The decree of 2 March 1984 regulating quarries throughout the national territory
- The decree of 1 August 1986 creating the Mines and Energy Bureau

Article 2

Implementation of the Covenant at the national level

16. Since Haiti acceded to the Covenant in 1991, its provisions have applied within the national territory and any citizen wishing to enjoy its protection has been able to cite it before the courts. The guarantees of protection flowing from the Covenant also extend to foreign nationals living in the national territory.

17. Respect for human rights has been integral to all legislation passed by the Haitian Parliament since the country’s accession to the Covenant.

18. The status of the Covenant in the domestic legal system is governed by article 276 (2) of the Constitution, which states that: “Once international treaties or agreements are approved and ratified in the manner stipulated by the Constitution, they become part of the legislation of the country and abrogate any laws in conflict with them.” According to that article, international treaties or agreements rank second in the hierarchy of norms, immediately below the Constitution itself. As such, treaties or agreements are able to abrogate any conflicting laws that are already in force and prevent the introduction of any new ones.

¹ 1987 Constitution, amended.

Article 3

Equal right of men and women to the enjoyment of civil and political rights

19. The Haitian Constitution enshrines the principle of the equality of men and women before the law. Article 18 states that: “Haitians shall be equal before the law, subject to the special advantages conferred on native-born Haitians who have never renounced their nationality.”

20. In order to remedy a social situation that had long been unfavourable to women, the constitutional amendment of 2011 made the following significant changes to articles 17 and 17 (1):

- The exercise of civil and political rights by all Haitians, without distinction on the ground of sex
- The principle of a quota of at least 30 per cent women in all areas of national life, particularly in public service

Articles 4 and 5

Derogations

21. Under article 4 of the Covenant, States parties can derogate from their obligations in respect of certain rights. Nevertheless, it is expressly stated that no derogation is allowed from articles 6, 7, 8 (1) and (2), 11, 15, 16 and 18.

22. Article 278 (1) of the Constitution gives the President the authority to declare a state of emergency in the event of civil war or foreign invasion.

23. A state of emergency was declared only once between 2014 and 2018, in one part of the country.

24. After Hurricane Matthew had, in October 2016, caused widespread damage in the south and north-west of the country, the President declared a state of emergency in the departments of Nippes, Sud, Grande-Anse and Nord-Ouest, and a state of environmental emergency across the country as a whole. The intention was to enable the Government to simplify administrative procedures to facilitate the rapid intervention necessary for the restoration of infrastructure in the areas hit by the hurricane, which had affected over 2.1 million people, 600,000 of them children. In general, a state of emergency declared by the President affects only economic rights.

Article 6

Right to life

25. Since every human being has the inherent right to life, the Government ascribes a great deal of importance to this aspect of human rights. Article 19 of the Constitution charges the Government with the absolute obligation to guarantee the right to life, health and respect of the human person to all citizens, without distinction, in accordance with the Universal Declaration of Human Rights.

26. Furthermore, article 20 of the Constitution provides for the abolition of the death penalty in all cases.

27. The Haitian State condemns executions, whatever their nature, and provides for severe penalties in such cases.

28. Three major cases heard during the period in question are worthy of note:

- The *Tête ti Source* case in Baillergeau, 2015
- The *Lilavois* case, 30 October 2017
- The *Grand Ravine* case, November 2017

Tête ti Source case, Baillergeau

29. A young man with an intellectual disability threw himself into a pit in the Baillergeau area of Carrefour-Feuilles, itself a commune of Port-au-Prince. He was rescued

by the fire service but then died under troubling circumstances. The inquest that followed revealed that the victim had died following physical abuse inflicted by a police officer. That officer was arrested, tried and dismissed from the police force.

Lilavois case

30. While returning from a commercial bank, a police officer of the Departmental Operation and Intervention Brigade was attacked by armed robbers, who stole his weapon and the sum of money in his possession. Having been informed of the situation, 25 officers of the Brigade rushed to the scene. On their arrival, they attempted to arrest the alleged robbers. The latter retaliated and the situation led to an instance of police brutality. The Inspectorate General of the National Police conducted an inquiry and took administrative measures against the police officers concerned. Some of the case files for the officers involved were sent to the investigation unit for legal action.

Grand Ravine case

31. Police officers were ordered by their superior to go to Grand Ravine in pursuit of armed robbers. Shots were exchanged between the robbers and the officers; there were casualties on both sides, including the brother of one of the squad members. That officer returned to the scene of the operation with some other colleagues, seeking revenge for his brother's death. A firefight broke out, leading to the death of a number of civilians.

32. Following the incident, an investigation was conducted by the Inspectorate General of the National Police and some of the officers were placed in solitary confinement; others had gone into hiding. The case file was sent to the investigation unit for legal action.

Article 7

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

33. The draft criminal code and code of criminal procedure have already been sent to the Haitian Parliament, which is currently considering them. They are being discussed by a panel of experts comprising, among others, legal professionals known for their experience in this area. The draft of the new criminal code includes provisions allowing the prosecution and sentencing of those who commit or are complicit in acts of torture.

Article 8

Prohibition of slavery and forced labour

34. Slavery does not exist in Haiti. As regards forced labour, the Criminal Code provides for judges to order it as a punishment for some offences. That punishment replaces, among other penalties, capital punishment, which was abolished under the 1987 Constitution.

The problem of human trafficking

35. In the context of combating human trafficking, the Trafficking in Persons Act of 30 April 2014 has been passed. The Act provides for punishment of up to 15 years' imprisonment and a fine for perpetrators and their accomplices. To facilitate the implementation of the Act, the Committee against Trafficking in Persons was established by an order dated 22 July 2015 and published in the Official Gazette No. 152 of 12 August 2015.

36. To raise awareness of the Trafficking in Persons Act, on 16 and 17 November 2015 and 24 to 26 February 2016, the Government, working alongside the Legal Service Training College, the International Organization for Migration and the United Nations Children's Fund, held a training session for police officers, judges and prosecutors and human rights organizations, followed by another specifically for the judges and prosecutors of the Port-au-Prince and Croix-des-Bouquets courts.

37. The Government then drew up two plans of action. The first, covering the period 2015–2017, contained four key elements: prevention (through awareness-raising and

education), the prosecution of alleged perpetrators, the protection of victims and the establishment of partnerships with national and international institutions.

38. The second plan, drawn up with the support of the African, Caribbean and Pacific Group of States and the European Union, relates to the period 2017–2022 and has the same four key elements of protection, prevention, prosecution and partnership, while also taking account of guiding principles that include: government ownership, human rights, the gender-based approach, the interdisciplinary and intersectoral approach, and sustainability.

Trafficking of children

39. Where children are affected by trafficking in persons, they are used as domestic workers in the homes of persons outside their family or, sometimes, of members of their extended family. In general, children from rural areas are sent by their parents to stay with other families, who take care of them in exchange for domestic work. This is easy to understand, since great importance is placed on the extended family in Haitian culture. Nevertheless, in most cases, these children receive degrading treatment comparable to slavery. Such a child domestic worker is known as a “*restavèk*”.

