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

List of issues in relation to the initial report of Haiti

Addendum

Replies by Haiti to the list of issues*

[Date received: 7 August 2014]

1. The Republic of Haiti submitted its initial report to the Human Rights Committee on 30 November 2012 in accordance with article 40 of the International Covenant on Civil and Political Rights. The Committee adopted a list of issues (CCPR/C/HTI/Q/1) at its 110th session in order to assist the Haitian delegation in preparing for the consideration of its report. It requested Haiti to submit its replies by 8 August 2014, at the latest. A unit of the Interministerial Committee on Human Rights gathered the information required from the institutions dealing with the relevant topics and drew up its replies, which, after various reactions from both the public sector and civil society had been taken into account, were duly approved.

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

2. The Covenant takes precedence over domestic law, in accordance with article 276, paragraph 2, of the Constitution, which states: “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.” The provisions of the Covenant have been invoked before the courts, notably in the La Scierie trial, which involved a former Prime Minister, two former ministers and a former Director General of the National Police. These persons were held in detention without trial for a period exceeding the legal deadline. They lodged an appeal against their prolonged detention, on

* The present document is being issued without formal editing.



the basis of the provisions of the Covenant, among other legislation. They were successful in their appeal.

3. Following a report to Parliament after the publication of the Organic Law on the Office of the Ombudsman in the Official Gazette on 20 July 2012, the budget of the Office of the Ombudsman rose from 21 million to 32 million gourdes, which enabled the Office to establish its presence throughout the national territory by setting up the Land Directorate and recruiting 20 new officials, who were assigned to every Department in the country. Part of the work of these officials is to pay particular attention to the general conditions of detention and, in particular, to judicial guarantees.

4. In 2013, on the basis of complaints received, 2,574 recommendations by the Office of the Ombudsman were followed up by the relevant authorities. These related to grievances concerning the right to fair working conditions in such areas as dismissal, wages and salary arrears, the authorities' failure to implement court decisions, the right to a fair trial and an effective remedy, the right to freedom and security of person and other problems relating to access to public services and breaches of the principle of the presumption of innocence. In most cases, these complaints were resolved, particularly with regard to questions relating to judicial guarantees and violations of physical integrity, which most frequently involved officers of the Haitian National Police. The groups that benefited most often from the action taken were prisoners, persons deported from the United States of America or Canada, officials and judicial personnel.

5. A number of other sectors that received formal recommendations took steps to resolve the problems that arose. These included:

- Action to start the process of transferring powers by the Ministry of Justice to the High Council of the Judiciary, the introduction in all courts of first instance of procedures to ensure immediate summary trial and the holding of special criminal court hearings;
- The abolition of probation for all persons who have been forcibly repatriated, the gradual increase in the budget of the Office of the Ombudsman, the withdrawal of the circular issued by the Ministry of Justice and Public Security instructing all judges to apply for authorization from the Ministry before undertaking any prosecution of a police officer and the opening of systematic inquiries by the High Council of the Judiciary into the movement of judicial personnel;
- The establishment of a review board tasked with re-examining the files of police officers for vetting purposes, a more positive response by the National Police to the recommendations of the Office of the Ombudsman to reflect the intention of article 7, paragraph 12, of the Act on the Organization and Functioning of the Haitian National Police, the establishment of the Interministerial Committee on Human Rights and the setting up of committees to monitor the criminal justice system in all courts of first instance.

6. As regards legislation, solutions have been found to a number of issues, notably the adoption or publication of legal texts to ensure that they meet international standards. These include the publication of the decree of ratification of the International Covenant on Economic, Social and Cultural Rights, the ratification of the Optional Protocols to the Convention on the Rights of the Child, the passage on new legislation regulating adoption in Haiti, the drafting of a preliminary bill on a code of protection for children, the passage and promulgation of the Trafficking in Persons Act, the passage and promulgation of the Prevention and Suppression of Corruption Act and the promulgation of the Paternity, Maternity and Filiation Act. In addition, a proposed framework law on independent institutions was considered by Parliament, following discussions between the Office of the

Ombudsman and the heads of other independent institutions, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was signed.

7. Following the return from exile of Jean-Claude Duvalier on 16 January 2011, a number of people claiming to have been victims of his regime lodged complaints. An examining magistrate was appointed to conduct the judicial investigation and, on 27 January 2012, the magistrate delivered his ruling in the following terms:

“Consequently, we set aside the final application by the State Commissioner [and] declare that there is serious and consistent evidence to show that the aforesaid Jean-Claude Duvalier should be referred to the Criminal Court for trial for the offence of embezzlement of public funds. We declare that there is a case against him and consequently refer him to the Criminal Court for trial in accordance with the provisions of articles 117 and 118 of the Code of Criminal Procedure. Lastly, we order that all the evidence, together with this ruling, shall be transmitted to the State Commissioner for further legal action.”

8. This ruling was challenged both by the accused himself and the complainants, who lodged appeals on 15, 16 and 17 February 2012. On 20 February 2014, the Port-au-Prince Court of Appeal delivered an interim judgement in the following terms:

“Consequently, the Court, having deliberated in accordance with the law, in the Council Chamber, and having heard the public prosecutor, admits in form the appeal of the accused, Jean-Claude Duvalier, dated 23 February 2012, and the appeals of the civil party complainants ..., who joined as parties by declaration to the clerk of Port-au-Prince Court of First Instance on 15, 16 and 17 February 2012 respectively; declares inadmissible, however, the appeal of the said [claimants] on the grounds that it was not lodged within the statutory time limit;

