



International Covenant on Civil and Political Rights

Distr.: General
13 October 2014

Original: English

Human Rights Committee 112th session

Summary record of the 3102nd meeting

Held at the Palais Wilson, Geneva, on Thursday, 9 October 2014, at 3 p.m.

Chairperson: Sir Nigel Rodley

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The meeting was called to order at 3 p.m.

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

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

1. *At the invitation of the Chairperson, the delegation of Haiti took places at the Committee table.*
2. **Ms. Auguste** (Haiti), introducing her country's initial report (CCPR/C/HTI/1), said that the submission of the report in December 2012 reflected the commitment of President Michel Martelly and Prime Minister Laurent Lamothe to the promotion and observance of human rights. She welcomed the presence of representatives of human rights organizations, whose monitoring work aided the efforts of Haitian authorities on the ground. The Government found it regrettable, however, that some of the alternative reports submitted to the Committee painted a biased picture of the situation in Haiti.
3. There had been a number of important achievements under the tenure of Michel Martelly, including the appointment of the president of the Court of Cassation, along with 11 judges and a State commissioner, the establishment of the Supreme Council of the Judiciary, the creation of the Interministerial Committee on Human Rights, the appointment of a Deputy Minister for Human Rights and Extreme Poverty, and the strengthening of the Legal Service Training College through the provision of financial and material resources. On the international front, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty had been tabled in parliament with a view to its ratification.
4. In response to allegations of police involvement in torture and killings, a new chief had been designated within the Office of the Inspector-General of the Haitian National Police. In 2013, the Office had opened over 1,000 complaint files, closed 345 cases and issued 324 recommendations for officers to be punished.
5. With regard to the vetting of judges, the Supreme Council of the Judiciary had sent a preliminary list of 100 candidates to a certification commission as part of a long-term objective to accredit 900 judges. The Paternity, Maternity and Filiation Act, which had been published in the Official Gazette on 4 June 2014, established a normative framework for the determination of paternity and set forth the principle of equality among all children, irrespective of their parents' marital status. Sessions had been organized in September 2014 to raise awareness of the Act among civil society and judges.
6. The Ministry for the Status of Women and Women's Rights was drafting a bill on the prevention, punishment and elimination of violence against women. To that end, it had held several consultations with stakeholders from public institutions and civil society. The 2012–2016 National Plan to Combat Violence against Women had been launched in 2013, and Les Cayes Prison had been equipped with a separate cell for minors and a custody area for women. The Electoral Act of December 2013 required the participation of women in political life and, in application of the 30 per cent quota set out in the Constitution, three women were already serving as councillors on the Electoral Council.
7. Extended pretrial detention was a genuine concern for the Government, which had engaged in a dialogue with partners from the international community to help design a national strategy to resolve the urgent issue of prison overcrowding. In September 2014, the Ministry of Justice and Public Security had held a forum to discuss the Government's criminal policy, inviting recommendations from civil society organizations on how to render the prison system more effective. The Ministry of Public Health and Population had put in place a contingency plan and a protocol on the prevention and treatment of cholera to

control the spread of contagious diseases in prisons. Renovation work at Jérémie Prison had led to the opening of three cells and the construction of a reservoir, and efforts were ongoing to increase the capacity of facilities in several other cities.

8. A study was being carried out into domestic child labour with the aim of assessing the issue and providing guidance to State authorities. In that connection, the Trafficking in Persons Act of June 2014 had filled a legal void by providing for the criminal prosecution of perpetrators. The Government had also initiated a reform of the civil registry system that should be completed by 2015, and work was under way on a draft Nationality Act. A project for the documentation of Haitian migrants had been implemented in the Dominican Republic and, in view of its positive impact, there were plans to replicate it in other common destination countries.