40. There is another form of child exploitation present in Haiti: organized and, potentially, forced begging by children who are reduced to doing so for the benefit of their parents or a *de facto* or *de jure* guardian.

41. There are also recorded instances of involvement in practices that could be classed as trafficking of children on the part of those in charge of orphanages or adoption agencies.

42. To combat such practices, the Government, through the Social Welfare and Research Institute, conducts regular inspections of orphanages and adoption agencies. In June 2018, following an assessment, the Government closed down 160 orphanages that were engaging in activities deemed to be trafficking or tantamount to trafficking.

43. The Government chose to replace those orphanages with reception centres. To that end, it is working to establish a reception centre in each department of the country to make it easier to take in children who have nowhere else to turn, so avoiding them later migrating to the capital.

44. Police officers and representatives of the Social Welfare and Research Institute are also deployed at each of the official crossing points on the Haiti-Dominican Republic border and Toussaint Louverture International Airport, in Port-au-Prince, to protect children from being unlawfully taken out of the national territory.

Trafficking of persons for the purposes of sexual exploitation

45. The most significant form of trafficking in adults is that practised for the purposes of the sexual exploitation of women.

Articles 9 and 14

Right to liberty and security, and the prohibition of arbitrary detention; and equality before the courts and tribunals

46. The rights to liberty and security, and equality before the courts and tribunals are enshrined in the Constitution. The Government has proposed or adopted relevant legislative and administrative measures to ensure respect for and promotion of those rights.

Legislative measures

47. It has been found that many individuals cannot access justice because of, among other reasons, their precarious socioeconomic conditions and the distance between their place of residence and the judicial institutions. The Government has taken measures to remedy this situation.

48. One of those measures is the bill on legal aid, brought before Parliament in 2018. In parallel, legal aid offices have been created to make it easier for disadvantaged persons to access justice. Implementation of the programme is underway in five courts: Port-au-Prince, Croix-des-Bouquets, Saint-Marc, Port-de-Paix and Cap-Haïtien. There are three

such offices in operation under the Port-au-Prince court, funded by the United Nations Mission for Justice Support in Haiti, and another under Croix-des-Bouquets court, funded by the United States Agency for International Development Justice System Strengthening Programme.

49. In addition, the Organic Act on the Ministry of Justice and Social Protection is currently being revised to bring it into line with the objectives set by the Government in that regard. The proposal is for the revised Act to strengthen the Ministry, by creating within it a directorate for criminal cases, a directorate for civil cases and a directorate for legal policy.

50. Moreover, the Judicial Inspection Service has been upgraded to unit status and the Detention Service has been re-established. The work of both bodies involves the courts and detention centres. Those changes have increased the number of cases being heard at all levels, for both minor and serious offences.

Administrative measures

51. The Haitian Government strives to protect the right to freedom and human security. It acknowledges that it does not have the necessary resources to guarantee the effective exercise of that right. Nevertheless, the measures that the Government has taken have enjoyed great success.

52. In addition to regular hearings for minor and serious offences, in the period 2014–2018, the Haitian judicial authorities increased the number of ad hoc actions to combat arbitrary detention. Through those avenues, 1,000 persons were released. The releases related to detainees who had not had a hearing before their trial court within the statutory period.

53. During the above-mentioned period, the Government facilitated the judicial authorities' organization of more than two sessions of hearings for serious offences with jury. In such sessions, four hearings with jury were held regularly each working day. Hearings also took place every Saturday, which is not generally a working day. That enabled the competent authorities to hear 195 cases during the period June–September 2018. As a result, 51 detainees were released, 91 were sentenced and 13 cases were reclassified.

54. For the period 2017–2018, the results of the hearings for serious offences, with or without jury, held in the country's 18 judicial districts and hearings for minor offences were as follows:

- 1,300 case files processed
- 1,862 persons tried
- 585 persons released
- 985 persons convicted
- 292 persons awaiting trial following postponement of their hearing

55. It should be noted that, for the judicial district of Port-au-Prince, 52 cases involving 62 defendants were processed in special criminal hearings. The figures are explained by the fact that there may be more than one defendant in a case. The hearings resulted in the release of 30 persons and the conviction of 16 others. The cases of the remaining six were postponed until later hearings.

56. To prevent pretrial detention resulting from unlawful arrest, the courts have heard large numbers of habeas corpus proceedings. In the period 2017–2018, 41 writs of habeas corpus were filed, 37 of which the courts deemed admissible. In addition to normal habeas corpus hearings held in the country's other courts, special hearings were held in the Port-au-Prince court: 160 cases were heard between 31 March and 18 April 2018, taking the number dealt with to 197.

57. In Jacmel, a city located in Sud-Est department, the Court of First Instance held criminal hearings with jury from 16 July to 10 August 2018. During that session, 18 cases

involving 34 defendants were to be heard. However, for procedural reasons, only 27 defendants could be tried, of whom 15 were released and 12 convicted. The case files of the other seven defendants were postponed to a later date. It should be stressed that the 18 cases involved offences classed as first- or second-degree murder, or infanticide.

58. The number of judges has also been increased. With a view to increasing the public's access to justice, the Government has renewed the term of office of 71 judges and appointed 93 new ones. Some district courts have also been decentralized.

59. As part of a project to offer legal aid to children in conflict with the law, an agreement has been signed between the Haitian State, represented by the Ministry of Justice and Public Security, and the non-governmental organization Institut Mobile d'Education Démocratique (Mobile Institute of Democratic Education). The project's launch ceremony took place on 9 August 2018.

Article 10

Persons deprived of their liberty

60. Article 44 of the Constitution establishes the principle that persons detained temporarily while awaiting trial must be held separately from those who are serving a sentence and, in accordance with the Constitution, the Government is obliged to respect that provision.

61. With a view to respecting and ensuring respect for the dignity of persons serving custodial sentences, the Government has taken a number of measures.

Administrative measures

62. Problems with the treatment of detainees in the prison system relate, in part, to the restricted space in which they are held. International standards require an area of 4.5 m² per detainee under normal circumstances or of 2.5 m² under difficult circumstances; jails in Haiti, with no more than 0.6 m² per prisoner, are overcrowded. Other factors in the poor detention conditions in the country include insufficient food for prisoners, inadequate health care, shortfalls in the operational budgets of jails and a shortage of prison officers.

63. There is a constitutional obligation to separate those held in pretrial detention from those serving a sentence, but it is not always possible to meet it effectively, owing to the limited number and dilapidated state of the existing prisons. Nevertheless, minors in pretrial detention are held separately from adults, with the exception of female minors, who are held in prisons for adult women.