- States that the judgement appealed was erroneous and properly appealed;
- Sets aside the judgement appealed and recognizes that the concept of crimes against humanity is part of customary international law and that customary international law forms part of the national law of Haiti;
- States and declares that the acts alleged to have been committed by the aforesaid Jean-Claude Duvalier constitute crimes against humanity and are, by virtue of their continuous nature, not subject to any statute of limitations and that the provisions of articles 464, 465 and 466 of the Code of Criminal Procedure cited by the accused, Jean-Claude Duvalier, are not applicable in this case;
- States that there is strong circumstantial evidence relating to the indirect participation and criminal liability of the accused, Jean-Claude Duvalier, for failing to take all necessary and reasonable measures to prevent the commission of crimes and punish the perpetrators;
- Rejects the defence of *lis pendens* submitted by the accused, Jean-Claude Duvalier, on the grounds that it is unfounded; rejects the comments by the accused concerning the prosecution file at the Court of Cassation, in accordance with the provisions of article 99, paragraphs 4 and 5, of the Decree of 22 August 1995 on the organization of justice;
- States that, in respect of the complainants who joined properly as parties and who were not heard by the examining magistrate, of the accused who qualify as jointly interested parties, of the accused now deceased and of the potential witnesses mentioned by the complainants in their depositions before the Court, a new judicial investigation is necessary, consisting of:

- 1. The examination of all the complainants who were not heard by the examining magistrate and who properly joined as parties through formal complaints lodged with the prosecutor's office of the Port-au-Prince Court of First Instance and transmitted to the examining magistrate with a supplementary application;
- 2. The summoning and questioning of all the accused cited in the prosecutor's applications for a judicial investigation dated 20 April 2008 and 18 January 2011, the identification of those accused who qualify as jointly interested parties and the clarification of the status of any of the accused who are deceased;
- 3. The examination as witnesses of all citizens cited by the complainants in their depositions before the Court and the completion of all investigative measures, where necessary, including the identification of other potential witnesses in the course of the new investigation;
- Orders a further investigation, in accordance with the provisions of article 19 of the Criminal Appeal Act of 26 July 1979. Appoints to carry out this investigation within the legally proscribed time limit, Judge ... of the Port-au-Prince Court of Appeal."

9. On 7 March 2014, one of Jean-Claude Duvalier's lawyers lodged an interlocutory appeal against the ruling of Port-au-Prince Court of Appeal delivered on Thursday, 20 February 2014. The same afternoon, Jean-Claude Duvalier made a statement to the clerk of Port-au-Prince Court of Appeal and requested that the trial should be referred to another court of appeal on the grounds of an objection under article 429 of the Code of Criminal Procedure. On 14 March 2014, Mr. Duvalier's lawyers transmitted to the parties a copy of the request, dated 10 March 2014, addressed to the President and judges of the Court of Cassation of the Republic, containing the arguments for a request for relinquishment and appeal.

10. The Government, in its respect for the principles of a State governed by the rule of law, did not intervene in the case in any way but allowed justice to take its course. Any inappropriate intervention would constitute not only a breach of such principle but would violate Mr. Duvalier's right to a fair trial.

11. A decree dated 28 March 1995 established the National Truth and Justice Commission, comprising seven members, which, under article 2 of the decree, was mandated to "establish fully the truth concerning the most serious violations of human rights committed between 29 September 1991 and 15 October 1994 in Haiti ... and assist in the reconciliation of all Haitians, without prejudice to any judicial remedy for such violations."

12. In implementing its mandate, the Commission received over 5,500 statements, identified 8,667 victims and listed 18,629 cases of human rights violations. It conducted specific investigations into cases of sexual violence against women, abuses committed against journalists and the Raboteau massacre of April 1994.

13. In its final report, the Commission submitted a list of names of persons accused of having perpetrated acts constituting a violation of human rights during that period and recommended that the judicial authorities should continue their investigations and convict those responsible. The Commission also recommended the establishment of another commission, which would be responsible for compensation, reform of the judicial system and the adoption of new legislation against gender-related violence in general and rape in particular.

14. In accordance with the recommendations in the report, a number of trials were initiated, the most significant being that concerning the Raboteau massacre. When it was

concluded in 2000, 59 persons had stood trial, including the military high command and the leaders of the Front révolutionnaire pour l'avancement et le progrès en Haïti (FRAPH), a paramilitary group. Of those 59, 37 were convicted in absentia and the jury convicted 16 of the 22 persons present for their participation in the massacre, of whom 4 were sentenced to between 4 and 9 years' imprisonment and 12 received life sentences. Compensation was granted to the victims by the court, but there is no information available on any sum paid to them. All the persons convicted in absentia were sentenced to forced labour for life. However, a judgement of the Court of Cassation reversed that decision on the grounds that the court that had made the decision lacked jurisdiction.

15. The Interministerial Committee on Human Rights, which was established by decree on 26 April 2013, is tasked with coordinating and harmonizing public policy on human rights. The Committee is made up of the following:

- Chairperson: the Minister attached to the Office of the Prime Minister with responsibility for human rights and combating extreme poverty;
- Minister for Foreign Affairs;
- Minister of Justice and Public Security;
- Minister of the Interior and Regional and Local Governments;
- Minister of Social Affairs and Labour;
- Minister for the Status of Women and Women's Rights;
- Minister of Public Health and Population;
- Minister of Culture;
- Minister of National Education and Vocational Training.

16. The Committee set up three subcommittees, grouped in accordance with the functions of the public institutions involved and the rights that they covered. Two other subcommittees are in place for the implementation of action decided upon. The three subcommittees set up to consider rights are:

- **Subcommittee on Economic, Social and Cultural Rights.** Areas of activity: rights of older persons, persons with disabilities, children and women; right to work, decent housing, health, education and food. Answering to the Subcommittee is the Evaluation and Cultural Promotion Unit, which deals with linguistic rights, copyright, freedom of conscience, freedom of religion, information and leisure;
- **Subcommittee on Protection of the Environment.** Areas of activity: access to water, right to the collective and equitable enjoyment of natural resources, promotion of public hygiene, management of catchment areas and protection of biodiversity;
- **Subcommittee on Justice and Public Security.** Areas of activity: right to freedom of assembly and association; right of persons deprived of liberty; right to security; right to a fair trial; and access to justice, by which is meant the provision of community-based, low-cost justice, in a language that is understood.

