



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

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

**Initial reports of States parties**

**Haiti\***

[3 December 2012]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## I. Introduction

1. This document — the initial report of the Republic of Haiti — has been drafted in conformity with article 40 of the International Covenant on Civil and Political Rights, adopted in 1966.
2. The report takes into account the guidelines laid down by the Human Rights Committee in November 2010 and covers a twenty-one year period, from 1991 to 2012.
3. The drafting of the document, under the supervision of the Prime Minister's Deputy Minister for Human Rights and Extreme Poverty, was carried out by a select inter-institutional committee consisting of representatives of the Ministry for Foreign Affairs, the Office of the Prime Minister and the Ministries of Justice, the Interior and Regional and Local Governments and the Status of Women and Women's Rights.
4. Aware of the importance of promoting human rights, the President of the Republic of Haiti, Mr. Michel Joseph Martelly, and the Prime Minister, Mr. Laurent Salvador Lamothe, are committed to ensuring that human rights, particularly civil and political rights are upheld and protected in Haiti.
5. The report highlights, on the one hand, the demographic, economic, social and cultural characteristics and evolution of institutions in the country and, on the other, the efforts made by the Haitian Government to ensure that the provisions of the International Covenant on Civil and Political Rights are fulfilled.

## II. General information about the Republic of Haiti

### Geographical, economic, social and cultural characteristics

6. The Republic of Haiti is located in the western portion of the island of Hispaniola, which it shares with the Dominican Republic. It is bordered on the east by the Dominican Republic and surrounded on all other sides by the Atlantic Ocean and the Caribbean Sea. The country occupies 36 per cent, or 27,750 km<sup>2</sup>, of the island's surface area on its western side and consists of two peninsulas separated by the Gulf of Gonâve, which contains the Island of Gonâve, the largest of the islands off the Haitian coast. The other islands are Tortuga to the north, Vache to the south-west and Navase. The Republic of Haiti is divided into 10 major administrative divisions or departments (*départements*), 42 subdivisions or districts (*arrondissements*), 140 third-tier divisions (*communes*) and 565 fourth-tier divisions (*sections communales*).
7. Haiti has a tropical climate. The rainy season lasts from April to June and October to November, while the hurricane season lasts from June through the end of November. The country is frequently exposed to torrential rainfall and hurricanes.
8. According to a 2009 census estimate, Haiti's population numbers approximately 9,923,243, 43.6 per cent being residents of urban areas. Most of the population is Christian, although Vodou (Voodoo) is also practised. The capital, Port-au-Prince, is the largest urban area, with nearly 2,300,000 inhabitants (2009 estimates), followed by Cap-Haïtien with 250,000. Around 80 to 85 per cent of the Haitian population is of African descent; the remaining 15 to 20 per cent is of mixed race or European origin (French, Italian, German, Polish, Portuguese and Spanish). A very small percentage of the population is of Arab, Armenian, Jewish, East Indian or East Asian origin.

9. Haiti's main natural resources are bauxite, copper, calcium carbonate, limestone, gold and marl, though only bauxite and gold extraction takes place on a large scale, for marketing purposes.

10. Most of the population — two thirds of all those of working age — is employed in the agricultural sector. The agricultural exploitations are chiefly small-sized subsistence farms on which coffee beans, cacao, sisal, cotton and mangoes are the main export products, while maize, rice, millet and fruits are produced for the domestic market.

11. Most of the country's industrial activity takes place in the capital, Port-au-Prince, where the principal products are electrical components, textiles and baseballs.

### **The emergence of democracy in 1986**

12. The Covenant was signed in 1991 against the background of emerging democracy in Haiti after the fall in 1986 of the dictatorship that had reigned for nearly 30 years. However, since ratifying the Covenant, Haiti has undergone periods of political instability (coups d'état, popular uprisings, political crises, etc.) which have impinged on the enjoyment of the rights guaranteed in the Covenant.

13. Violations of the Covenant were particularly intense in two periods: from 1991 to 2004, at the time of a military coup, and from 2003 to 2004, during what was essentially a civil war after political demonstrations sparked a series of events culminating in the resignation of President Jean Bertrand Aristide.

14. In the anarchy that prevailed after the departure of President Aristide, the United Nations Security Council, judging the situation in Haiti to be a threat to peace and security in the region, decided, in resolution 1542 (2004) of 30 April 2004, to set up the United Nations Stabilization Mission in Haiti (MINUSTAH).

### **Legal, political and institutional framework**

#### *(a) Political regime*

15. Haiti is a democratic republic in which there are three independent branches of government: the legislature, the executive and the judiciary. Although each of their roles is clearly defined in the Constitution of 10 March 1987, as amended in 2010, their interrelations are organized such that they interact to maintain a climate of political stability to ensure the smooth functioning of the country.

16. Executive authority is exercised in tandem by the President, who is elected for a five-year term by direct universal suffrage based on an absolute majority of votes (articles 134 and 135 of the Constitution) and the Prime Minister, who is selected by the President from among the members of the party that has the majority in Parliament (article 137 of the Constitution).

17. The President performs numerous functions, such as the nomination of the Prime Minister (art. 137), signature of treaties (art. 139), accreditation of ambassadors (art. 139.1) and institutional oversight. The Prime Minister conducts the policy of the nation and is answerable to Parliament under the terms established by the Constitution.

18. Legislative authority is exercised by two chambers, the upper chamber or Senate and the House of Deputies or lower chamber, which together make up the legislative branch. The two chambers work together in voting on draft legislation proposed by the executive and may themselves develop and propose legislation.

19. Judicial authority is vested in the Court of Cassation, the country's highest judicial institution, the appeals courts, the courts of first instance and the district courts. Judges of

the Court of Cassation, numbering 10, are appointed by the President for a period of 10 years; other judges are appointed for a 7-year period. The Court of Cassation does not rule on the merits of a case. A Constitutional Court was set up by an amendment to the Constitution in order to safeguard the constitutionality of the legislation (art. 190 bis).