64. To improve that situation, the prison in Arcahaie, a city located in Ouest department, has been renovated to accommodate more convicts. Furthermore, with a view to respecting the minimum space per detainee, the Government has had the following prisons built or renovated:

- The civilian prison in Hinche, with a capacity of 300
- The civilian prison in Croix-des-Bouquets, opened to mark World Prisoners Day in late October 2012, which has one toilet per detainee
- The civilian prison in Carrefour, with a capacity of 604
- The civilian prison in Cap-Haïtien
- The prison in Port-de-Paix, in which a cell for minors has been created

65. International standards have been met in all new buildings; the same is true for the renovated jails, which at least meet the minimum standard.

Article 11

Prohibition of imprisonment on the ground of inability to fulfil a contractual obligation

66. Deprivation of liberty used to exist in the context of commercial matters (Code of Civil Procedure, art. 267), for which it was accepted in cases of accounts relating to

guardianship of children and vulnerable adults, administration of the affairs of individuals or groups, public bodies or any administrative role conferred by the courts and to ensure restitution in relation to such accounts.

67. However, the prohibition described in article 11 was transposed into the domestic law of Haiti when the country ratified the American Convention on Human Rights (Pact of San José).² Haiti is a party to the Pact of San José, named after the Costa Rican city where it was adopted on 22 November 1969; its article 7 (7) provides that: “No one shall be detained for debt. This principle shall not limit the orders of a competent judicial authority issued for non-fulfilment of duties of support.”

68. Although the prohibition of imprisonment on the ground of inability to fulfil a contractual obligation is not enshrined in the Constitution or in any legislation, it applies *erga omnes*; it is binding on judges and can be invoked by any citizen.

69. The only derogation is that mentioned in article 7 (7) of the Convention as a measure for protecting children. That provision was then enshrined by the Convention on the Rights of the Child, in which it is motivated by the principle of the best interests of the child, a consideration that is paramount in all measures taken by either the public authorities or private-sector bodies.

70. Moreover, in respect of child support, any parent who refuses to meet his or her obligations to his or her child is subject to imprisonment (decree of 14 September 1983 regulating the procedure for recovering child support debts and those relating to child custody, art. 3).

Article 12

Freedom of movement

71. This right is enshrined in article 41 of the Constitution. The only restriction that may be imposed would result from a charge brought by the investigation unit, under which the judge can issue a travel prohibition order to prevent the accused from absconding. In practice, however, an order prohibiting the accused from travelling outside Haitian territory is often issued by one of the prosecution services attached to the country’s courts of first instance. Such measures are in breach of the International Covenant on Civil and Political Rights. To prevent such abuses, during a meeting with the Government’s representatives within the prosecution departments, the Minister of Justice and Public Security reminded them that this practice is illegal and arbitrary under article 41 of the Constitution. When such situations arise, a judge hearing applications for interim measures is the judicial authority competent to hear the case, in special proceedings.

72. Nevertheless, for the purposes of investigating a case for which the presence of the accused could be required at any time, the examining judge responsible for the investigation can take measures to prohibit him or her from travelling.

73. The Government’s representatives within the prosecution departments do not have the power to prohibit any citizen from travelling. Despite that principle, in October 2017, the Government’s representative within the prosecution department attached to the Court of First Instance of Port-au-Prince took measures to prohibit former senior civil servants from travelling. Having been informed of the situation, the Prime Minister at the time instructed the Minister of Justice and Public Security to order the Government representatives in question to cancel those illegal measures.

Article 13

Expulsion

74. As to expulsion, in accordance with the International Covenant on Civil and Political Rights, the Haitian Government took in some 20 foreign asylum seekers in the first nine months of 2018. Some were granted refugee status, while others were granted an interim status while their case files were under consideration.

² An error slipped into the initial report, submitted in 2014. It should be noted that imprisonment for debt was abolished when Haiti ratified the Pact of San José on 22 November 1969.

75. The Haitian Government does not necessarily make extradition subject to the existence of a related agreement. It favours the principle of reciprocity. Nonetheless, it has signed extradition agreements with the United States of America, the Dominican Republic and the United Kingdom of Great Britain and Northern Ireland. It has also concluded multilateral agreements providing for extradition.³ The country has a number of pieces of legislation providing for extradition. They include the Act of 28 August 1912 on the Extradition of Fugitive Criminals, that of 21 February 2001 on the Laundering of Assets Originating from Drug Trafficking and Other Serious Offences, that of 7 August 2001 on Controlling and Combating Drug Trafficking and that of 11 November 2013 penalizing Money Laundering and the Financing of Terrorism; the latter was amended by an act of 28 September 2016.

76. Extradition measures are always taken in consultation with the requesting country. The extradition process observes a set of principles prohibiting any measure damaging to the personal liberty of the extradited person. The Ministry of Foreign Affairs and the Ministry of Justice and Public Security are jointly responsible for checking this compliance.

77. The Haitian Government is currently processing extradition cases against a Chilean, an Argentinean and a Bahamian, at the request of their countries of origin.

Article 15

Principle of non-retroactivity of stricter criminal law

78. The principle of the non-retroactivity of criminal law is enshrined in the Haitian Constitution. In Haitian legislation, criminal law takes retroactive effect when it is favourable to the defendant. Article 51 of the Constitution states that: "The law may not be made retroactive except in criminal cases when it favours the accused."

79. The draft of the new Criminal Code decriminalizes some offences. Consequently, application of the new Code will result in a defendant who has committed an act that is no longer a criminal offence facing more lenient penalties.

Article 16

Right to recognition everywhere as a person before the law

80. Article 6 of the Universal Declaration of Human Rights states that everyone has the right to recognition everywhere as a person before the law. That declaration is incorporated into the Haitian Constitution, in recognition of which the Haitian Government issued a decree on 30 August 1988 prohibiting the forfeiture of civil rights (civil death). Accordingly, recognition of a person before the law, which takes place at birth, may never be withdrawn.

81. The Haitian authorities make decisions intended to safeguard that right. For example, projects to increase the resources of register offices have been implemented; they include training for 195 registrars, distribution of birth registers to each of them and the maintenance of subsidiary register offices in four of the country's public hospitals.

Right to identity

82. All Haitian citizens can be identified by their national identity card (decree of 1 June 2005) and their tax identification number (decree of 29 September 2005), issued by the National Register Office and the Directorate General for Taxation, respectively.

83. With a view to tackling the problem of birth registration and the issuance of birth certificates, the National Register Office is currently running a pilot scheme in five hospitals in Ouest department. The scheme entails health staff recording birth declarations, which are then signed by the registrar responsible.

³ They pertain to combating money-laundering, the trafficking of narcotics and corruption, among other things.

Article 17**Right to privacy**

84. In September 2018, police officers were accused of having filmed a heterosexual couple, whom they found in a state of semi-undress in a car late at night, and of having disseminated the video on social media. The couple's behaviour suggested that they had just had sexual relations in the car. The police officers in question numbered five, two of whom filmed and disseminated the video. The other three settled for extorting the couple.

85. Having been notified of this act, the Inspectorate General of the National Police penalized the officers. The two who filmed and disseminated the video were referred to the prosecution department; the three others were suspended for a period of three months.