17. The Office of the Minister attached to the Office of the Prime Minister with responsibility for human rights and combating extreme poverty is actively working on a national human rights plan. A first draft of this document was submitted for the approval of the members of the Interministerial Committee on Human Rights in June 2014.

18. A whole range of activities is planned in connection with the drafting of this document, including a promotional campaign throughout the national territory,

consultations with civil society organizations and the organization of workshops to ratify the document. All comments and suggestions received will enable the Committee to finalize the plan, with help from consultants. The final document will be submitted to the President of the Republic and the Prime Minister. It is intended that the plan should provide for a human rights education programme.

Non-discrimination, equality between men and women (arts. 2, 3, 23 and 26)

19. There are not yet any comprehensive statistics on the implementation of the 30 per cent quota for women at all levels of national life since it entered into force. Nevertheless, data collected by various institutions show that significant progress has been achieved in this regard. Of the 17 positions of responsibility in the presidential administration, 10 are occupied by women, or 58 per cent. The Government has set up a multisectoral committee to monitor implementation of the constitutional provisions related to the 30 per cent quota for women in the public administration.

20. Moreover, on 2 December 2013, a parliamentary gender equity bureau was established. Its purpose is to ensure that all laws passed in Parliament give prominence to the issue of gender equality. The bureau will also serve as a platform for interaction between Parliament, women's associations and civil society. Its tasks will include monitoring implementation of the 30 per cent quota for women in the public administration.

21. The Ministry for the Status of Women and Women's Rights is working to finalize a gender equality policy applicable in all areas. In that connection, on 7 August 2013, the Cabinet approved the convening of the Forum of Directors-General of Ministries to discuss, inter alia, government policy on gender equality.

22. In order to reduce gender-based discrimination, the Ministry of Public Health and Population has launched various programmes to take into account gender-specific needs, in particular by strengthening the process of routine vaccinations for pregnant women and women of childbearing age and providing free antenatal consultations in public health facilities. Activities have also been carried out to raise awareness of gender equality among staff in the different health departments.

23. An awareness-raising campaign has also been organized by the Ministry for the Status of Women and Women's Rights, in partnership with the Ministry of National Education and Vocational Training and a number of publishing houses, on the subject of stereotypes in school textbooks. In April 2013, the Directorate-General of Legal Affairs was created within the Ministry for the Status of Women and Women's Rights. It is responsible, on the one hand, for providing support to female victims of gender-specific violence and, on the other, for reviewing discriminatory laws and texts and monitoring the implementation of treaties and conventions on women's rights.

24. The Paternity, Maternity and Filiation Act was promulgated in June 2014. It reinforces the principle of the equality of all children in legal matters, regardless of whether they are born to married couples or not, and breaks new ground in authorizing paternity and maternity actions, which were previously prohibited.

25. The Office of the Secretary of State for the Integration of Persons with Disabilities, established in 2007, works for the implementation of policies and programmes for the integration of persons with disabilities. Between March 2012 and 31 January 2014, the Office worked with partners from the State and civil society to enhance its institutional capacity and that of associations active in the disability field; facilitate access to both regular and specialized education and vocational training for more persons with disabilities;

improve access to social protection, employment and entrepreneurship for persons with disabilities; promote the construction of physical infrastructure accessible to persons with disabilities; promote and strengthen the legal framework for persons with disabilities; and facilitate access to health care and rehabilitation services for more persons with disabilities. The Government ratified two international conventions on the rights of persons with disabilities adopted by the United Nations and the Organization of American States (OAS).

26. The National Council for the Rehabilitation of Persons with Disabilities was operational from 1983 to 2007, after which its work was discontinued for some time. A presidential decree issued in October 2013 renewed the mandate of the eight Council members for a period of two years. The Act on the Integration of Persons with Disabilities was adopted by Parliament on 13 March 2012 and promulgated on 21 May 2012. It requires the Government to take measures to facilitate the inclusion of persons with disabilities in national life.

27. Moreover, a special education programme for persons with disabilities is being developed by the Ministry of National Education and Vocational Training.

28. A campaign has been conducted to raise public awareness of the rights and capabilities of persons with disabilities. Training workshops are organized for judges and students at the Judicial Training College. The Government has strengthened disabled persons' associations and is running a campaign to raise awareness of the need to apply universal accessibility standards and the right of persons with disabilities to work.

29. The Office of the Secretary of State for the Integration of Persons with Disabilities receives complaints of discrimination from persons with disabilities, who are provided with information enabling them to evaluate the legal options relevant to their case. It should be noted that, at present, the Office does not have the resources necessary to offer them legal support.

30. The Act on the Integration of Persons with Disabilities was adopted by Parliament on 13 March 2012 and promulgated on 21 May 2012. It requires the Government to take measures to facilitate the inclusion of persons with disabilities in national life. Following the inaugural government forum on inclusive public disability policies, the Prime Minister's Office issued Circular No. 15, reminding the various ministries of the urgent need to enforce the rights enshrined in the Act.

31. The Act has been translated into Creole and Braille, in cooperation with OAS and with the financial support of the United States Agency for International Development (USAID). An audio version has also been produced. Three thousand copies in Creole and French have been distributed across the country.

32. To meet the requirements of the Act, a bill to set up a national solidarity fund for the integration of persons with disabilities is currently being drafted.

33. An ad hoc committee was established to work in partnership with the Ministry of Public Works, Transport and Communication and OAS on a draft order on building standards that observed the principle of universal accessibility. This led to the creation of the Interministerial Disability Monitoring Committee, pursuant to the Order of 9 January 2014. The Committee's mission is to ensure the coordination and harmonization of public disability policies in order to facilitate access to physical infrastructure and public services for persons with disabilities.