(b) *Administrative and judicial institutions for the protection of human rights*

20. Haiti has continued the work begun in 1986 to form a State based on the rule of law through the creation and consolidation of institutions. These include several institutions that work for the protection of human rights, such as:

(a) The Office of the Ombudsman, established by the Constitution of 1987, has the task of protecting persons from all forms of administrative abuse;

(b) The Ministry for the Status of Women and Women's Rights, established by decree on 8 November 1994, is the central institution responsible for designing, defining and applying the State's policies regarding the status of women and women's rights. Its main functions are to work towards the formation of a gender-egalitarian society and to provide guidance in drawing up and carrying out equitable public policies at the national level;

(c) The Ministry of the Environment, set up in November 1994 with a view to promoting sustainable development and environmental protection and to safeguarding the right to healthy living conditions for all;

(d) The Secretary of State for the Integration of Persons with Disabilities, created by presidential decree in May 2007, has the main task of taking action to prevent disabilities and to integrate persons with disabilities;

(e) The National Registry Office, established by decree in 2005, has the functions of ensuring that Haitians are registered at birth and of maintaining the National Registry;

(f) The National Migration Office, established by decree in March 1995, has the main task of assisting persons repatriated to Haiti through refoulement and for economic reasons;

(g) The National Drug Control Commission (CONALD), the Financial Data Unit (UCREF) and the Anti-Corruption Unit (ULCC), established in 2001 and 2004, respectively, to deal with crimes such as corruption, money-laundering and illicit drug trafficking that undermine the full enjoyment of certain human rights;

(h) The Supreme Council of the Judiciary, established by legislation in November 2007, an institution responsible for safeguarding judicial independence;

(i) The Office of the Deputy Minister for Human Rights and Extreme Poverty, who was appointed in May 2012;

(j) The Office of the Deputy Minister for Small Farming, who was appointed in May 2012.

21. The Haitian legal system consists of:

(a) The Court of Cassation, which is the highest court in the country and is made up of a president, a vice-president and 10 judges appointed by the executive and legislative branches;

(b) The Constitutional Court, which rules on the constitutionality of laws, regulations and administrative acts; established by an amendment to the Constitution in 2010, this Court is not yet operational;

(c) The Appeals Courts, numbering 5 and serving the country's 10 geographical regions (*départements*);

(d) The Courts of First Instance, numbering 18;

[(e) missing]

(f) The High Court for Oversight and Administrative Proceedings, which performs audits and accounting on the national and regional budgets and also serves as an administrative tribunal;

(g) The special courts, numbering three: the Labour Court, the Minors' Court sitting in Port-au-Prince and the Land Use Court sitting in Gonaïves;

(h) The local courts in police stations, numbering 185 and distributed throughout the country's 165 *communes*.

22. The Senate may assume the functions of a Supreme Court of Justice to judge the President of the Republic for the crime of high treason or any other crime or offence committed while in office; the Prime Minister and Ministers and Secretaries of State, for the crimes of high treason and misappropriation, abuse of power or any other crimes or offences committed while in office; members of the Standing Electoral Council and of the High Court for Oversight and Administrative Proceedings, for serious offences committed while in office; judges and officers of the Court of Cassation, for serious abuses of their position; and the Ombudsman.

23. There is a prosecution department for each court, headed by a State commissioner and deputy commissioners. There are also prosecution departments for each level of the judiciary (the Court of Cassation, the Appeals Courts and the Courts of First Instance).

(d) *International commitments in the human rights field*

At the regional level

24. Haiti is a party to a number of regional instruments within the framework of the Organization of American States such as:

(a) The Inter-American Convention on the Granting of Political Rights to Women, ratified on 5 August 1957;

(b) The American Convention on Human Rights, ratified on 18 August 1979;

(c) The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, ratified on 3 April 1996;

(d) The Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, ratified on 29 May 2009.

25. In addition, Haiti recognizes the competence of the Inter-American Court of Human Rights and works closely with the Inter-American Commission on Human Rights.

At the international level

26. Haiti has signed the Universal Declaration of Human Rights and is a party to a number of international human rights instruments within the United Nations system, such as:

(a) The International Covenant on Civil and Political Rights, ratified on 23 November 1990;

- (b) The Convention on the Elimination of All Forms of Discrimination against Women, ratified on 7 April 1981;
- (c) The Convention on the Political Rights of Women, ratified on 31 July 1957;
- (d) The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, ratified on 2 September 1957;
- (e) The Convention on the Rights of the Child, ratified on 23 December 1994;
- (f) The International Convention on the Elimination of All Forms of Racial Discrimination, ratified on 19 December 1972;
- (g) The Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, ratified on 23 July 2009;
- (h) The Convention against Discrimination in Education, ratified on 15 October 1984;
- (i) The Convention on the Recovery Abroad of Maintenance, ratified on 31 July 1957;
- (j) The Convention on the Prevention and Punishment of the Crime of Genocide, ratified on 21 August 1950;
- (k) The International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182), ratified on 19 July 2007;
- (l) The ILO Abolition of Forced Labour Convention, 1957 (No. 105), ratified on 26 September 1957;
- (m) The ILO Labour Inspection Convention, 1947 (No. 81), ratified on 23 July 1951;
- (n) The ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), ratified on 16 February 1979;
- (o) The ILO Workmen's Compensation (Accidents) Convention, 1925 (No. 17), ratified on 20 May 1954;
- (p) The ILO Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), ratified on 18 June 1954;
- (q) The ILO Sickness Insurance (Agriculture) Convention, 1927 (No. 25), ratified on 20 May 1954;
- (r) The ILO Minimum Age Convention, 1973 (No. 138), ratified on 3 June 2009.

27. The International Covenant on Economic, Social and Cultural Rights and the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption have been ratified at the domestic level and the corresponding instruments of ratification will be deposited in due course.

### **III. Implementation of the International Covenant on Civil and Political Rights**

#### **Article 1 Right to self-determination**

(1) *Self-determination*

28. The right to self-determination is proclaimed in the preamble to the Constitution, which cites the Act of Independence of 1804 and the Universal Declaration of Human Rights of 1948. The preamble also states that the Haitian people proclaimed the Constitution in order to “establish a strong and stable State, capable of protecting the country’s values, traditions, sovereignty, independence and national vision”.

(2) *Ability to freely dispose of natural wealth and resources*

29. Under the Civil Code, the natural wealth and resources both above and below ground in the territory of the Haitian State are its property. However, concessions may be granted to private enterprises with a view to ensuring equitable exploitation of such resources.

#### **Article 2 Implementation of the Covenant at the national level**

30. The Covenant was ratified and published in the official gazette, “*Le Moniteur*”, on 7 January 1991; this gives it precedence over domestic law, according to article 276-2 of the Constitution. The Constitution also refers to the enjoyment of some of the rights detailed in the Covenant, such as the rights to life, security, property, freedom of expression, freedom of conscience and freedom of assembly and association.

31. A decree dated 4 February 1981 on acts of racial discrimination criminalizes any discriminatory treatment of a person on grounds of origin, gender, family situation, political convictions or affiliation with a given ethnic group, nationality, race or religion.

32. Access to justice is guaranteed by the Constitution (arts. 173.1 and 184) and by several laws on the organization of the judicial system and safeguarding of its independence, such as:

- The decree of 22 August 1995 on the organization of the judicial system, amending the decree of 18 September 1985;
- The Act of 3 May 2003 on the establishment of new Courts of First Instance;
- The Act of 2 August 2007 on the statute of the judiciary;
- The Act of 13 November 2007 establishing the Supreme Council of the Judiciary.