Raids

86. Raids must be conducted in a lawful manner. When conducting a raid, police officers must be accompanied by an examining judge. No illegal raids were reported to the National Police between 2014 and 2018. Nevertheless, in the event that a police raid is conducted unlawfully, the officers at fault are subject to penalties of up to 40 days' suspension.

Electronic data

87. Social media use is growing rapidly in Haiti because cellular phones have become accessible to much of the population. That growth can pose serious problems for individuals' privacy. Accordingly, there is a whole package of regulations in place to protect privacy.

88. There is not currently any public authority in Haiti capable of conducting mass surveillance. The regulator in this area is the National Telecommunications Council. However, it is not responsible for data.

89. Long before the existence of electronic data, private communication was protected by the decree of 12 October 1977 granting the Haitian State a monopoly on telecommunication services, articles 7, 8 and 9 of which provide for the inviolability of telephone calls, except where they could represent a threat to public order, national security, international relations, public morality or the normal functioning of society and its institutions.

90. Article 293 (13) of the Act of 22 January 2009 on the abduction, kidnapping and taking hostage of persons obliges telecommunication service operators to provide the courts with any necessary data from electronic communication terminals used before, during and after the commission of offences, until the release of persons who have been abducted, kidnapped or taken hostage.

91. Operators face penalties for failing to cooperate, ranging from having their licence withdrawn to being forced to cease trading, at the discretion of the Government's representative within the prosecution department.

92. An electronic communications bill is currently being drafted.

Article 18**Right to freedom of thought, conscience and religion**

93. Freedom of thought, conscience and religion are guaranteed by the Constitution, article 30 of which provides that: "All religions and faiths may be freely exercised. Everyone is entitled to profess his or her religion and practice his or her faith, provided the exercise of that right does not disturb law and order."

94. The Ministry of Religious Affairs is responsible for the regulation of faith-related matters. The Constitution provides for the adoption of legislation intended to act as a framework for the recognition and functioning of religious groups. There are currently no reports of discrimination or injustice on grounds of religious affiliation, belief or practice in Haiti.

Article 19**Freedom of expression and the conditions under which that freedom may be curtailed**

95. Article 28 of the Constitution guarantees freedom of expression.⁴ Nevertheless, during some periods of political upheaval, individuals have, with malicious intent, threatened some persons and media outlets for opinions that they had expressed. The law enforcement and judicial authorities have spared no effort in taking swift action to assist the persons or institutions being threatened and punish the individuals at fault.

Article 20**Prohibition of propaganda for war and of incitement to racial or religious hatred**

96. Although freedom of expression is guaranteed by the Constitution, it is prohibited to use this right to propagate war or to incite racial or religious hatred. Haitian legislation is very clear in this regard.

97. However, the media do occasionally cross this line, particularly during elections. To calm the tensions, the authorities issue calls to order. On 23 November 2016, the General Directorate of the Executive Board of the National Telecommunications Council reminded opinion leaders of their duty to demonstrate objectivity and impartiality in their conduct, in the light of the fervour in the media and the use of inappropriate language inciting violence following the elections held on 20 November 2016.

98. The development of social networks has made it much more difficult for authorities to combat propaganda inciting religious intolerance and to hold perpetrators to account. There are currently no provisions on this issue in Haitian legislation, but work is under way to address the situation. Certain issues arising from the use of social networks have been considered in the drafting of the criminal code and code of criminal procedure.

Article 21**Right of peaceful assembly**

99. The right of peaceful assembly is recognized under article 31 of the Constitution. The exercise of this right is governed by the decree of 23 July 1987 on public meetings (*Le Moniteur* No. 60 of 23 July 1987).

100. The country's somewhat turbulent political situation has occasionally given rise to demonstrations that have turned violent. The elections called by President Michel Joseph Martelly in 2015, following which Senator Jocelerme Privert became president, were marked by demonstrations and rioting that led to human rights violations. Even today, in certain cases, violent demonstrations are used as a tool for making sociopolitical demands.

101. To prevent further abuse of the right to peaceful assembly, the authorities are working to ensure the accountability of demonstration organizers and to encourage victims to lodge complaints. Any individual who breaks the rules, whether a participant in the demonstration or not, can be prosecuted in accordance with the law.

102. Article 4 of the decree of 23 July 1987 provides for the personal responsibility of demonstration organizers for ensuring that demonstrators and participants behave in an appropriate manner.

103. In an attempt to ease political tensions, the Government is already holding consultations on the organization of the forthcoming legislative and local elections in 2019. The members of the steering committee and the technical secretariat for organization of the General Sectoral States of the Nation assumed their duties in March 2018. This structure has been put in place to enable society to find peace with itself and to seek, in a spirit of cooperation and harmony, lasting solutions to systemic problems that hinder peaceful coexistence.

⁴ "Every Haitian has the right to express his or her opinions freely on any matter by any means he or she chooses."

Article 22**Freedom of association and assembly**

104. Haiti subscribes to the Universal Declaration of Human Rights, which enshrines the freedoms of opinion, expression and peaceful assembly and association under article 19 and article 20 (1).

105. These freedoms are guaranteed by article 31 of the Constitution, which provides that: “Freedom of unarmed assembly and association for political, economic, social, cultural or any other peaceful purposes is guaranteed.”

106. Freedom of association is recognized under article 35 (3) of the Constitution.

107. With regard to civil servants, in article 151 of the decree of 17 May 2005 amending the general civil service regulations, it is stated that: “Freedom of association and the right to organize are guaranteed to civil servants as a means of protecting their rights and under the conditions provided for by law.”

108. Private sector employment is governed by the provisions of the Labour Code, which guarantees workers and employers the right to organize, in accordance with the International Labour Organization Freedom of Association and Protection of the Right to Organize Convention (No. 87) of 9 July 1948, which has been ratified by Haiti.

109. At present, there are 909 trade unions and employers’ associations and 25,792 grass-roots associations and organizations in the country.

Equality before the law

110. It is stated in article 18 of the Constitution that Haitians are equal before the law, subject to the special advantages conferred on native-born Haitians who have never renounced their nationality.

Article 23**Protection of the family**

111. Under article 260 of the Constitution, it is guaranteed that all families, whether or not they are bound by the ties of marriage, are provided with the same protection. Article 262 provides for the development of a family code to ensure protection and respect for the rights of the family and to define the procedures for the determination of paternity.

112. Since the decree of 8 October 1982 on the emancipation of women, the equal status of spouses, including the right of a married woman to the full exercise of her legal capacity, has been recognized under Haitian legislation. Each of the spouses can ask the other for divorce on the grounds of adultery (art. 12) without the woman being obliged, as had been the case under the Civil Code, to prove that the man’s adultery had been committed under the conjugal roof.

113. Moreover, with the amendments to the Criminal Code pursuant to the decree of 6 July 2005, adultery was decriminalized, which led to the elimination of discriminatory provisions that had assigned far more severe penalties for women than for men.