34. A project is under way to bring the Haitian Labour Code into line with the Act on the Integration of Persons with Disabilities. Thanks to cooperation from Brazil and Cuba, the Ministry of Public Health and Population is in the process of establishing the Haiti Rehabilitation Institute. The Institute, which will be inaugurated in 2014, will offer rehabilitation services to the public and help train rehabilitation professionals.

35. In cooperation with OAS and with the financial support of USAID, more than 500 public officials and judges have received training in the implementation of the Act on the Integration of Persons with Disabilities, the system for the promotion and protection of disability rights under the United Nations and OAS conventions, and public policies. A partnership has been established between the State and a number of private institutions with a view to including a module on universal accessibility in the training curriculum for construction technicians.

36. On 17 September 2013, the Office of the Secretary of State for the Integration of Persons with Disabilities organized a job fair to bring together professionals with disabilities and potential employers from the private, governmental and non-governmental sectors. The fair was organized jointly by the Office and civil society organizations, including the Fondation J'aime Haïti (I Love Haiti Foundation), Junior Chamber International Haiti, the Haitian Chamber of Commerce and Industry, Christian Blind Mission and USAID. Ten persons with disabilities succeeded in finding a job on the day and, after the fair, the curricula vitae of another 67 persons were under consideration by a number of public and private employers.

37. The Government, with the support of the Office of the United Nations High Commissioner for Human Rights and, through the Aksyon Kolektif pou Sekirite kont Ekspwatasyon (AKSE) project, the Cooperative for Assistance and Relief Everywhere, is currently drafting the initial report of Haiti, to be submitted to the Committee on the Rights of Persons with Disabilities in the first quarter of 2014.

38. A programme entitled "*Kore Moun Andikape*" has been put in place to promote the rights of persons with disabilities. It provides for public subsidies for 25,000 persons with disabilities. The project, which was launched during the 2012/13 financial year with around 2,000 beneficiaries, should receive further support from the Economic and Social Assistance Fund during the 2013/14 financial year. This initiative is intended to support other measures to empower persons with disabilities. In this context, the Government has reiterated its commitment to making the integration of persons with disabilities one of the pillars of its social justice policy.

39. As part of Disability Awareness Week, which began on 29 November, the Unit for the Construction of Housing and Public Buildings handed over the keys to new adapted accommodation to 50 persons with disabilities, some of whom were internally displaced persons still living in the camps built after the 2010 earthquake.

40. The Government of Haiti has not taken any specific measures to eliminate discrimination against lesbian, gay and transgender persons, as they have not been subjected to constant persecution. Nevertheless, following the commission of isolated homophobic acts, representatives of lesbian, gay, bisexual and transgender (LGBT) rights organizations were received by the Minister of Human Rights, who publicly expressed her solidarity and called on the Haitian public to show tolerance towards them.

State of emergency (art. 4)

41. The Government declared a nationwide state of emergency on 31 October 2012, following Hurricane Sandy, which had hit the entire country. The state of emergency was extended for one month, from 5 December 2012 to 5 January 2013, and no Covenant rights were suspended during this period.

42. The provisions contained in article 278 ff. of the Constitution are in line with article 4 of the Covenant. A state of siege is declared in all or part of the country pursuant to a presidential decision that must be countersigned by the Prime Minister and the other

ministers and that contains an immediate convocation of the National Assembly to decide on the utility of the measure.

43. Article 278, paragraph 2, of the Constitution does not specify what constitutional guarantees may be suspended by the National Assembly and the executive branch. However, given that Haiti is a party to the Covenant, should such a situation arise, the provisions of article 4 of the Covenant would be taken into account. Even during the political turmoil between 2003 and 2004, the State never suspended any constitutional guarantees.

44. Following Hurricane Sandy, the Government declared a nationwide state of emergency on 31 October 2012, which was extended for one month, from 5 December 2012 to 5 January 2013. No Covenant rights were suspended under this measure, whose purpose was merely to simplify the administrative procedures required for the mobilization of financial resources.

Right to life (art. 6)

45. Extrajudicial executions are a criminal offence condemned by the Government. When such offences are reported to the authorities, the perpetrators are brought before the courts to be tried in accordance with the Criminal Code.

46. For example, three youths were allegedly shot dead by a police officer in the town of Croix-des-Bouquets in Ouest Department. Pursuant to a warrant requested by the prosecution service and issued by the relevant court of first instance, the police officer was arrested and the case was transferred to the investigation department for further legal proceedings. The police take all necessary measures to prevent summary executions. However, should such an incident occur, an administrative investigation would be conducted and the police would initiate further legal action.

47. According to figures from the National Institute of Statistics and Computer Science, annual population growth was approximately 1.5 per cent for a population of about 10.4 million in 2012, including 2.6 million women of childbearing age. According to the estimates of the World Health Organization, the United Nations Children's Fund (UNICEF) and the World Bank, maternal mortality fell from 620 per 100,000 live births in 1990 to 550 in 1995, 460 in 2000, 410 in 2005 and 350 in 2010, or a 43 per cent drop over 20 years. The 2013 statistical report produced by the Ministry of Public Health and Population reveals that, on the basis of data collected via the health information system, the rate is 157 maternal deaths per 100,000 live registered births.

48. United Nations estimates range from 210 to 610 maternal deaths per 100,000 live births in 2010. Although progress has been made, it remains insufficient, however, which highlights the need to step up the efforts of the various actors that have driven the positive trend in reproductive health care over the past five years.

49. Although the rates remain too low, the percentage of deliveries taking place in health-care centres between 2006 and 2012 rose from 25 per cent to 35.9 per cent; the percentage of deliveries by trained health-care providers grew from 26.1 per cent to 37.5 per cent; and the use of modern contraceptives increased from 24.8 per cent to 31 per cent of women aged 15 to 49 living with a husband or partner. The infant mortality rate was 59 per 1,000 live births in 2012.

