



# International Covenant on Civil and Political Rights

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## Human Rights Committee

112th session

### Summary record of the 3103rd meeting

Held at the Palais Wilson, Geneva, on Friday, 10 October 2014, at 10 a.m.

*Chairperson:* Sir Nigel Rodley

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*The meeting was called to order at 10.05 a.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Initial report of Haiti* (continued) (CCPR/C/HTI/1; CCPR/C/HTI/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Haiti took places at the Committee table.*
2. **Mr. Zlătescu**, recalling the Committee's concerns regarding the elimination of slavery and servitude, requested additional information on the measures taken by the Haitian authorities to fully protect children from trafficking and to make it impossible to take a child abroad without following the statutory international adoption procedure. Since priority should be given to family searches, he invited the delegation to describe recent efforts to promote respect for the principles of accountability and transparency. According to the Committee's information, the practice of *restavek* continued in Haiti despite the international community's disapproval. The practice, which consisted in placing children from underprivileged backgrounds with wealthy families, where they could be given room and board in exchange for domestic work, and which in 80 per cent of cases concerned school-age girls, in fact had the effect of depriving the children of an education and exposing them to ill-treatment, and even sexual violence. In view of United Nations and civil society concerns that the children who, after the earthquake, had had nowhere to go but displaced persons camps where they had spent long periods, were being subjected to forced labour or left at the mercy of traffickers, urgent steps should be taken to change traditions that still permitted child exploitation. He asked what measures the Government had taken to improve the situation of children who still lived in shelters and to ensure that the most vulnerable children, such as orphans, displaced children and *restaveks*, were not deprived of schooling.
3. Noting that, since the earthquake, the economic situation of women and girls had deteriorated, that they were more vulnerable to sexual violence and trafficking and that their access to maternal and reproductive health services was far from satisfactory, especially in displaced persons camps, where the number of pregnancies was three times the rate in urban areas, he asked what public policies, legal measures and practices had been introduced since the earthquake to protect women and girls and assist the humanitarian organizations working to protect them.
4. Referring to the provisions of article 11 of the Covenant, he asked what steps had been taken to amend the law whereby non-payment of a civil debt could lead to arrest and detention. He also invited the delegation to describe efforts to end the lynching of persons who practised voodoo and the use of lynching by groups claiming to be defenders of justice. He enquired about investigations into the murder of journalists, in particular the cases of Jean Dominique, Jean-Claude Louissaint, Gérard Denoze, Brignol Lindor, Ricardo Ortega, Abdias Jean, Robenson Laraque, Jacques Roche et Jean-Rémy Badiou. Lastly, he wished to know whether the Covenant had been translated into Creole, whether lawmakers and State officials had been made aware of its provisions and whether the human rights principles it contained had been incorporated into curricula at all levels, including in the career development of civil servants and police officers.
5. **Ms. Majodina** noted that the measures taken by the Government to facilitate the resettlement of displaced persons had run up against many problems and that there had been many forced evictions from displaced persons camps, such as those at Sainte-Anne and Carrefour. She asked whether the authorities had taken steps to permanently prevent the eviction of displaced families and modify procedures for the registration of displaced persons and whether they intended to adopt legislative measures to prohibit such evictions,

duly investigate all cases of forced eviction, bring to justice those responsible and provide effective remedies to victims.

6. **Mr. Ben Achour**, while noting the State party's efforts, asked how the Government intended to facilitate and promote access to justice, fight corruption and end the prosecution and punishment of judges. Regarding the independence of the judiciary, he mentioned the concerns brought to the Committee's attention by various sources, regarding inter alia the partisan attitude of some judges, the interference of some parliamentarians and the executive branch in the administration of justice, the bribing of justice officials and judges, the non-application of set legal fees and inadequate pay for judges. Lastly, he said that he was concerned at the impunity enjoyed by judges accused of abuse of power and at the slowness and passiveness of the courts in murder cases, which had led to vigilante justice by lynch mobs.