114. With regard to parental responsibility in the event of a divorce, Haitian legislation does not discriminate between the mother and the father, who thus have shared responsibility. Arrangements concerning the custody of the child and child support payments are decided by the court.

Article 24**Protection of the child**

115. The protection of all children is guaranteed under article 261 of the Constitution.

116. The principle of equality among all children regardless of their status is established by the Act on Paternity, Maternity and Filiation of 12 April 2012.

117. Haiti has ratified the main international and regional instruments on the rights of the child and taken a number of legislative and administrative measures that demonstrate its

commitment to protecting minors. Many provisions have been adopted to address gaps in the child protection system.

118. In addition, several institutions have been created and brought into operation to protect the rights of children. These include the Social Welfare and Research Institute, the Brigade for the Protection of Minors and an education branch of the community police, whose work to protect children has produced conclusive results.

Article 25

Participation in public affairs – Right to vote and to be elected by universal and equal suffrage

119. Under article 17 of the Constitution, Haitians aged 18 and over may exercise their civil and political rights, subject to the conditions established in the Constitution and by law, without distinction on grounds of gender or civil status.

120. During elections, the departmental and district offices of Ministry of the Interior and Local Government play an active role in implementing a security strategy to ensure that the elections are conducted properly throughout the country and to facilitate the participation of citizens.

Article 26

Equality before the law/Prohibition of gender discrimination

121. Discrimination of any kind is abolished under Haitian law, particularly that which may arise from the intellectual or manual nature of the work, the type of work, its remuneration or the sex of the worker (Labour Code, art. 3).

122. In order to realize equality of labour rights between men and women, article 316 of the Haitian Labour Code states: “Women have the same rights and obligations as men under labour law.” Article 317 of the same Code sets forth the principle that “For work of equal value, women shall receive a wage equal to that paid to a male worker.”

123. As a result, all forms of gender-based discrimination are abolished under Haitian labour law.

124. An inspectorate has been set up within the Ministry of Social Affairs and Labour to ensure that these provisions play an effective role in guaranteeing full respect for workers’ rights.

125. Equal access to the civil service is promoted under article 47 of the decree of 17 May 2005 amending the general civil service regulations, in which it is declared that: “Access to the civil service is based on merit, free from discrimination on grounds of colour, race, sex or political or religious opinions.”

Article 27

Rights of minorities

126. Haiti does not have a minority rights problem. All citizens, regardless of origin, live together peacefully in the national territory.

III. Replies to the recommendations of the Human Rights Committee on the initial report of Haiti on the International Covenant on Civil and Political Rights, submitted in October 2014

127. Following the submission of the initial report, the Human Rights Committee issued concluding observations and recommendations for the Republic of Haiti. The Government has adopted a series of measures aimed at implementing those recommendations.

128. This section of the report contains replies relating to the implementation of the recommendations.

1. Training of judges, lawyers and prosecutors to ensure that the Covenant is taken into account before the domestic courts

The State party should take appropriate measures to raise awareness of the Covenant among judges, lawyers and prosecutors, so as to ensure that its provisions are taken into account before and by domestic courts. The State party should include in its next periodic report examples of the application of the Covenant by domestic courts.

129. The Legal Service Training College organizes training seminars for judges and government commissioners in order to make them more aware of the obligation and need to apply international instruments. During the period 2017–2018, many writs of habeas corpus were filed with the Haitian justice system. Around 41 habeas corpus proceedings have been brought, of which 37 have been heard by the courts. In addition to the normal habeas corpus hearings held in other courts around the country, special hearings were held in the Port-au-Prince court, where, between 31 March and 18 April 2018, 160 cases were heard, bringing the total number of cases dealt with to 197.

2. Consideration of the recommendations of the Office of the Ombudsman and provision of sufficient resources for it

The State party should ensure that the recommendations of the Office of the Ombudsman are taken into account. It should also ensure that the Office has sufficient resources to carry out all the tasks entrusted to it, in accordance with the recommendations of the Global Alliance of National Human Rights Institutions. The Committee also encourages the adoption of the framework act enabling the creation and maintenance of independent human rights institutions.

130. Whenever the Office of the Ombudsman carries out visits to detention centres, it makes recommendations to the Ministry of Justice, which are always taken into consideration.

131. The Office's budget, which was 32 million gourdes in 2014, rose to 65 million gourdes for the 2017/18 fiscal year, an increase of more than 50 per cent.

132. As regards the adoption of a framework act providing for the creation and maintenance of independent human rights institutions, it should be noted that independent institutions in Haiti are created in accordance with the Constitution and are regulated by the law.

3. Combat impunity (Jean Claude Duvalier case) and implement the recommendations of the National Commission on Truth and Justice

In order to effectively combat the impunity that prevents advances in the rule of law in Haiti, the State party should pursue its investigations in the Duvalier case and bring to justice all those responsible for serious violations committed during that presidency and give victims fair and equitable reparation. The State should implement the recommendations of the National Commission on Truth and Justice in respect of the serious violations committed between 1991 and 1994. The Committee recalls the State party's obligation to bring criminal proceedings for any serious violation of human rights.

133. The Jean Claude Duvalier case remains an important one for both the justice system and the Haitian Government. The case was the subject of two orders by the investigating judge: the first, for embezzlement of public funds, was committed for trial on 27 January 2012; the second, for murder and similar crimes, was dismissed. On 20 February 2014, the Court of Appeal issued a decision in this case, which was the subject of a final appeal to the Court of Cassation. A motion to have the Court of Appeal judges recused on the ground of suspicion of bias was also filed.

134. The Court of Cassation has yet to rule on the case, preventing the continuance of proceedings and the possibility of fair and equitable compensation and redress for the victims. The Haitian Government is conscious of the need to breathe new life into the Court of Cassation through the appointment of six new judges to replace those whose terms of office are coming to an end. The appointment process is under way.

135. Regarding the recommendations of the Truth and Justice Commission, in view of the fact that they are linked to the Raboteau trial and that victims and perpetrators are now living side-by-side in a relatively stable situation of social harmony, the Government deemed that it would serve no purpose to stir up memories of the past by resuming the trial.

4. Compliance with the 30 per cent quota and awareness campaigns to reduce stereotypes

The State party should endeavour to achieve the targets set in article 17 (1), of the Constitution and should measure its progress by means of statistics, and in particular should take steps to ensure that more women obtain positions in the civil service, including the most senior positions. The State party should continue its awareness campaigns to reduce the traditional stereotyping of women.

136. Measures have been taken with a view to achieving the objectives set out in article 17 (1) of the Constitution, which provides for the 30 per cent quota. These measures, including the adoption of the 2015 electoral decree, have yielded positive results. Indeed, there is at least one woman in every magistrates' cartel in the regional administrations. Consequently, women account for 41.3 per cent of members of the Communal Section Assemblies and 34.1 per cent of members of the Communal Section Administrative Councils. Women also make up 34.04 per cent of members of the municipal councils, and there are 12 women mayors or heads of cartel.