50. The national total fertility rate is 3.5 children, whereas the number of children wanted is 2.0, which indicates a high level of unmet needs, especially among young people. The fertility rate of adolescent girls (aged 15–19) represents 11.78 per cent of the fertility rate of all women of childbearing age in 2012, as against 8.4 per cent in 2006.

51. Improvements are chiefly due to government action to enhance the country's ability to meet the population's primary needs and to fulfil its international commitments with regard to the Millennium Development Goals. Improvements to the range of services are:

- The recognition of maternal health as an entry point for the health-care system;
- The review and dissemination of care protocols in the event of complications during delivery;
- The in-service training of managers;
- The expansion of services provided by emergency obstetric and neonatal care centres;
- The establishment of the National Midwifery Institute;
- The expansion of the *Mère kangourou* (Kangaroo mother) training programme for newborn care;
- The expansion of services for the prevention of mother-to-child HIV transmission;
- The adoption of a policy on educating adolescents and youths about reproductive health.

Prohibition of torture and cruel, inhuman or degrading treatment (arts. 7 and 10)

52. The Inspectorate-General of the National Police received 22 complaints of abuse of power, including torture, during the 2013 calendar year. It interviewed the police officers concerned and made the appropriate recommendations, including dismissal of the culprits.

53. The Government has undertaken a legal reform, primarily of the Criminal Code and the Code of Criminal Procedure. A number of working groups have already drafted government bills and parliamentary bills to that end. President Michel Martelly set up a commission on 8 July 2013 to make reform proposals and review existing proposals and bills. Discussions are under way on including the offence of torture and cruel, inhuman or degrading treatment or punishment in these reforms.

54. Torture and cruel, inhuman or degrading treatment or punishment are currently punishable offences. Specifically, under article 293 of the Criminal Code, a person who physically tortures an arrested or detained person is liable to a sentence of hard labour for life.

55. The Government has taken a number of measures and set up various mechanisms in implementation of its policy to fight violence against women and girls, including:

- A bill on the prevention and elimination of violence against women and girls and the punishment of perpetrators has been drafted and will be submitted to Parliament at the next legislative session;
- A second national plan on combating violence against women and girls was adopted for the period 2012–2016;
- Strategic sectoral meetings are held regularly in order to strengthen the national consultation process on violence against women and girls;
- On 7 August 2013, the Council of Ministers approved the convocation of the Forum of Directors-General of Ministries in order to discuss such issues as government policy on gender equality;

- A project on housing for women and girl victims of violence, including the construction of a women's shelter, was carried out in the town of Gressier, in Ouest Department;
- An office for combating violence against women and girls was established on 27 November as part of events marking the International Day for the Elimination of Violence against Women. The office is a joint entity of the Ministry for the Status of Women and Women's Rights and the National Police.

56. In partnership with UN-Women, the United Nations Stabilization Mission in Haiti (MINUSTAH) and the United Nations Population Fund, the Government has taken a series of measures to reduce violence against women and girls in three camps for displaced persons, namely Caradeux, Pétion Ville golf club and Delmas 2.

57. Sessions have been held to raise camp dwellers' awareness of violence. Lamp posts have been installed to address the lack of lighting, which had been conducive to assaults.

58. Water tanks have been installed in the camps in order to limit the number of sexual assaults against girls travelling to water points located outside the camps.

59. The police have been provided with support to improve their interaction with victims of sexual violence. With the help of organizations devoted to combating violence against women, various training sessions have been held in police stations to teach male and female police officers how to care for women victims of violence. Furthermore, 450 female police officers have been trained in order to bolster police numbers.

60. With the support of the United Nations Development Programme (UNDP), the Government has also held a series of training sessions for a group of police officers who will become the National Police's gender focal points.

61. Article 2 of the Decree of 6 July 2005 stipulates that: "A person who commits the offence of rape or is guilty of sexual assault or attempted sexual assault using violence, threats, the element of surprise or psychological pressure against a person of either sex shall be liable to a sentence of 10 years' hard labour."

62. Corporal punishment is prohibited and is punishable under the Act of 10 September 2001, published on 10 October 2001 (Official Gazette 2001, No. 80).

Liberty and security of person

63. Article 26, paragraph 1 ff. of the Constitution provides for a swift procedure for a person who is arbitrarily arrested, namely habeas corpus. A number of the provisions of the Covenant have been taken into account in the planned reform of the Criminal Code. For example, the amended Code will contain definitions and penalties for crimes against humanity and genocide.

64. Between 1997 and 2014, the Government appointed 17 children's judges. Of the country's 18 courts, 13 currently have a children's judge.

65. The Ministry of Social Affairs, through the Social Welfare and Research Institute, has adopted post-detention measures to address some of the issues facing minors in conflict with the law. These measures include:

- Joint monitoring of cases with the Children's Court;
- Children's post-prison reintegration in family or institutional settings.

66. Efforts have been made to prevent the systematic detention of minors. A specialized centre for minors has been operating in Delmas 3 for a few months. In addition, a

reintegration centre for minors in conflict with the law (CERMICOL) was built and inaugurated in Delmas 33 (Ouest Department) in May 2011 and provides psychosocial care and education services. However, its capacity remains insufficient to meet the demand. The infrastructure and staff for a similar centre (CHARMICAL) have been put in place in Cabaret (Ouest Department), but funds are lacking for its actual opening.

67. As a rule, the Government has taken steps to keep minors separate from adults in detention centres countrywide. However, owing to a lack of financial resources, detention remains a common recourse for dealing with minors in conflict with the law. As part of its efforts, the Government has focused on training and appointing children's judges.

Treatment of persons deprived of their liberty (art. 10)

68. In order to alleviate prison overcrowding, the Ministry of Justice has established detention boards, made up of judges, State commissioners and civil society representatives, who consider detainees' cases and refer them to judges for prompt processing. Their efforts have led to a marked reduction in overcrowding.