#### **Article 3 Ensuring equal rights of men and women with regard to civil and political rights**

33. While the 1950 Constitution had accorded to both men and women the full exercise of their political rights, it had included a restriction by subordinating women’s exercise of

such rights to spousal authorization and by limiting its free and full exercise to municipal elections alone. Subsequent reforms have gradually fostered gender equality in this area.

34. The 1950 Constitution allowed for a three-year time lapse before women could fully exercise their political rights; they were able to vote for the first time and become candidates for political office in 1957. In 1961, the Labour Code was amended to ensure gender equality in employment and remuneration.

35. Gender equality thus remains a major challenge, despite the progressive measures adopted by the State. These include:

- Articles 28, 32 and 32.1 of the Constitution currently in force, amended in 2011, unequivocally proclaim the principle of equality of men and women before the law and in the protection and enjoyment of human rights; the above-mentioned amendment establishes a quota of at least 30 per cent of women in decision-making posts in both the public and private sectors; the current Government has led the way with an administration consisting of at least 40 per cent women;
- Prior to 2005, under article 279 of the Criminal Code, rape was regarded as a crime, but the penalties were hardly very severe. The decree of 6 July 2005, which modified the regime for sexual aggression, abolished discrimination against women by maximizing the penalty for rape and decriminalizing adultery. Nevertheless, this decree did not give a precise definition of rape and did not mention spousal rape;
- Prior to the decree of 8 October 1982, a married woman was considered a minor. She could neither take part in court proceedings nor engage in commercial activity without authorization by her spouse. The decree accorded women full legal capacity; provided for joint management of property in common and exercise of parental authority; and enabled women to cite adultery as grounds for divorce under the same conditions as men. All those provisions ensured legal equality between men and women;
- Gender equality was taken into account in the Electoral Act of 2005;
- Parliament adopted the Male and Female Domestic Workers Act in 2008;
- Parliament adopted the Paternity and Filiation Act on 12 April 2012.

36. Nevertheless, numerous challenges are faced by the authorities in achieving real gender equality in Haiti. First, sexist stereotypes cultivated in the home and often internalized by women themselves lead to discrimination that sometimes results in violence against women. Secondly, women's representation in decision-making quarters is among the lowest in the region. Political life is virtually dominated by men, both in the Government and Parliament and in regional administrations and political parties, despite the fact that there is no legal impediment to women's performance of these functions.

37. Women's organizations regularly publicize alarming figures on sexual violence, to which a large number of Haitian women apparently fall victim. However, the absence of reliable national statistics makes it difficult to corroborate or challenge these figures. Nevertheless, major efforts have been made by the authorities to encourage victims to have recourse to the courts. In view of the stigma attached to rape victims, however, cases of rape are not always reported to the police.

38. In view of the long, hard struggle of Haitian women's organizations and associations, the State has taken a number of steps to ensure respect for women's rights. Among these:

- In 1994, the State established the Ministry for the Status of Women and Women's Rights (MCFDF) with the main objective of working for the development of a just,

equitable and egalitarian society. The Ministry's task is also to provide guidance in developing and implementing policies and sectoral plans so as to incorporate a gender perspective into all national policies;

- In 2003, a tripartite institution called the National Dialogue on Violence against Women (*La Concertation Nationale contre les violences spécifiques faites aux femmes*), bringing together the State, civil society and international agencies, was set up. The Dialogue, whose purpose is to encourage coordination, even synergy, among the various initiatives under way to combat violence, especially sexual violence, against women, is coordinated by the Ministry for the Status of Women and Women's Rights;
- A pilot experiment was done in two police stations where specially trained policewomen were tasked with gathering complaints and directing female victims of violence to institutions for their care and treatment. A women's affairs coordinating body has been set up as part of the National Police;
- An agreement on the issuance free of charge of a medical certificate was signed by the Ministry of Public Health and Population (MSPP), the Ministry of Justice and Public Security (MJSP) and the Ministry for the Status of Women and Women's Rights (MCFDF);
- The Directorate for Gender Mainstreaming (DPAG) was set up in 2005 to ensure that a gender perspective was integrated into public policies;
- In 2006, focal points were attached to ministries so that they might promote gender equality in their development activities or projects;
- A National Plan to Combat Violence against Women was developed and implemented from 2006 to 2011;
- An awareness-raising campaign on sexual stereotypes and stereotypes in schoolbooks was carried out in 2007;
- A gender-sensitive budgeting committee, composed of men and women, was set up in 2009.

#### **Article 4**

##### **Measures in times of public emergency**

39. The Haitian Constitution permits the President to declare a state of siege in the event of civil war or invasion by a foreign force. The act declaring a state of siege must be countersigned by the Prime Minister and contain an immediate convocation of the National Assembly to decide on the utility of the measure (art. 278-1).

40. The National Assembly decides with the Executive Branch which constitutional guarantees may be suspended in the parts of the territory placed under a state of siege (art. 278-2). The state of siege is lifted if it is not renewed by a vote of the National Assembly every 15 days after its entry into force (art. 278-3).

41. An Act of 8 April 2010, amending the Act of 9 September 2008, governs the institution of a state of emergency. According to article 3, "A state of emergency may be instituted in all or part of the national territory when necessitated by an actual or imminent natural disaster, in order to protect persons, property, the environment or infrastructure through immediate action which the competent authorities consider cannot be taken effectively under the normal rules for the functioning of public institutions or within the framework of the National Risk and Disaster Management Plan."

42. The state of emergency is declared by the President or, where this is impossible, by the Prime Minister, through a decree adopted by the Council of Ministers. Complaints may be lodged with the High Court for Oversight and Administrative Proceedings regarding the measures taken during the state of emergency. The Government is required to submit to the legislative branch a report on the disaster and the various measures adopted within three months of the lifting of the state of emergency.

## **Article 5**

### **Prohibition of any interpretation of the Covenant contrary to its objectives**

43. In September 1991, a coup d'état brought to power a military regime that remained in power until October 1994. Many measures that derogated from the rights and freedoms guaranteed in the Covenant were adopted by the military during those three years, and a report (CCPR/C/105) was submitted to the Human Rights Committee by the Haitian Government after the return to power of the lawfully elected President in October 1994. Other periods of political crisis, particularly from 2003 to 2004, were likewise conducive to the violation of certain rights and freedoms. Nevertheless, no judicial decision has been taken to date based on an interpretation of the Covenant that is contrary to its purposes.