137. Temporary special measures to increase women's participation in political and public life, such as the application of the minimum 30 per cent gender quota, have also been taken. These include a 40 per cent reduction in registration fees for political parties or groups in which women make up 30 per cent of the membership (Electoral Act of 2015, art. 92.1) and the requirement, except in the case of presidential elections, for political parties or groups to submit to the Provisional Electoral Council lists of candidates on which at least 30 per cent of the candidates are women (Electoral Act, art. 100.1).⁵

138. Regarding the civil service, according to a survey conducted by the Office of Management and Human Resources, there are 81,948 civil servants for a population of around 11 million inhabitants. Of that number, only 23,429 women – or 29.77 per cent of the staff – worked in the civil service during the 2016/17 financial year.⁶ Some 13 per cent of women civil servants occupy leadership positions, the remainder work as support staff, technicians or middle and senior managers.

139. Notwithstanding the guarantees and achievements of the Electoral Decree of 2015 (arts. 92.1 and 100.1), women's representation in the legislative branch is negligible: in the Senate, just one of the 29 senators is a woman; in the Chamber of Deputies, there are 3 women out of a total of 117 deputies. Female elected representatives therefore account for just 2.70 per cent of Haitian parliamentarians.

140. The Lafontant Government, which came to power on 21 March 2017, comprised 18 ministerial positions occupied by 13 men and 5 women, meaning that women's representation was just 19.23 per cent in that Government, compared to 80.76 per cent for men.

141. The current Government, which took over on 17 September 2018 and is headed by Prime Minister Jean-Henry Ceant, comprises 21 ministerial posts, including 3 deputy ministers reporting to the Prime Minister and 4 Secretaries of State. Just six women, or 28 per cent of the cabinet, are government ministers.

5. Non-discrimination against lesbian, gay, bisexual and transgender persons

The State party should ensure that all forms of discrimination against lesbian, gay, bisexual and transgender (LGBT) persons are recorded and that all acts of violence against them are accounted for and punished, and that the victims are compensated for such violations. In order to combat stereotypes based on sexual identity, the State party should launch a

⁵ Official Gazette (*Le Moniteur*), 2 March 2015.

⁶ Report on the census of the civil service, December 2014 (to be verified).

national awareness campaign, addressing first the forces of law and order and judicial personnel and later the general public.

142. Although Haiti does not have a law explicitly addressing this issue, it does not have any discriminatory legislation, as some other countries do. The problem lies in societal acceptance of this practice, of which a majority of the population disapproves.

143. However, whenever the rights of this category of persons are threatened, the authorities concerned always take action to condemn the perpetrators of such acts and intervene against any individual who dares to attack citizens who identify as lesbian, gay, bisexual or transgender.

6. Investigations into summary executions and human rights training for law enforcement officials

The State party should, as a matter of urgency, look into cases of firearm deaths caused by the forces of law and order and ensure that they are investigated in a prompt and effective manner, prosecute those thought to be responsible and, if they are found guilty, sentence them to penalties in proportion to the seriousness of the acts and grant appropriate compensation to the victims and their families. The State party should guarantee that the General Inspectorate of the National Police is able to carry out these investigations independently and to routinely maintain statistics on homicides committed by the forces of law and order and on the unlawful use of firearms, covering investigations carried out, prosecutions brought, penalties prescribed and reparation awarded. The Committee encourages the State party to continue its efforts to provide the forces of law and order with human rights training in accordance with its obligations under the Covenant and in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, in order to reduce the incidence of homicide and serious injury caused by firearms.

Investigations

144. One of the tasks of the General Inspectorate of the National Police is to ensure the proper conduct – in public and in private – of members of this public-service institution in order to have a professional police force based on discipline and ethical conduct. To that end, the General Inspectorate is responsible for the disciplinary supervision of all its members and for the general functioning of all the entities that make up the police force. In this regard, it receives complaints but can also institute proceedings *ex officio* against police officers when there is public demand or denunciation. Such cases lead to investigations, culminating in reports containing recommendations made by the General Inspectorate upon completion of a case for administrative sanctions or discontinuance of the proceedings. The outcome of an investigation may lead to recommendations for dismissal, transfer, leave of absence or referral to the Public Prosecutor's Office, among other options.

145. During the reporting period, investigations were carried out into suspected cases of summary execution. For example, in 2017, the General Inspectorate received 874 case files, of which 801 had been initiated as a result of complaints and 73 through other methods of referral. Of these 874 cases, 809 were investigated and the subsequent reports were forwarded to the Directorate General of the Haitian National Police. Among those cases, 12 homicides were recorded and, in 9 of them, the police officers involved were dismissed from the force.

146. This report refers to three cases in particular that were reported by the media: the *Tête ti Source* case in Baillergeau, the *Lilavois* case of 30 October 2017 and the *Grand Ravine* case of November 2017. In all three cases, investigations were conducted and administrative measures were taken by the police force against the guilty parties. The case files were transferred to the investigations office for criminal prosecution.

147. *Tête ti Source* case, Baillergeau: the perpetrator of the physical abuse that led to the death of the young man who threw himself into a pit was arrested, tried and dismissed from the Haitian National Police.

148. *Lilavois* case: an investigation was launched by the General Inspectorate, which established a case of police brutality committed by a number of police officers when they were arresting robbers. Files on some of the officers have been forwarded to the investigations office for legal action.

149. *Grand Ravine* case: an investigation was conducted into a case of police brutality involving officers who had gone to a place known as Grand Ravine in pursuit of some robbers. The General Inspectorate placed some of the officers in solitary confinement, while others are on the run. The file has been transferred to the investigations office for legal action.

Human rights training for law enforcement officials

150. To step up the process of professionalizing the police force, the General Inspectorate has increased training and awareness-raising sessions for police officers. These sessions are intended to remind police officers of their obligation to promote and protect human rights as well as to help them improve their capacity to carry out their duties. The number of training courses increases every year; for example, in 2017, training was up by 30.8 per cent compared to 2016 figures.

7. Ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

The Committee recommends that the State party consider ratifying the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, as soon as possible.

151. Haiti abolished the death penalty long before it acceded to the Covenant. The death penalty had already been replaced with detention pursuant to article 1 of a decree of 23 August 1985; article 2 of that decree set detention as a judicial sentence involving the loss of civil rights for political crimes. Under article 20 of the 1987 Constitution, the death penalty was definitively abolished. In addition, the Government adopted a decree on 4 July 1988, which was published in the Official Gazette (*Le Moniteur*, No. 48), pursuant to which the death penalty was abolished in all circumstances. In article 1 of the decree, the death penalty was replaced by the penalty of hard labour for life, which led to the amendment of article 7 of the Criminal Code on the death penalty.