69. The Government has undertaken the renovation of some of the country's prisons. For example, in Jérémie, the prison has been refurbished, the detention area has been increased by 90 square metres and a water tank has been built; at the Cayes prison, a cell for minors and a new women's block have been built; and a project is under way to extend the prison in Hinche, the capital of Centre Department.

70. The Government plans to move the national penitentiary in due course, as part of the reconstruction of the capital city.

Elimination of slavery and servitude (arts. 8 and 24)

71. In order to facilitate the enforcement of the provisions of the law banning all forms of abuse, violence, ill-treatment or inhuman treatment directed at children, the Government promulgated the Trafficking in Persons Act on 4 June 2014. The Act establishes a framework for prevention, the protection of victims and the prosecution of offenders.

72. In addition, the new Adoption Act, which is in conformity with the provisions of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, was published in November 2013. It contains substantial guarantees for the protection of minors deprived of their families for whom international adoption would be an alternative option.

73. In the same vein, the Government has launched the ratification process for the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

74. In order to raise public awareness of the harmful effects of the practice commonly known as *restavek*, a law is being drafted that would include a section on child labour. An awareness-raising campaign has been launched to discourage the use of children in domestic work. Furthermore, a system for reporting cases, especially of domestic work, trafficking and smuggling, has been set up, along with emergency hotlines (numbers 511 and 133) and the following e-mail address: enfantsvulnerables@gmail.com.

75. A round table to fight the use of children in domestic work has been set up, in addition to a tripartite commission comprising representatives of the Government, employers and trade unions, tasked with proposing solutions to child labour issues. Cases

of the ill-treatment of children are referred to the Minors' Protection Unit or the public prosecution service for further legal action. The Government also lends its support to national organizations that combat the use of children in domestic work, such as the Maurice Sixto Foundation.

76. The Government has set up a stable foster family system for child victims of trafficking for whom returning to their families is not an option. New rules on assisting vulnerable children were approved in November 2013. The Social Welfare and Research Institute now covers all 10 departments and has been instrumental in increasing the number of border guards.

77. Joint efforts are under way with the Dominican Republic to remove Haitian children from situations in which they have been trapped as victims of trafficking, such as domestic work, and the traffickers are often apprehended. The Government often returns child trafficking victims to their families.

78. Measures have been taken to monitor the travel of minors. A cooperation protocol was signed on 25 July 2012 between the Directorate of Immigration and Emigration, the Minors' Protection Unit and the Social Welfare and Research Institute to better monitor the movement of minors to foreign countries. Pursuant to the protocol, prior authorization from the Institute is required for children to exit the country. The Directorate will assist the Institute in monitoring all the documents permitting the entry, exit or transit of all children and their escorts by checking their validity and ensuring that any minors not accompanied by one or both of their biological parents hold a departure authorization issued by the Institute.

Imprisonment for debt (art. 11)

79. Imprisonment for debt is prohibited in Haiti, in keeping with the Inter-American Convention on Private International Law (Bustamente Code), to which the country is a party. There is currently no implementing legislation for this convention and there have been cases where creditors have claimed as fraud the non-payment of a debt in order to have the debtor imprisoned. The Ministry of Justice and Public Security has sent circulars to all the courts, calling for vigilance and reminding them of their obligation to enforce the provisions of the Bustamente Code by preventing all imprisonment for debt.

Freedom of movement, right to recognition as a person before the law and right to privacy (arts. 12, 13, 16 and 17)

80. The State has adopted several measures in order to provide lasting solutions for displaced persons who have been living in camps since the earthquake of 12 January 2010. Those measures include the Government's rehousing programmes, such as Programme 16/6, which is being implemented with the support of the United Nations Development Programme (UNDP), the United Nations Office for Project Services (UNOPS), the International Organization for Migration (IOM) and the International Labour Organization (ILO). This programme, which calls for the closure of six camps and the reconstruction of 16 neighbourhoods, involves three main areas of activity:

- Grants equal to one year's rent for displaced persons who are seeking to rent a house;
- Support for the demolition of houses classified as unsalvageable ("red houses") by the Ministry of Public Works, Transport and Communication after the earthquake.

This support takes the form of grants for the removal of debris and a basic grant amounting to the equivalent of US\$ 6,000 for reconstruction;

- Restoration of houses classified as being reparable (“yellow houses”). Whichever solution is chosen, a resettlement grant of 20,000 gourdes is given to all families who decide to leave the camps.

81. The authorities, accompanied by a district judge and the mayor of the corresponding commune, carry out night-time inspections to determine which families are actually living in the camps and are therefore eligible for a grant. In cases of group housing, one grant is allocated per family. If it is an extendible dwelling (a core house that may be extended with additional storeys), the grant allocated to each family is larger. Once it has been ascertained that people are eligible for the grants, they are normally given 72 hours to relocate.

82. The Government does not carry out or advocate forced evictions. Nevertheless, it recognizes that some individuals have carried out forced (and sometimes violent) evictions from camps located on private property. In order to prevent any repetition of this type of situation, the Government has instructed the public prosecutor’s office to postpone the execution of eviction orders against displaced persons living in the camps.

83. Another mechanism designed to provide a lasting solution for displaced persons is the 400/100 Programme, which involves the construction of 400 social housing units in 100 neighbourhoods with the support of the Inter-American Development Bank (IDB).

84. A programme to construct 3,000 social housing units is also being carried out. Of those 3,000 units, 1,280 have already been completed. The first phase began with the construction of 120 houses, and the keys to those houses were handed over to their new owners on 16 May 2013. The work is due to be completed by the start of 2015. Social infrastructure and modern housing principles have been mainstreamed into the construction project, and each new community has an elementary school, health centre, police station and fire station in order to provide accessible services for the population.