## **Article 6**

### **The right to life**

44. The right to life is enshrined in the Haitian Constitution, which abolished the death penalty in all cases. It was replaced by forced labour for life under a decree dated 4 July 1988.

45. During the military dictatorship, on 22 April 1994, a group of supporters of President Aristide were tortured and killed by civilians and paramilitary forces in the Raboteau quarter of Gonaïves, a city on the north-west coast of the country. The persons killed during the attack number from 26 to 50, depending on the estimates. In 2004, a total of 59 persons were tried for their involvement in the massacre, but only 22 were in police custody at the time, and the remaining 37 were judged in absentia.

46. After a trial that lasted six weeks, the jury concluded that 16 of the 22 accused persons in custody were guilty of involvement in the massacre. On 16 November 2004, the 37 persons who were judged in absentia were sentenced to life imprisonment. However, under Haitian law, persons sentenced in absentia have the right to a new trial if they surrender themselves or are arrested. Moreover, the court ordered damages to be paid to the victims and their families in the amount of 1 billion gourdes (around US\$ 43 million).

47. Another major court case involving the right to life in Haiti was the so-called "Carrefour Feuilles" trial, named after one of the working-class districts in Port-au-Prince. Armed suspects who had allegedly committed offences and had retreated to that area were apprehended by the police, and some of them were executed. This led to trials in 2001 and 2002 that resulted in the conviction of police officers for summary executions.

48. Another event that demonstrated respect for the right to life by the Haitian Government is the trial of certain prison officials in Cayes, the third largest city, located in the south. On 19 January 2010, after the earthquake of 12 January, prisoners attempting to escape the prison were killed, in some cases by order of the law enforcement forces. A trial was accordingly held in the Court of First Instance of Cayes, starting on 18 October 2011 and ending on 14 December 2011. It resulted in the conviction of seven police officers and prison officials, eight convictions in absentia and six acquittals.

49. In order to put an end to such practices, the Haitian Government has strengthened the capacities of the General Inspectorate of the National Police and has trained police officers, including through the incorporation in their initial and continuing training curricula of courses on human rights and international humanitarian law. These initiatives were consolidated thanks to the assistance of the international community. The major trials just described reflect the will of the Government to ensure that the right to life is respected in all circumstances.

## **Article 7**

### **Prohibition of torture and other cruel, inhuman or degrading treatment**

50. Article 25 of the Haitian Constitution prohibits the use of any unnecessary force or restraint in the apprehension of a person or in keeping him under arrest or the use of any physical brutality, especially during interrogation. Similarly, under the decree of 4 July 1988, physical torture is deemed an aggravating circumstance in the crime of kidnapping. However, torture is not defined as an offence under Haitian law.

51. Aware of this problem, and in line with the recommendations made by the Human Rights Council in March 2012 after considering the report under the universal periodic review procedure in Geneva, the Haitian Government is committed to doing everything possible to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment without undue delay.

52. In late 2011, a prisoner being held at the police station at Pétion-Ville pending trial died as a result of ill-treatment during his interrogation. Once the authorities were informed of the situation, the governmental commissioner and the police commissioner of Port-au-Prince, who were at the scene, were relieved of their duties. The case was subsequently transferred to the Court of First Instance in Port-au-Prince for further legal processing. Based on the conclusions of a report issued by the Office of the Inspector-General of the National Police, the police commissioner and the officers who participated in the interrogation were arrested.

## **Article 8**

### **Prohibition of slavery**

53. Haiti's independence is the result of the sole successful slave rebellion in world history, which makes Haiti the first country in modern times to have abolished slavery. It later promoted the anti-slavery movement, which spread to all the countries on the American continent. Haiti has ratified a number of relevant international instruments, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

54. Slavery is non-existent in Haiti; however, in some cases certain children are given into domestic service de facto. This is because some impoverished families with a large number of children cannot ensure that they are all fed and educated. Since public institutions lack the necessary means to support all of these children, some of them are sometimes entrusted by their parents to other members of the family or to non-family members to enable them to enjoy a better standard of living. In most cases, these children are raised by relatives or by other families, attend a scholastic institution and are well treated. Many of them, on becoming adults, are able to earn a living wage and can help their own relatives. Sometimes this is not the case, however, and the children merely do domestic work in exchange for food alone, and they are sometimes mistreated.

Nevertheless, this phenomenon, called domestic labour by children, is in no way comparable to contemporary trafficking in persons.

55. There is no law or regulation that prohibits such labour and, while persons sometimes serve as intermediaries between families that wish to place children and those wishing to receive them, no organized “trafficking” in children, controlled by criminal networks, has been observed. Rather, the phenomenon stems from the tradition of family solidarity, with its emphasis on extended family, that is deeply rooted in Haitian culture. Although the number of children in de facto domestic service is small compared with those who are not with their biological family but are living a normal childhood, it is large enough to be a source of concern to the Haitian Government.

56. In order to provide protection to all children in general, the Haitian Government has taken a number of steps, including:

- The adoption of a law on the prohibition and elimination of all forms of abuse, violence and ill-treatment or inhuman treatment of children, which prohibits the use of children aged less than 12 years as domestic workers;
- The ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; draft legislation for the implementation of the protocol has already been submitted to Parliament.

## **Article 9**

### **The right to individual liberty**

57. Chapter II, Section B, of the Constitution is devoted exclusively to individual liberty. Article 24 states that individual liberty is guaranteed and protected by the State, while article 24-1 states that no one may be prosecuted, arrested or detained except in the cases determined by law and in the manner it prescribes.

58. Arbitrary arrest is prohibited in article 24-2 of the Constitution, which stipulates that no one may be arrested or detained other than by written order of a legally competent official. Article 24-3 details the substantive and formal requirements for the order to be carried out: it must be drafted in Creole and in French; legal notice must be given and a copy of the order must be left with the accused, who must be notified of his right to be assisted by counsel at all phases of the investigation of the case up, to the final judgment. Lastly, with respect to unlawful entry, the article provides that no search may take place between 6 p.m. and 6 a.m.

59. Article 25 of the Constitution prohibits any unnecessary force or restraint in the apprehension of a person or in keeping him under arrest and any psychological pressure or physical brutality, especially during interrogation.

60. Despite these provisions, individual liberty is not always fully respected in Haiti. Extended pretrial detention is common, despite the efforts made by the Government. This fairly persistent practice may explained, among other reasons, by the slow pace of proceedings, the paucity of the legal aid that should facilitate habeas corpus proceedings for persons without means and the lack of judicial oversight.