8. Include a broad definition of torture in the new criminal code and prosecute and convict perpetrators and accomplices

When drafting the new criminal code which the Government has undertaken to adopt by the end of 2014, the State party should include a definition of torture that covers all the elements, including psychological torture, as reflected in the Committee's general comment No. 20 on the prohibition of torture, or other cruel, inhuman or degrading treatment or punishment. It should also ensure that the new criminal code adequately provides for the prosecution and conviction of perpetrators of such acts, and their accomplices, in accordance with the seriousness of the offence.

152. A new definition of torture that takes psychological torture into account has been proposed in the draft versions of the criminal code and the code of criminal procedure. These two draft codes have been submitted to the parliament and are waiting to be voted on.

153. The draft new criminal code provides for penalties for perpetrators and accomplices commensurate with the seriousness of acts of torture.

9. Adoption of specific legislation on violence against women/assistance to women victims of violence

The State party should accelerate the adoption of specific legislation on violence against women with a view to strengthening the legal framework for protection against domestic violence, sexual harassment, rape, including marital rape, and other forms of violence suffered by women. The legislation should also include a provision stating that a victim's testimony is sufficient to initiate criminal investigations into an act of rape. The State party

should also take measures to ensure that all women victims of violence have access to assistance, including legal assistance, and are able to find refuge in shelters.

Legislation

154. In its efforts to combat violence against women and girls, the Government has adopted a number of measures and put various mechanisms in place. These include the drafting of a framework bill on the prevention and elimination of violence against women and girls and the punishment of perpetrators and the establishment of the third National Plan to Combat Violence against Women and Girls for the period 2017–2027.

155. Between 2015 and 2017, the Ministry for the Status of Women and Women’s Rights organized several consultations to complete the drafting of the framework bill on violence against women and girls. The consultations, to obtain the latest reflections on, and analyses of, the document, involved women’s organizations, institutions working to support victims of violence against women and girls, non-governmental organizations and the United Nations.

156. In November 2017, the Ministry for the Status of Women and Women’s Rights, in conjunction with the Gender Office of the Senate of the Republic and various international organizations, held a meeting with parliamentarians in connection with the International Day for the Elimination of Violence against Women to discuss the inclusion of the bill in the legislative agenda. On that occasion, all the senators signed a declaration of commitment to combating violence against women and girls.

157. In addition to initiatives funded on an ad hoc basis by technical and financial partners, the Ministry for the Status of Women and Women’s Rights is committed to continuing with the plan to build a publicly funded shelter for women victims of violence.

Assistance

158. Members of the National Dialogue on Violence against Women, and organizations such as Solidarité Fanm Ayisyen and Kay Fanm, provide counselling, legal support and housing for women and girl victims of violence.

10. Training of law enforcement officials on measures related to trafficking/prosecution of perpetrators/emergency measures

The State party should continue its efforts to provide training to law enforcement officials, border guards and other relevant personnel on measures to deal with human trafficking. It should increase its efforts to ensure that all those involved in human trafficking are brought to justice and that adequate reparation is provided to victims. The State party should also take steps, as a matter of urgency, to put an end to the exploitation of children and to strengthen child protection mechanisms such as the Minors’ Protection Unit.

Training

159. Legal professionals and court officials have undergone training on human trafficking. Such training sessions include those held on 16 and 17 November 2015 and from 24 to 26 February 2016 for police officers, judges and prosecutors from the Port-au-Prince and Croix-des-Bouquets courts, as well as members of human rights organizations. In order to raise awareness of the Trafficking in Persons Act, a training session, organized in partnership with the Legal Service Training College, the International Organization for Migration and the United Nations Children’s Fund, was held for judges and prosecutors of the Port-au-Prince and Croix-des-Bouquets courts.

160. On 21 and 22 September 2016, workshops and discussions were held with the government commissioners and deputy commissioners of the country’s 18 courts. Meetings have been held with the owners of nightclubs in the Centre department to raise their awareness of the phenomenon of trafficking.

Prosecutions

161. Following the adoption of the Trafficking in Persons Act, legal proceedings were brought against three alleged offenders in three different courts, namely Fort-Liberté (Nord-Est department), Jérémie (Grand'Anse department) and Hinche (Centre department). The proceedings resulted in one acquittal and two convictions, one of which was handed down following a judgment issued on 3 May 2016 by the presiding judge of the Fort-Liberté Court of First Instance. Other cases of trafficking dealt with in 2017 include the *Kaliko* and *Verrettes* cases.

The Kaliko case

162. Nine alleged traffickers were arrested in February 2017 on Kaliko Beach in the commune of Montrouis, north of Port-au-Prince. Less than two weeks later, they were released. The Minister of Justice dismissed five deputy commissioners for negligence in the handling of this case.

The Verrettes case

163. Twenty-five minors from Cavaillon (South) were found in Verrettes (Artibonite) in the hands of presumed traffickers. In this case, a committal for trial without a jury was issued in respect of two traffickers. The defendants have filed an appeal against this committal.

Measures

164. As part of efforts to combat trafficking in persons, police officers and four officials from the Social Welfare and Research Institute are deployed at the four official points on the border between Haiti and the Dominican Republic and at Toussaint Louverture International Airport in Port-au-Prince.

11. Ensuring the right to habeas corpus for persons in detention/urgent measures to address the situation of persons in pretrial detention/separation of remand and convicted prisoners and of adults and minors

The State party should ensure that all persons who are arrested and detained enjoy the effective right to habeas corpus. It should also encourage courts to promote alternatives to deprivation of liberty for indicted persons, taking into account the United Nations Standard Minimum Rules for Non-custodial Measures. It should take urgent steps to address the situation of persons who have been in pretrial detention for many years in a way which will directly help reduce prison overcrowding. The State party should also take appropriate action to ensure the separation of remand and convicted prisoners and of adults and minors.

Habeas corpus

165. In order to prevent persons who have been unlawfully arrested from being placed in pretrial detention, the Haitian justice system has accepted many applications for habeas corpus. In the period 2017–2018, 41 writs of habeas corpus were filed, 37 of which were heard by the courts. In addition to the normal habeas corpus hearings held in the country's other courts, special hearings were held in the Port-au-Prince court. Some 160 cases were heard between 31 March and 18 April 2018, taking the number handled to 197.

Urgent measures to address the situation of persons in pretrial detention

166. In order to address this situation, the judicial authorities have held more than two criminal jury sessions every year in addition to regular hearings for minor and serious offences. Furthermore, criminal jury trials have been held on Saturdays, which are normally not working days. The results obtained between June 2018 and September 2018, when 195 cases were heard, may be cited by way of example. Of these, 51 cases resulted in release and 91 cases in a conviction, while 13 cases were reclassified.

167. The Ministry of Public Health and Population has sent a circular to heads of departments regarding the care of sick prisoners. In the event of serious illness, prisoners are referred to the nearest hospital. Steps are being taken to set up a medical consultation service in prisons and mobile clinics have been also organized in several prisons.

168. A project has been implemented in Cabaret prison to provide access to justice and support for women and girls in prolonged or arbitrary pretrial detention.