7. **Mr. Salvioli** asked what the status was of the investigation into the February 2014 deaths of human rights defenders Daniel Dorsainvil and Girdy Larêche and what the outcome had been of investigations into reports of the excessive use of force against protesters and resulting deaths, for example, in November 2013 and May 2014. He said that, according to the Committee's information, the Inter-American Court of Human Rights had recommended the adoption of protection measures in respect of at least five Haitian nationals, who had not been contacted by the Haitian authorities. It would therefore be interesting to know what mechanisms were in place for the swift implementation of the Court's recommendations. He asked whether the Government intended to ratify the Optional Protocol to the Covenant, recognizing the Committee's competence to receive and consider communications from individuals who claimed to have suffered a violation of their rights under the Covenant. He wished to know whether the authorities planned to pursue the investigation into the murder of Robenson Laraque and Jacques Roche, taking full account of the fact that both victims were human rights defenders.

8. He also wished to know whether the study commissioned by the Government regarding gender issues and the integration of persons with disabilities into the civil service might be made available to civil society and the Committee. Lastly, he enquired about measures taken to improve the functioning of the Electoral Council and achieve women's quotas in the next elections.

9. **Mr. Seetulsingh** asked whether the Government had initiated discussions with the Government of the Dominican Republic regarding the statelessness of the descendants of Haitian migrants in that country.

10. **Ms. Chanet** asked why the Convention on the Reduction of Statelessness had been removed from the agenda of the Chamber of Deputies.

11. **Mr. Kálin** asked what happened to displaced persons who had not found paid employment once they lost their entitlement to the housing assistance programme. He wished to know what measures had been taken to ensure that displaced persons were registered on voter lists.

12. **The Chairperson** suggested a brief adjournment to give the delegation time to prepare its replies to the Committee members' questions.

*The meeting was suspended at 10.55 a.m. and resumed at 11.20 a.m.*

13. **Ms. Auguste** (Haiti) said that the authorities' difficulties in putting the human rights situation right and submitting a report in that regard to the Committee were chiefly due to the multifaceted social, economic and political crisis that the country had been experiencing for decades. The current Government aspired to openness and accountability and strived to set up the mechanisms required for the implementation of the Covenant. She pointed out

that the population enjoyed freedom of expression and cautioned the Committee against the false allegations some people made under the pretence of defending human rights.

14. **Ms. Dolma** (Haiti) said that the previous adoption law had been amended to bring it into line with the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. International adoption was only a last resort once all other options — social assistance services, foster care, intrafamily adoption and adoption within the country — had been considered and once the prospective adoptive parents had completed a strict procedure that involved going through their country's central authorities. Full adoption was now authorized. The law against human trafficking, enacted in 2014, provided for the establishment of a committee to monitor adherence to the law and a special victim assistance fund. A pilot project had been launched to place child victims of trafficking with accredited foster families. Considerable efforts were being made to fight the practice of *restaveks*. Toll-free hotlines had been set up and the Brigade for the Protection of Minors of the national police had a section devoted to matters of domestic work. A new Children's Code bringing together all the relevant laws was in the adoption phase. In particular, the minimum working age would be raised to 15 years. The Social Welfare and Research Institute (IBESR) was also working to regulate the functioning of children's centres: of the 770 existing centres, 200 had been accredited and 350 were being regularized; the remainder would be closed shortly.

15. **Ms. Auguste** (Haiti), referring to the *restaveks*, said that the articles of the Labour Code permitting the practice had been repealed and that the International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138) and ILO Worst Forms of Child Labour Convention, 1999 (No. 182) had been ratified.