61. In order to rectify this situation, the Government has taken some administrative and legislative measures. Intersectoral commissions have been set up to analyse the situation and propose the appropriate steps to the judicial authorities in order to reduce the prevalence of extended pretrial detention. The work of these commissions has improved the handling of cases, multiplying the number of criminal court hearings and trials with and

without juries. As a result, more cases have gone to court. Nevertheless, the State is aware of the need to strengthen these institutions in order, if not to eliminate prolonged pretrial detention, at least to considerably reduce its prevalence. To achieve better results, the Haitian Parliament has adopted a law on habeas corpus which is about to be promulgated.

## **Article 10**

### **Persons deprived of liberty**

62. Article 44 of the Constitution provides that persons detained temporarily while awaiting trial must be held separately from those who are serving a sentence.

63. The way detainees are treated in prison is affected by the limited space accorded to each detainee. International standards call for 4.5 m<sup>2</sup> under normal circumstances and 2.5 m<sup>2</sup> in restricted circumstances; in Haiti, however, the space occupied per detainee is less than 0.6 m<sup>2</sup>, owing to prison overcrowding. Inadequate nutrition, poor health care and the underfunding and understaffing of prisons are other reasons for the unsatisfactory prison conditions in Haiti.

64. As regards the separation of persons awaiting trial and persons convicted, it is not always feasible, owing to the limited number and dilapidated state of prisons at present. Nevertheless, young persons are separated from adults, except in the case of girls, who share the same prisons as women.

65. In order to improve the situation, the Arcahaie prison, in a town located in one of the western administrative regions, was renovated in order to house a larger number of convicted prisoners. The Haitian Government, mindful of the need to respect the dimensions of space in prisons, has built or renovated the following prison facilities: the civilian prison in Hinche, which has a capacity of 300 detainees; the civilian prison at Croix-des-Bouquets, which was inaugurated to coincide with the International Day for Prisoners in late October 2012, and which has one toilet per detainee; the civilian prison at Carrefour, with a capacity of 604 detainees; the civilian prison at Cap Haïtien; and the prison at Port de Paix, in which a cell block for minors was built.

66. International standards were respected in the construction of all new prison facilities, and the same is true for renovated facilities, which conform at least to minimum standards.

## **Article 11**

### **Imprisonment for debts**

67. In accordance with the Convention on Private International Law, commonly known as the Bustamante Code, to which Haiti is a party, inability to fulfil a contractual obligation does not constitute grounds for imprisonment in Haiti. Judicial practice is in line with this provision of the Covenant, as is Haitian jurisprudence. However, at present there is no implementing act for the Convention or specific law on the subject.

## **Article 12**

### **Freedom of movement**

68. Articles 41 and 41.1 of the Constitution proclaim freedom of movement for all Haitians. Article 41 states: "No person of Haitian nationality may be deported or forced to leave the national territory for any reason. No one may be deprived for political reasons of his legal capacity and his nationality," and article 41-1 goes on to say: "No Haitian needs a visa to leave or return to the country."

69. Consequently, all Haitians are free to leave or return to the country, as attested to by the successive return of two former Heads of State, Mr. Jean Claude Duvalier and Mr. Jean Bertrand Aristide.

70. Articles 54 et seq. of the Constitution guarantee the right to freedom of movement for aliens lawfully residing in the country.

### **Article 13** **Expulsion of aliens**

71. The Constitution sets out the principle of freedom of movement of aliens in the territory of the country. An alien may be expelled from the territory only if he becomes involved in the political life of the country and in cases determined by law.

### **Article 14** **Equality before the law**

72. In Haiti, anyone whose rights have been violated may have recourse to the law, without any discrimination. In order to ensure due process, several means of redress are available. Any decision handed down by a court may be appealed until it is deemed to have been definitively adjudged.

73. Anyone who has been charged with a crime in Haiti has the right to a hearing by a competent court. However, the State rarely provides compensation to a person who has been the victim of judicial error. This is probably because the victims are not well acquainted with this principle, hence the lack of complaints of judicial error.

74. Persons who have been tried and sentenced for a given offence, even outside the country, are not retried in Haiti, as demonstrated by cases in which Haitians were returned to the country (*refoulés*) after having been tried and sentenced abroad.

75. Aside from the ordinary court system, there are a number of other jurisdictions, such as the administrative, headed by the High Court for Oversight and Administrative Proceedings, and the electoral, headed by the Electoral Council.

76. The decisions handed down by the High Court for Oversight and Administrative Proceedings are not always carried out, with the result that the beneficiaries depend, for their implementation, on the good will of the authorities that committed the violations. The Government is aware of the need to make this institution more effective.

77. Articles 173 to 184-1 of the Constitution outline the jurisdiction of the judicial system in general and of the various permanent courts in particular. These courts try all the cases that fall within their competence: civil, commercial, criminal or other. However, given that criminal cases outnumber all others and are more difficult to resolve, stress will be laid here on criminal justice. In Haiti, anyone who is incriminated and subsequently accused is judged in accordance with the relevant procedures.

78. Hearings are held on a daily basis. Criminal trials by jury take place during court sessions held at least twice a year, while criminal trials without jury are held year-round.

79. Since 2012, the Courts of First Instance have been organizing at least two criminal court sessions with juries, during which several hearings are held every day. For example, in mid-2012, the Court of First Instance in Port-au-Prince organized a criminal court session with jury, which culminated in the following results:

- Cases considered: 87;

- Convictions: 70;
- Acquittals: 22.

80. In July 2012, the 17 other courts of first instance also organized criminal proceedings, with the following results:

- Cases considered: 49;
- Convictions: 283;
- Acquittals: 69;
- Rulings in absentia: 31.

81. There has so far been limited access to justice in Haiti, for various reasons. First, there are too few courts. Secondly, some administrative subdivisions (*sections communales*) are so densely populated and the nearest judicial body is so far away that citizens in these areas do not use the legal system to resolve their disputes. In order to overcome this drawback, the Government is experimenting with rotating judges into local or communal courts, in which 16 such courts are now involved.

82. Another example is Gonâve, the largest of the islands situated off the Haitian coast which comprises two *communes*, Pointe-à-Raquette and Anse-à-Galet, each of which has a local court. However, the Court of First Instance is located in Port-au-Prince, the nation's capital, which is why the approximately 80,000 citizens of the island are obliged to travel to the capital for any matter that exceeds the competence of the local courts. This results in extremely limited access to the criminal justice system for the residents of Gonâve. The Government has realized that in order to resolve the problem, a Court of First Instance needs to be set up on the island.

83. In order to enable accused persons who lack the necessary means to be fairly represented by counsel, this service is provided free of charge by the Haitian Bar, at the request of the presiding judges of the Courts of First Instance. However, such legal assistance is limited and there is no statutory regulation to cover it. The authorities are aware of this gap and are currently developing draft legislation on legal assistance that calls for it to be provided to anyone who lacks the means to remunerate a defence attorney.