Separation of remand and convicted prisoners and of adults and minors

169. Article 44 of the Constitution establishes the principle of the separation of inmates in the following terms: "Remand prisoners awaiting trial shall be separated from those serving a sentence."

170. To ensure the separation of convicted and remand prisoners, and adults and minors, the Government has started building new prisons that meet international standards. In that regard, a new prison for women, built in the commune of Cabaret (Ouest department), has been operational since January 2017.

171. In order to ensure the separation of adult prisoners from juveniles, a reintegration centre for minors in conflict with the law was established and has been operating on the Delmas 33 road since 2009. The main mission of the centre is to train, re-educate and rehabilitate children in conflict with the law. Children placed in the centre are generally aged between 12 and 18 years. A school providing basic education operates within the centre and offers courses up to the ninth grade. The school has a total of 25 teachers.

172. The centre also provides psychosocial monitoring and academic instruction to minors. In addition to operating a basic education school in the morning, the centre also runs apprenticeship courses in prisons. These sessions are held in the afternoon and allow children to learn trades such as shoe-repairing, sewing and plumbing.

173. The prison authorities of the Fort-Liberté prison in Nord-Est department have redeveloped the building with the result that child inmates have been held separately from adult inmates since 6 May 2013.

174. Plans for the construction of five additional prisons have also been drawn up. These are the prisons of Gonaïves (Artibonite department), Fort-Liberté (Nord-Est department), Coteaux (Sud department) and Carrefour (Ouest department) and the Ouest prison complex. The prisons of Fort-Liberté, Hinche and Croix-des-Bouquets operate in accordance with the regulations, facilitating the separation of remand and convicted persons.

12. Access to justice/legal aid

The State party should take all necessary measures to guarantee, in law and in practice, effective access to justice for all, including the right to legal aid.

175. In 2018, a bill on legal aid was submitted to the parliament, which will shortly vote on it. However, in order to facilitate access to justice for the poor, legal aid offices have been established and are operating in a number of courthouses, including three in Port-au-Prince and one in Croix-des-Bouquets, in addition to those in Saint-Marc, Port-de-Paix and Cap-Haïtien.

176. A draft criminal code and a draft code of criminal procedure have been submitted to the parliament.

177. The Organic Act on the Ministry of Justice and Public Security is being revised to bring it into line with the objectives set by the Government. The Act is intended to strengthen the Ministry by creating within it a directorate for criminal cases, a directorate for civil cases and a directorate for legal policy. Moreover, the judicial inspection service has been upgraded to unit status and the detention service has been re-established. These two bodies work with the courts and detention centres in order to strengthen them, which has led to an increase in the number of hearings, at all levels, for both serious and ordinary offences.

13. Ensure the independence of the judiciary/ensure the effective operation of the Judicial Inspectorate of the High Council of the Judiciary

The State party should ensure the independence of the judiciary, in particular by protecting judges from interference by the executive and legislative branches with regard to judicial decisions. It should, as a matter of urgency, ensure the effective operation of the Judicial Inspectorate of the High Council of the Judiciary and thus enable the State party to comply with the provisions of the Covenant by means of an effective and independent judicial system.

178. In order to ensure the independence of the judiciary, members of the High Council of the Judiciary whose terms of office have expired have been replaced by new members. A judicial inspection unit, responsible for investigating judges, has been functioning normally within the Council since August 2018.

14. Provide an alternative solution for persons living in the camps before they are evicted

The State party should ensure that no persons are evicted from the camps unless another solution has been found for them and their families and that all persons displaced by the earthquake are able to benefit from lasting solutions.

179. In November 2011, with a view to implementing the National Housing Policy, the Government established the Housing and Public Buildings Unit.

180. After the earthquake, with the support of international technical and financial partners, efforts were made in coordination with certain national institutions to provide an appropriate response to the housing problem. Between 2013 and 2016, the Unit built more than 20,000 social housing units for vulnerable households in areas developed for that purpose and in certain so-called informal settlements that had undergone restructuring operations.

15. Protecting human rights defenders and journalists

The State party should take the necessary steps to protect human rights defenders and journalists so as to enable them to carry out their activities with complete freedom and no restrictions. The State party should, as a matter of priority, investigate all attacks on the life and dignity of these persons and bring the perpetrators to justice.

181. The State guarantees freedom of expression in Haiti. Acts of aggression against journalists who are exercising their profession do not go unpunished. On 20 August 2018, for example, two journalists were assaulted by parliamentary security officers while trying to gather information about a conflict that was said to have arisen between police officers and certain security officers. When it learned of this situation, the Senate dismissed the security officer and the journalist submitted a complaint against his attacker to the Court of First Instance in Port-au-Prince.

16. Take steps to organize the legislative and municipal elections due to have been held in 2011

The State party should, as a matter of urgency, take the necessary steps to organize the legislative and municipal elections due to have been held in 2011, in order to ensure that citizens have effective access to their rights under article 25 of the Covenant.

182. Owing to political and institutional problems, Haiti was unable to organize the legislative and municipal elections that should, according to the deadlines established in the Constitution, have been held in 2011.

183. In order to address this situation and its harmful impact on democracy, the Government of the day took the decision to hold legislative elections at the end of 2015. The country was facing serious political upheavals as a result of difficulties encountered in the process of electing new political and administrative staff. On 7 February 2016, as it had not been possible to transfer power between two elected presidents, the parliament reached a political consensus on an interim president, who was appointed to complete the process of electing a new president.

184. At the end of this long electoral period, the country was able to return to constitutional order when President Jovenel Moïse came to power on 7 February 2017. The process of forming the parliament was completed with the renewal of one third of the members of the Senate.

Conclusion

185. This report outlines the Government's efforts to give effect to the commitments made by the Republic of Haiti under the Covenant. It places particular emphasis on the measures adopted to implement the recommendations made by the Human Rights Council following the presentation of the country's initial report in October 2014.

186. Measures have been adopted, steps have been taken and programmes have been launched to implement the Human Rights Council's recommendations in order to ensure that the rights enshrined in the Covenant are effectively upheld.

187. Significant progress has been made in the protection and effective promotion of human rights in accordance with the requirements of the Constitution and the treaties ratified by Haiti.

188. Firstly, citizens are becoming increasingly informed and aware of the importance of becoming involved in efforts to defend and promote human rights. Furthermore, public institutions have become increasingly committed to taking measures aimed at ensuring respect for fundamental rights.

189. However, many challenges still remain. The Government therefore intends to continue working resolutely to implement the Covenant for the benefit of all persons and entities who are subject to Haitian law.

190. Haiti is firmly committed to continuing its cooperation with all United Nations bodies, including the Human Rights Committee and the Human Rights Council, in order to make further progress towards full respect for the fundamental rights enshrined in its Constitution and the international instruments to which it is a party.

191. This is the report of the Haitian Government, submitted in compliance with article 40 of the Covenant.