16. **Mr. Belizaire** (Haiti) said that children living in camps had access to free primary education and two hot meals per day at school canteens. Children over 9 years of age had access to vocational training. Security problems did admittedly arise in some camps, particularly in the "red" zones, in part because of the presence of bandits. However, police operations to expel criminals from the camps were sometimes reported as cases of "forced eviction". Two types of solution were offered to displaced persons, based on their pre-disaster status: owners were given assistance to rebuild or repair their homes, while tenants received a subsidy equal to one year's rent. The solutions were perhaps not ideal, but they helped those concerned to return to their earlier situation. Although the Government considered forced evictions as unacceptable, it nonetheless sympathized with the impatience of landowners who had been lending their land without charge for several years. Resettlement measures were offered on a priority basis to persons living in camps where there was a risk of forced eviction and most of the locations concerned had already been closed. It was true that the Government wished to close the camps as quickly as possible because the humanitarian phase following the 2010 earthquake had ended and, in addition to the health hazards they represented, the camps hindered reconstruction efforts. However, it was wrong to say that eviction criteria had been modified; certain eviction criteria that had previously been inapplicable were now applied. Measures had been taken in 2010 and 2011 by the National Registry Office to ensure that all persons living in the camps had an identity document. Rather than registrations, only verifications were currently carried out, because reports of lost identity cards were generally fraudulent attempts by individuals who had already received benefits. Although discussions were continuing with donors, the funding of resettlement programmes was not assured for 2015. With the funds available, the Government planned to reduce the number of homeless persons to 40,000. Humanitarian aid was not the solution, however, and the country had to move on to the development stage.

17. **Mr. Bazelais** (Haiti) said that bankruptcy laws were obsolete and needed to be modernized. Currently, persons who declared bankruptcy fraudulently were punished in accordance with the law. All possible efforts were being deployed to arrest, prosecute and

punish those who participated in lynching, in an effort to discourage such acts. Regarding the murder of journalists, the case of Jean Dominique was running its course and a suspect had been arrested. A person had also been arrested for the murder of Daniel Dorsainvil and the case was in the investigation phase. One of Jean Roche's murderers had been convicted. Several initiatives were under way to facilitate access to justice. Significant steps had been taken to decentralize the courts and develop mobile justice. However, that sometimes involved recruiting additional judges, which implied extra cost. Civil status registers were also decentralized to provide better coverage. The Code of Criminal Procedure and the Code of Civil Procedure were being revised, inter alia to shorten the length of proceedings and introduce alternatives to imprisonment. The judges' role in observing time requirements was a major issue and an inspection service would be established to ensure that they did so. There were plans to reduce Court costs and measures were being taken to ensure that judges did not exceed the permitted charges. The Government also intended to expand and formalize the legal aid system. Regarding the reasons for the judges' strike, it should be noted that payment delays affected their salary rises, not their basic salaries. Considering the many complaints against judges, a prior verification process had been instituted for the renewal of their mandates. So far, the mandates of 29 judges had been renewed. Efforts were being made to limit as much as possible the resulting backlog of cases. Clear instructions had been issued to end the excessive use of force by law enforcement officers against protesters and the police officers concerned had been suspended pending a judicial decision. The investigations were conducted by the Inspectorate-General of the National Police, which transferred the files to the public prosecution service and, if necessary, to the investigating judge.

18. **Ms. Auguste** (Haiti) said that the National Registry Office had submitted a list of potential voters to the Electoral Council at the end of August 2014. The voter card issued by the Office also served as an identification document. The Act on the prevention and repression of corruption had been adopted by Parliament and published in the *Moniteur* (Official Gazette) of 9 May 2014.

19. **Ms. Petion** (Haiti) said that the law on responsible paternity was an innovative law that ended discrimination against children born out of wedlock. All children, whether born in or out of wedlock, were entitled to the same support and education. The law also permitted individuals to search for their fathers.

20. There were eight shelters for women and girl victims of violence and the Ministry for the Status of Women was currently having an additional centre built in Gressier. The Criminal Code did not contain an article specifically criminalizing marital rape. Since the adoption of the decree of 6 July 2005, rape carried harsh penalties. A whole set of measures had been taken in favour of women and girl victims of rape, who could now obtain free of charge from any health centre the medical certificate they needed to bring charges.

21. A multisectoral entity made up of representatives of civil society organizations and government institutions was responsible for ensuring that the 30 per cent quota of women in decision-making positions was achieved. Currently, three of the nine members of the transitional college of the Standing Electoral Council (CTCEP) were women. A gender equality policy had recently been approved by the Council of Ministers.

22. **Mr. Melodin** (Haiti) said that, following the adoption by the Inter-American Commission on Human Rights of interim measures with regard to Mario Joseph, Newton Saint Juste and André Michel, the Ministry of Foreign Affairs and Religion had contacted those persons to determine the best way of implementing the measures and to let them know that the Ministry was open to dialogue. However, the persons concerned had apparently not expressed any desire to meet with ministry representatives. The Ministry had also received a communication regarding Pierre Espérance, which it had transmitted to the

Ministry of Justice. It appeared that Mr. Espérance had also been sent an invitation, but the speaker did not know what had come of it.