84. The slow pace and complexity of proceedings are also causes of limited access to criminal justice. The procedural codes date back to the nineteenth century, and some provisions are no longer relevant in the contemporary world. In order to resolve this problem, a reform of the criminal justice system, including revision of the relevant codes, is under way.

85. The independence of the judiciary and the training of judges have always been something that the Haitian Government takes seriously. The Legal Service Training College, established by the Constitution, is currently offering in-service training to working judges and enrolling candidates who have passed the competitive examinations.

86. The Supreme Council of the Judiciary was set up by an Act of 13 November 2007 in order to guarantee the independence of the judiciary. The nine members of this institution were sworn in by the President, His Excellency Michel Joseph Martelly, in July 2012. The Court of Cassation, which had not functioned for the past five years as many judges' posts were vacant, has been reconstituted through the filling of those posts and the appointment of a presiding judge.

87. Still, despite the entry into force of the Act of 13 September 2007 establishing the judiciary, under which members of the judiciary are protected, there have been some cases of premature dismissals.

## **Article 15**

### **Non-retroactivity of the law**

88. Under Haitian law, criminal legislation is retroactive when it is favourable to the offender. Articles 45 and 46 of the Constitution provide that no penalty may be established except by law or applied except in cases that the law determines. In addition, article 51 states expressly that “The law may not be made retroactive except in criminal cases when it favors the accused.”

## **Article 16**

### **Legal personality**

89. Pursuant to the provisions of the Constitution, a decree dated 30 August 1988 prohibits the forfeiture of civil rights (civil death). Legal personality, recognized at birth, may accordingly never be withdrawn.

## **Article 17**

### **Right to privacy**

90. The right to privacy is protected by the Constitution of 1987, article 49 of which states: “Freedom and privacy of correspondence and any other forms of communication are inviolable. They may be limited only by a well-founded judicial ruling, according to the guarantees established by law.”

91. Interference with a person’s privacy is prohibited. Unlawful entry is prohibited by article 24-3 of the Constitution, which states that no search may take place between 6 p.m. and 6 a.m. This provision is supplemented by article 145 of the Criminal Code, which states that “All judges, prosecutors, administrators and other court officials or police officers who enter the home of a citizen, except in the cases determined by law, without having fulfilled the formalities prescribed by law, shall be subject to a fine totalling no less than 16 and no more than 48 gourdes.” These provisions have been affected by the devaluation of the currency, however, and the amount of the fine is fairly insignificant, hardly serving as a disincentive to offenders. A revision of the Criminal Code and the Code of Criminal Procedure that is under way as part of the judicial reforms will resolve this problem.

92. Breach of the confidentiality of private correspondence is covered by article 148 of the Criminal Code, which stipulates that “Any confiscation or opening of duly posted letters carried out or facilitated by a civil servant or employee of the Government or the postal administration will be subject to a fine of 16 to 64 gourdes. The offender will also be barred from holding public office for from one to three years.”

93. Other violations of the right to privacy are punishable when they affect the honour and dignity of the person. Defamation, abuse and calumny, as well as divulgence of secrets, are punishable under articles 313 to 320 of the Criminal Code. For example, article 313 states that “Anyone who attributes to any person whatsoever acts injurious to his honour and standing through a statement in a public place or meeting, an authentic public act or a document posted, sold or distributed in printed form or otherwise shall be deemed guilty of defamation.” Article 323 of the Code states that except in cases where the divulgence of secrets is mandatory under the law, any individual who, by position or profession, has been entrusted with secrets and reveals such secrets, will be subject to at least 1 year’s imprisonment.

94. The threats to privacy represented by the use of the new information and communication technologies — for example, photo montages and other violations of privacy through the Internet — are not well addressed by the legislation, and evidence provided by electronic means is inadmissible in Haiti. Parliament already has before it and is about to vote on draft legislation dealing with this matter.

## **Article 18**

### **Freedom of thought, conscience and religion**

95. Although the Catholic religion is predominant, with its clergy being in some cases paid by the State, freedom of religion is guaranteed by the Constitution, article 30 of which states that “All religions and faiths shall be freely exercised. Everyone is entitled to profess his religion and practice his faith, provided the exercise of that right does not disturb law and order.”

96. Article 30.1 of the Constitution provides that “No one may be compelled to belong to a religious organization or to follow a religious teaching contrary to his convictions.” This implies that no one may be compelled to profess a faith against his will or to remain in that faith. Article 30.2 of the Constitution stipulates that the law establishes the conditions for the recognition and practice of religions and faiths.

97. Pursuant to these provisions, all religions may be freely practised in Haiti as long as they pose no threat to law and order.

98. For example, the Vodou religion was marginalized as a “superstition” and its practicants were even subjected to persecution by the Government during the 1940s, but it is now recognized and has been decreed to have the same standing as all other religions. Some practicants of Vodou have nevertheless been accused of sorcery and lynched, most recently during the time of the cholera epidemic, which was seen in some rural areas as having been caused by evil spells. The victims were principally in Jérémie, a town in the south-west. The State subsequently had to intervene to punish the perpetrators and protect the practicants of Vodou.

99. In 2011, the cathedral in Cap Haïtien was desecrated. A complaint against the alleged perpetrators was lodged with the Court of First Instance and the case is currently under investigation. An investigation is also ongoing to find the perpetrators of vandalism against a Masonic lodge.

## **Article 19**

### **Freedom of opinion and expression**

100. Article 28 of the Constitution states that “Every Haitian has the right to express his opinions freely on any matter by any means he chooses.” Freedom of expression is protected by articles 28 to 29.1, which refer to freedom of expression and the right of petition, which is recognized and which may be exercised personally by one or more citizens.

101. Members of civil society in Haiti may accordingly express their opinions and are often consulted by the Government where necessary.

102. Freedom of the press is protected by article 28.1 of the Constitution, which states that “Journalists shall freely exercise their profession within the framework of the law. Such exercise may not be subject to any authorization or censorship, except in the case of war.” Article 28.2, which protects the ethics of journalists, states that “Journalists may not

be compelled to reveal their sources. However, it is their duty to verify the authenticity and accuracy of information. It is also their obligation to respect the ethics of their profession.”

103. Despite these provisions, grave violations ranging from the destruction of transmission equipment to the killing of journalists have occurred: for example, the murders of Jean L. Dominique in 2000 and Brignol Lindor in 2001. The latter’s killers were tried and convicted, whereas the case of Jean L. Dominique is still under investigation.

## **Article 20**

### **Prohibition of war propaganda and incitement to racial or religious hatred**

104. Well before the Constitution was adopted, under a decree of 4 February 1981, racial discrimination or actions that violated fundamental human rights on grounds of race, colour or ethnic background were regarded as an offence punishable by law. Article 3 of the decree proclaims non-discrimination as an absolute rule and a matter of public order.