85. Persons who lost their identity documents in the aftermath of the earthquake or who did not possess them have received new ones thanks to arrangements made by the Ministry of Justice and Public Security, which instructed State commissioners, district judges and civil registry agents to issue duplicate birth certificates to persons who lacked them upon the submission of an affidavit from the district court of their place of residence. Additionally, the national archives set up a crisis centre that can provide members of target groups with an extract of their birth certificate. It should also be noted that a person unable to present his or her birth certificate is not automatically considered to be stateless in Haiti.

86. Because of the country’s economic difficulties, many Haitians choose to emigrate without having the corresponding documentation and are sometimes forcibly repatriated by authorities in other countries. The National Migration Office of Haiti promotes the reintegration of these repatriates by providing timely assistance in the form of a basic package of services that include temporary accommodation, food, clothing, medicine and psychosocial support, together with a travel stipend for a maximum period of 48 hours to allow them to return to their region of origin.

87. Particular attention is devoted to persons with special needs (the injured, separated families, unaccompanied children, pregnant women and persons with disabilities).

88. The Social Welfare and Research Institute (IBESR) and the Ministry for Women’s Affairs and Women’s Rights work together to reintegrate repatriated unaccompanied children and women in difficulty into Haitian society.

Independence of the judicial system, right to a fair trial (art. 14)

89. The right to a fair trial is upheld by the existence of an independent judicial system. The Haitian Government recognizes the importance of this principle and has taken steps to ensure that it is respected. To that end, the High Council of the Judiciary has been established and amendments to the Criminal Code and the Code of Criminal Procedure have been drafted.

90. A group of Haitian experts, supported by members of the Justice Section of the United Nations Stabilization Mission in Haiti (MINUSTAH), is currently reviewing those two legal codes to determine what changes are called for. The Haitian experts were appointed by order of the President of Haiti.

91. The group's work has been hindered by difficulties in finding a permanent meeting place. However, following the construction of a prefabricated meeting site at the Ministry of Justice and Public Security, the group is expected to make faster progress in carrying its work forward.

92. Additionally, the Legal Service Training College continues to provide initial and in-service training courses for judges. The Ministry's initiative for rotating judges among the different district courts has not been continued because of financial constraints. However, between 2010 and 2012, 39 satellite courts were set up in different communal sections.

93. The Haitian Government remains committed to making justice accessible to the population. In order to increase its accessibility, the Government has created four legal aid bureaux in the Ouest Department. Given that the majority of the Haitian population speaks Creole, which is one of the country's official languages, Creole is used in the courts. However, few laws have been translated into Creole.

94. In view of the large number of complaints that have been received regarding the free and compulsory universal education programme, the Directorate-General of the Anti-Corruption Unit (ULCC) has been tasked by the Prime Minister with conducting an assessment of the schools participating in this programme.

95. Of the 5,945 schools (with a total student body of 610,481 children) appearing on the list given to ULCC, 3,345, or 56 per cent, have been assessed, and a second assessment was found to be necessary in the case of 274 of those institutions. On 6 June 2012, the Government established an inter-agency committee, chaired by the Directorate-General of ULCC, to combat tax evasion, smuggling, money laundering and corruption with a view to increasing fiscal and customs revenues. The anti-smuggling operations carried out in different areas allowed a total of 40,277,606.19 gourdes to be returned to the public treasury between January and December 2012, and 64,911,620 gourdes were collected between January and November 2013, which amounted to an increase of 24,634,014 gourdes for that year.

96. The committee's activities include:

- Training 125 new customs officials;
- Drawing up a plan for strengthening security and oversight structures in all ports open to foreign trade;
- Redeploying mixed anti-smuggling teams throughout the country and increasing the number of officers from 12 to 18 in August 2013 and from 18 to 36 in October 2013;
- Making daily inspections of warehouses, storehouses and businesses suspected of dealing in contraband;

- Erecting fencing and barriers at the Belladère customs office to help to counter smuggling and corruption.

97. With the support of the European Union and UNDP, the Haitian Government will provide ongoing support to the permanent mechanisms of the High Council of the Judiciary in order to build up its institutional capacities for the performance of its role as the oversight authority for the nation's courts, in particular by:

- Implementing a procedure for identifying the High Council's capacities and drafting a capacity-building plan;
- Leveraging internal and external oversight mechanisms, providing technical support for the establishment of a certification process for judges, and helping to set up information-management systems and training programmes for members of the High Council and judges;
- Building the capacities of the Administrative and Budgetary Directorate.

98. Once it is running smoothly, the High Council will constitute a fully independent arm of the judiciary that will be able to ensure respect for the principles that underpin the proper administration of justice. These principles include:

- The appointment of judges on a meritocratic basis;
- Respect for the independence of the judiciary and judges' security of tenure;
- Mechanisms for monitoring, disciplining and sanctioning judges;
- Consistency in the delivery of initial and in-service training for judges.

99. As part of its effort to professionalize the national police force, the Haitian Government has given the United Nations a mandate to assist it in doing background checks on its members. To date, a total of 4,736 files have been vetted, and recommendations have been made for the discharge of 130 police officers from the force. These police officers have access to domestic remedies through the General Inspectorate of the National Police and the Office of the Ombudsman (Office de la Protection du Citoyen).

100. Human, material and financial resources have been allocated to the General Inspectorate of the National Police in order to ensure its efficiency and independence. In 2013, its workforce comprised 131 police officers, including 32 senior officers, and 231 administrative staff. The Inspectorate's material resources include 30 vehicles and educational, logistical and information technologies. In addition to the general budget of the police force, an additional 4,134,569.03 gourdes in working capital was allocated to the Inspectorate for 2013.

Freedom of thought, conscience and religion (art. 18)

101. Freedom of religion is recognized in Haiti and enshrined in Haitian legislation. All religions may be freely practised in Haiti so long as this does not disturb peace and order. Current legislation sets out the procedure to be used to register Catholic, Protestant and Voodoo congregations with the public authorities. However, there is a legal vacuum regarding the registration of other religious groups. The Ministry of Religion is looking into the possibility of submitting a draft bill designed to fill this vacuum.