23. The Covenant had been published in *Moniteur* No. 2 of 7 January 1991 and could therefore be directly invoked by the courts. Nevertheless, judges were insufficiently trained in applying the international instruments ratified by Haiti. The Legal Service Training College held training sessions to raise judges' awareness of the provisions of the Covenant.

24. Religious freedom was recognized and guaranteed in Haiti. However, domestic law referred only to Christian denominations and voodooism, so that it was more difficult to register organizations representing other religions. The issue had been broached during the drafting of the initial report with the officials of the Ministry of Foreign Affairs and Religion, who had expressed willingness to consider the matter and perhaps suggest appropriate changes in the law.

25. According to a census conducted in 2013 by the national statistics bureau of the Dominican Republic, with the support of the United Nations Population Fund and the European Union, 428,233 Haitians lived in that country and 209,912 Dominicans were of Haitian descent. In 2014, the Dominican authorities had adopted a law specifying the conditions for foreign nationals to acquire Dominican nationality. A high-level dialogue was being conducted between the authorities of the two countries with a view to identifying Haitian nationals living in the Dominican Republic unlawfully and regularizing their situation.

26. **Ms. Dolma** (Haiti) said that, pursuant to the decree of 17 May 2005 organizing the central administration, the Office of Management and Human Resources, attached to the Prime Minister's Office, was responsible for coordinating and supervising public service recruitment procedures. The Office had sent out to the various government bodies a circular reminding them of the need to observe the terms for the recruitment and promotion of public servants set forth in the relevant laws and regulations. Article 5, paragraph 10, of the Anti-Corruption Act stipulated that any civil servant who used his or her position to obtain for another person a benefit of any kind, such as a public service job, in violation of recruitment rules was liable to 3 years' imprisonment and a ban on working in the public service for between 1 and 5 years.

27. **Mr. Melodin** (Haiti) said that, although the overall budget of the Office of the Ombudsman had fallen in 2014 compared to the previous year, the funds allocated to staffing and fixed assets had risen. It was primarily expenditures on goods and services that had been cut, as they had been for other public institutions.

28. **Ms. Dolma** (Haiti) said that, following an employment forum held in September 2014, the Prime Minister had recommended that every State institution should hire two persons with disabilities.

29. **Mr. Ben Achour** said that the Human Rights Committee was as cautious as it could be with the reports it received from various organizations: it broached the information with the State party during the dialogue and it was up to the State party then to either confirm, nuance or deny it.

30. **Mr. Kälin** asked whether the Government's instructions to stay eviction orders against displaced persons who still lived in camps four years after the 2010 earthquake were valid until the end of the camp closure programme. He also asked whether resettlement programmes were available not only to persons who had been registered immediately following the earthquake but also to those who had been registered subsequently by the International Organization for Migration (IOM).

31. **Mr. Salvioli** asked whether the State party had adopted a protocol to implement the interim measures issued by the Inter-American Commission on Human Rights.

32. **Mr. Shany** asked whether the elections scheduled for the end of October 2014 would take place as planned and whether the amended electoral law had been approved by the Senate.

33. **Ms. Auguste** (Haiti) thanked the Committee for its attention and said that the Government would strive to ensure that the Covenant was translated into Creole. Budgetary constraints and the difficulties arising from the need to rebuild after the 2010 earthquake were significant barriers to the practical implementation of some of the provisions of the Covenant. The Government was keen on obtaining the support of the Office of the United Nations High Commissioner for Human Rights in guaranteeing the rule of law and democracy in Haiti.

34. **The Chairperson** thanked the delegation for all the information it had provided to the Committee, which in its concluding observations would be addressing questions such as the definition of torture, overly lengthy remand detention, the unlawful eviction of displaced persons still living in camps, the excessive use of force against protesters, threats against human rights defenders and the lack of judicial integrity.

*The meeting rose at 1.05 p.m.*