105. War propaganda and incitement to racial hatred is prohibited by virtue of the 1948 Universal Declaration of Human Rights, which is incorporated in the first preambular paragraph and article 19 of the Constitution, on basic rights. The preamble to the Constitution clearly stipulates that the Constitution was proclaimed in order to strengthen national unity by eliminating all discrimination between the urban and rural population, etc.

106. In addition to the Constitution, there are legislative penalties for any offence against State security or incitement to violence. Article 1 of the Criminal Code cites a whole range of acts regarded as crimes and offences against State security. In articles 68 to 78, it reflects a decree dated 23 September 1985 on repression of any incitement to violence. Article 68 criminalizes any assault aimed either at incitement to civil war by arming or encouraging citizens or inhabitants to take up arms against one another or at devastation, perpetration of massacres or pillaging of one or more communities.

107. This article has been under threat in two critical periods: as stated earlier, they occurred during a particularly intense period of political turmoil (1990–1991 and 2003–2004).

108. According to articles 219 to 223 of the Criminal Code, there is a penalty ranging from 14 days’ to 6 months’ imprisonment for anyone who has hindered, by actions or threats, the practice of an authorized religion or who has delayed or interrupted a religious service or caused disruption or disorder in a place of worship.

109. Under article 230 of the Criminal Code, the issuance of any printed matter inciting the commission of crimes or offences is a punishable offence.

## **Article 21**

### **Right of peaceful assembly**

110. The right of peaceful assembly, an aspect of freedom of expression, is recognized and guaranteed by the Constitution, article 31 of which states that freedom of unarmed assembly and association for political, economic, social, cultural or any other peaceful purposes is guaranteed.

111. The State has on occasion had to compensate certain groups that have been subjected to harm. In 2001, for example, it remunerated political parties whose premises were burned down by a crowd in the wake of certain events.

112. Article 31.2 of the Constitution permits public meetings to be held as long as advance notice is given to the police.

113. According to article 2 of the decree of 23 July 1987 on public meetings and events, in order for an event in a public place to be authorized, the local police forces must be notified 48 hours in advance; the rules thus call for notification, not prior authorization.

## **Article 22**

### **Freedom of association**

114. Article 1 of the Constitution states that Haiti is a cooperatist republic, meaning that Haitians are free to join together in associations, which are protected and guaranteed by articles 31, 31.1 and 31.3 of the Constitution. Citizens are free to establish associations as long as they respect the principles in force. Under article 236 of the Criminal Code, prior authorization by the Government is required for any association of more than 20 persons. Associations are legitimized through an authorization provided by the Ministry of Social Affairs and Labour upon the submission of statutes and identity papers of the members and payment of a fee.

115. Religions and faiths may be freely practised. There is no discrimination against the practicans of Vodou.

116. Haitian legislation recognizes and guarantees trade union freedom and the right to strike. Article 35.3 states: "Trade union freedom is guaranteed. Any worker in the public or private sector may join a union representing his particular occupation solely to protect his work interests." These provisions are backed up by those contained in the International Labour Organization (ILO) conventions on trade union freedoms that Haiti ratified in 1957 and 1979. There are over 10 trade union associations in Haiti that operate without being hindered by the governmental authorities. Nevertheless, lapses sometimes occur, particularly during times of political crisis: for example, in 2004, some trade union members were arrested while they were actually holding a meeting. They were released immediately, however.

117. Article 2 of the decree of 30 July 1986 regulating the functioning of political parties stipulates that the State guarantees the right of citizens freely to form political parties and to operate them in line with the legislation in force. Under this decree, political parties may be freely established and membership in them is a matter of personal choice and individual freedom. Everyone is free to join a political party, and no one may be compelled to join one or to remain a member.

118. Non-governmental organizations are covered by a decree dated 14 September 1989, article 8 of which stipulates that NGOs may be recognized, and thereby authorized to operate in the national territory, subject to the deposit with the Ministry of Planning and External Cooperation of a number of documents, such as their statutes and a letter of application.

## **Article 23**

### **Protection of the family**

119. Protection is provided for the family — the fundamental unit of society — under articles 259 to 262 of the Constitution. All families, whether or not they are bound by the ties of marriage, are provided with the same protection by the Government. According to article 260 of the Constitution, the Government must endeavour to aid and assist mothers, children and the aged. Accordingly, a social security fund administered by the Ministry of

Social Affairs and Labour furnishes allocations to needy families. In addition, a pilot programme launched by the current Government and entitled “*Ti Manman Chéri*” provides allocations to mothers from impoverished areas. Haiti has ratified not only the Universal Declaration of Human Rights but also the American Convention on Human Rights, under which the family and children are safeguarded and protected. Article 262 of the Constitution calls for a family code to be drawn up to ensure protection and respect for the rights of the family and to define the procedures for the determination of paternity.

120. Under a decree dated 13 October 1982, paternal authority has been replaced by parental authority, which is now exercised jointly by the two spouses. By law, however, the marital home must be that of the husband, even though in practice couples usually establish their home jointly. Forced marriage and polygamy are prohibited. The minimum age for marriage is the age of majority, which is 18 years, although exceptions may be made for girls under 18 years of age by special dispensation from the President.

121. Ministers of legally authorized faiths are entitled to celebrate marriages. Although Vodou has been recognized as a religion since 2002, its priests do not celebrate marriages.

## **Article 24**

### **Protection of the child**

122. Article 261 of the Constitution provides for the protection of all children. It states: “The law ensures protection for all children. Any child is entitled to love, affection, understanding and moral and physical care from its father and mother.”

123. With a view to ensuring better protection for children, on 23 December 1994 the Haitian Government ratified the Convention on the Rights of the Child; in June 2012 it ratified the Hague Convention of 29 May 1993 on Protection of Children and Cooperation in respect of Intercountry Adoption; and on 26 September 1957 it ratified the ILO Abolition of Forced Labour Convention (No. 105). A revised version of the previous law on adoption, which dated back many years (1974), has recently been adopted by Parliament with a view to giving priority to the interests of the child in any adoption proceedings under the Hague Convention. Similarly, on 3 June 2009, Haiti ratified the ILO Minimum Age Convention (No. 138), and on 19 July 2007, the ILO Worst Forms of Child Labour Convention (No. 182). Article 35.6 of the Constitution states: “The minimum age for gainful employment is set by law. Special laws govern the work of minors and servants.”