102. Several measures have been adopted to combat discrimination on the basis of religion. When a violation of freedom of religion is brought to the attention of the Ministry of Religion, it takes appropriate steps to address the problem. However, some cases fall under the jurisdiction of the courts. For example, courts in Jérémie, the capital of the Grande Anse Department, heard cases involving attacks on Voodoo priests by a mob

claiming that they had cast a spell to spread cholera. Criminal charges were brought and five persons were arrested, two of whom were later convicted.

Freedom of opinion and expression (art. 19)

103. Freedom of expression is guaranteed, and the scope of the current law on press freedom is broad enough to support its effective enjoyment. When attacks on journalists are made known to the authorities, inquiries are carried out and appropriate steps to address the situation are taken. For example, in the case of journalist Wendy Phell, who was brutally attacked by a security officer who was on the staff of the mayor of Thomonde Commune (Centre Department), the Ministry of the Interior and Regional and Local Governments, to which the case was referred, carried out an investigation and suspended the mayor from his duties while awaiting the court's decision.

104. Fourteen years ago, journalist Jean Léopold Dominique and a security guard were killed outside the premises of the Haïti-Inter radio station in Delmas. The case was referred to the Haitian justice system, which has not yet initiated proceedings. The case has never been closed, however, and, following successive investigations led by different judges, the persons accused of this crime were ordered to stand trial in January 2014.

105. The lawyers for the defendants have appealed the order and the Port-au-Prince appeals court, to which the case was referred, has opened inquiries. One of the suspects, Markington Philippe, who had been residing in Argentina, was arrested and deported at the request of the Haitian justice system so that he could be questioned by the judges assigned to the case.

106. The persons suspected of having murdered Brignol Lindor on 3 December 2001 and Jacques Roche, whose body was discovered on 15 July 2005, were tried and convicted by the Haitian courts.

107. In accordance with article 313 of the Haitian Criminal Code, "Anyone who attributes to any person whatsoever acts injurious to his honour and standing by means of a statement made in a public place or gathering, a publication or a document posted, sold or distributed in printed form or otherwise shall be deemed guilty of defamation."

108. In accordance with article 316 of the Code, issued by decree on 13 June 1950, those found guilty of defamation shall be sentenced as follows:

If the act ascribed to the other party would merit the death penalty or forced labour for life, the guilty party shall be sentenced to from 1 to 3 years' imprisonment and a fine of between 300 and 1,500 gourdes. In all other cases, the guilty party shall be sentenced to between 6 months' and 1 year's imprisonment and a fine of between 100 and 500 gourdes (Criminal Code 9, 10, 26 et seq., 36).

109. Complaints of defamation are somewhat rare and are generally resolved through an amicable agreement between the parties concerned.

Freedom of assembly and association (arts. 21 and 22)

110. Complaints are sometimes lodged concerning excessive use of force by police officers when dispersing demonstrators. Such complaints are investigated by the General Inspectorate of the National Police. The State attaches great importance to the protection of human rights defenders, and the authorities therefore exercise due diligence in responding to requests from the Inter-American Commission on Human Rights for the adoption of measures to protect organizations and individuals defending human rights.

111. The investigation into the murders of Daniel Dorsinvil and Girdy Larêche on 8 February 2014 revealed that they were victims of an armed robbery unconnected to their activities as human rights defenders. A suspect has been arrested in connection with the case.

112. A determined effort has been made to address the problem of sexual violence. For example, the coordinator of an organization that combats sexual violence in Haiti and assists victims (KOFIVIV) was herself a victim of a series of acts of violence and intimidation. She lodged complaints to that effect on 11 and 17 September 2013, and on 24 February 2014 a suspect was arrested.

113. The coordinator of an organization defending the rights of lesbian, gay, bisexual and transgender persons (KOURAJ) became the target of acts of intimidation and death threats in July 2013. A complaint was lodged on 3 December with the investigative office of the court of first instance of Port-au-Prince, and an investigation into the case has been launched.

The rights of the child (art. 24)

114. In June 2012, the Republic of Haiti ratified the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption and amended its law on adoption, which dated from 1974, accordingly. A new law on adoption came into force in November 2013. Under the new law, private adoptions are no longer permitted in Haiti.

115. Requests must now be submitted directly to IBESR by families that wish to adopt a child or their legal representatives in the case of national adoptions, or by an approved adoption agency in the case of international adoptions. Neither the families nor accredited institutions are authorized to choose children for adoption. It falls to the Haitian State, through IBESR, to decide on the adoptability of a child and to match him or her with an adoptive family before continuing with the corresponding court proceedings.

116. This approach safeguards the best interests of the child and underpins cooperation between States in connection with international adoptions and the prevention of child trafficking.

Participation in public affairs (art. 25)

117. Circular No. 2013-0001 on recruitment, adopted by the Council of Ministers on 1 December 2013, reminds all those concerned of the legal requirement that recruitment in the civil service must be based on competitive examinations. Appointments of civil servants are often blocked by the Human Resources Management Office if evidence has not been provided that a competitive examination has taken place.

Dissemination of information relating to the Covenant (art. 2)

118. The Covenant was published in issue No. 2 of the official gazette (*Le Moniteur*) on 7 January 1991. It has not yet been translated into Creole. Civil society organizations participated in a workshop held in 2012 in Port-au-Prince to discuss the draft of the initial report of Haiti. During the workshop, thematic groups focused on the different subjects dealt with in the report. Their perspectives and opinions were then shared with the other participants during a plenary meeting. A number of their recommendations were incorporated into the final version of the report.

Conclusion

119. The Republic of Haiti faces many constraints that limit its ability to ensure the full application of the Covenant in its territory. Nevertheless, despite its limited means, the Government is firmly committed to promoting the rule of law.