124. A draft law on responsible paternity and filiation has been submitted to Parliament, having been voted in by the Chamber of Deputies on 10 May 2010 and unanimously adopted by the Senate on 12 April 2012. It is intended to awaken fathers to their responsibilities and to put an end to the deplorable situation in which single-parent families (47 per cent of the total in Haiti) are headed by women who bear the sole responsibility for meeting their economic needs.

125. The State is making significant efforts to ensure that children are registered at birth. The National Registry Office was established by decree in 2005 for the purpose of ensuring that Haitians are registered immediately after birth and of maintaining the National Registry. As a first step in fulfilling the tasks of the Office, a draft law establishing the National Registry and Civil Status Office is being developed in order to add a civil status function to the work of this institution. Civil registries have been set up in the maternity wards of certain hospitals with a view to recording births.

126. Haiti has also ratified numerous conventions on child labour in the industrial sector. These include two instruments ratified by decree on 13 July 1956: the ILO Convention Fixing the Minimum Age for Admission of Children to Industrial Employment (No. 59)

and the ILO Night Work of Young Persons (Non-Industrial Occupations) Convention (No. 79), as revised at San Francisco.

127. The registration of births is a serious problem in Haiti. A number of measures have accordingly been adopted to significantly reduce the number of unrecorded births. In the legislative sphere, decrees were adopted in 1995 and 2005 in order to simplify the late registration procedure, thanks to which around 4 million persons were registered, including a large number of children.

128. In the administrative sphere, several awareness-raising campaigns have been organized in order to encourage parents to declare the birth of their children, especially in rural areas. On an experimental basis, civil registry officers have been positioned in the major hospitals in three cities and a mobile civil registry agent has been appointed. New civil registry offices have also been opened in various administrative subdivisions (*communes*).

129. There is a large number of street children in the major urban centres, especially the country's capital. Since the earthquake of 12 January 2010, the situation, which is largely attributable to high poverty rates and weak institutions, has worsened. In order to counteract this violation of the basic rights of children, several projects have been developed. Some street children have been placed in homes, but a lack of resources has restricted the impact of these measures.

## **Article 25**

### **The right to participate in public affairs**

130. Under the Constitution, this right is accorded to all Haitians. Article 17 states: "All Haitians, regardless of sex or marital status, who have attained 18 years of age may exercise their political and civil rights if they meet the other conditions prescribed by the Constitution and by law." Article 58 of the Constitution stipulates that national sovereignty is vested in all citizens and is exercised directly through elections. By voting, citizens participate in public affairs; the right to vote is thus a right and a duty of citizens. Since the adoption of the Constitution, five general elections have been held.

131. Certain restrictions nevertheless apply to the exercise of the right to vote. Under article 20 of the 1999 Electoral Act, adopted on the basis of article 289 of the Constitution, voting rights may be lost for the same reasons as citizenship may be revoked or because of the imposition through adversarial proceedings of a penalty entailing imprisonment and loss of civic rights.

132. By law, access to public service has always been through competitive examination. However, the number of posts filled in this manner falls far short of the total posts occupied, creating an impression of favouritism. The Office of Management and Human Resources, which was set up in 2005 to organize overall staffing and career development in the civil service, is accordingly stepping up its efforts to rectify the problem.

## **Article 26**

### **Prohibition of discrimination**

133. Haiti ratified the International Convention on the Elimination of All Forms of Racial Discrimination on 19 December 1972. Moreover, article 18 of the Constitution states that Haitians are equal before the law, subject to the special advantages conferred on native-born Haitians who have never renounced their nationality. Racial discrimination was criminalized by a decree of 4 February 1981.

134. On 29 June 1951, Haiti ratified the ILO Equal Remuneration Convention (No. 100) relating to equal remuneration of men and women workers for work of equal value.

135. The 1987 Constitution established the Ombudsman's Office in order to protect all individuals from any type of abuse by the Government.

136. As regards discrimination against women, a Ministry for the Status of Women and Women's Rights was established by decree on 8 November 1994 with the principal functions of working towards an egalitarian society for both men and women and helping to define and carry out equitable public policy at the national level.

## **Article 27**

### **Rights of minorities**

137. There are no problems with minorities in Haiti.

## **IV. Conclusion**

138. In conformity with the suggestions and recommendations made by the Human Rights Committee at its fiftieth session, Haiti has adopted the following measures:

(a) As regards the disarming of paramilitary groups, the Front révolutionnaire pour l'avancement et le progrès en Haïti (FRAPH), which was the main paramilitary organization that terrorized the population by committing numerous crimes, summary executions, kidnappings and rapes, was dissolved in 1994. Around 27 persons were tried in connection with the military coup of 1991 and the regime that followed, including General Raoul Cedras, head of the military government; Emmanuel Constant, founder and leader of FRAPH; Michel François, police chief; and Philippe Biamby. They were convicted in absentia and sentenced to life imprisonment with hard labour and a billion-gourde fine. However, with the exception of Louis-Jodel Chamblain, who surrendered in April 2004, none were arrested, as they were no longer in Haitian territory. A national committee for disarmament, dismantlement and reintegration was set up in 2006 in order to reduce the number of weapons circulating in the country. A large quantity of weapons that had been circulating illegally has been recovered through the actions of this committee;

(b) Reform of the judiciary continues to be one of the Government's priorities. From 1991 to the present, a number of initiatives, including three laws published in 2007, were adopted in order to improve the administration of justice in Haiti and to guarantee the independence of the judiciary. The Legal Service Training College was reopened on 12 March 2009 and the Supreme Council of the Judiciary was set up in July 2012;

(c) With regard to the Optional Protocols to the International Covenant on Civil and Political Rights, Haiti plans to include their ratification on the legislative agenda to be submitted to the next session of Parliament;

(d) Since its publication in the official gazette, "*Le Moniteur*", in January 1991, the Covenant has been incorporated into Haitian legislation. The functions of the Office of the Ombudsman have been expanded by a law promulgated in July 2012, under which individuals may lodge complaints with the Office over the violation of their rights. Courses on human rights are given to future police officers and to future legal professionals at the police academy and the Legal Service Training College, respectively. As part of the reform of the educational system, courses on human rights are to be taught as from the seventh year of basic education.

139. The Haitian Government acknowledges that major efforts must be undertaken in order to guarantee full respect for various provisions of the Covenant. The Prime Minister's Deputy Minister for Human Rights and Extreme Poverty has accordingly been appointed to promote respect for human rights. His office's work, which has already helped to structure and vitalize the national system for protection of human rights, will soon be supported by the establishment of an Institute for Human Rights.

140. This body will be responsible for providing training on human rights to officials in various crucial sectors, both public and private. One of the tasks of the institute, which will have branches in all the country's administrative divisions (*départements*), will be to propose measures for the Government to adopt in the context of its implementation of the Covenant and other human rights instruments.

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