9. Although the relocation of internally displaced persons (IDPs) was progressing slowly, the number of IDP households and IDP camps had fallen by 93.7 and 92.1 per cent, respectively, since July 2010, thanks largely to programmes such as the 16/6 government rehousing project, which had been implemented by the Housing and Public Buildings Unit. Since its creation in 2011, the Unit had sought to encourage private investment in the reconstruction of urban areas destroyed by the 2010 earthquake, and had coordinated operations to close camps, including almost all the camps in which households had been deemed at high risk of forced evictions in 2014. On a similar note, the Ministry of Justice and Public Security had ordered the postponement of all evictions from private land, allowing the relocation process to be conducted with due respect for individual rights.

10. **Mr. Ben Achour**, in reference to the La Scierie trial mentioned in paragraph 2 of the State party's replies to the list of issues (CCPR/C/HTI/Q/1/Add.1), asked to what extent, and by which courts, the provisions of the Covenant had been applied. He said that he wished to know what steps had been taken to disseminate the Covenant, translate it into Creole and provide training to judges. He invited the delegation to comment on the fact that the 2014–2015 budget of the Office of the Ombudsman was lower than the previous year's, and requested an update on the status of the proposed framework law on independent institutions.

11. Turning to the case of Jean-Claude Duvalier, he asked for further information concerning the cassation appeal against the ruling of Thursday, 20 February 2014. He sought clarification on why it had taken so long to try the case, whether measures had been taken to provide reparations to victims, and whether there were plans to prosecute and punish other persons accused of human rights violations.

12. With regard to paragraph 14 of the replies to the list of issues, he wished to know why no information was available on sums paid to victims of the Raboteau massacre, and what action, if any, would be taken against the persons, found guilty in absentia, whose convictions had subsequently been overturned. Lastly, he asked whether the work of the Interministerial Committee on Human Rights was disseminated widely, and when the national human rights plan was likely to be adopted.

13. **Ms. Majodina**, noting that the promotion of gender equality remained a major challenge in the State party, asked what percentage of decision-making positions in both the public and private sectors were held by women. She said that it would also be useful to receive statistics on middle management positions.

14. She wished to know what the Ministry for the Status of Women and Women's Rights had achieved since its establishment in 1994, whether it was true that there were plans to merge it with the Ministry of Social Affairs and Labour and, if so, why. She asked what additional measures had been taken to eradicate traditional stereotypes of women and what their outcome had been. The delegation should indicate how the decree of 8 October

1982 had enhanced the status of women in the home, and provide further details on the Paternity, Maternity and Filiation Act.

15. Given that the lesbian, gay, bisexual and transgender (LGBT) community continued to suffer from discrimination, threats and a lack of legal protection, she asked what the Government intended to do to address the issue and ensure the safety of organizations and individuals defending LGBT rights.

16. **Mr. Kälin** asked whether the State party's domestic law provided for the declaration of a state of emergency in the event of natural disasters, which did not appear to be covered by article 278 of the Constitution. If so, he asked whether it would not be more appropriate to provide for special rules in such cases, as states of emergency could pose a threat to the protection of human rights.

17. He invited the delegation to provide information and statistics on the follow-up given to the recommendations issued by the Office of the Inspector-General of the Haitian National Police, and asked what steps were taken to minimize the lethal use of firearms by police officers.

18. Noting the very high infant and maternal mortality rates in the country, he asked what measures the Government was taking to ensure that women, particularly poor women and those in rural areas, had access to public health-care services. He wished to know when the new law on habeas corpus would be promulgated and what the practical effect had been of measures taken to reduce the length of pretrial detention. The problems of prison overcrowding and excessive pretrial detention were connected, and he encouraged the State party to seek alternatives to the latter. He wished to know the practical impact of efforts to address the issues facing minors in conflict with the law. Separating minors from adults in detention centres was a question not simply of financial resources but also of organization. Given the severity of the overcrowding in prisons, he wondered whether the construction projects undertaken would be sufficient to remedy the problem.

19. **Mr. Salvioli** said that, according to information before the Committee, complaints of torture and ill-treatment had not met with a prompt, appropriate response from the Government. He requested clarification regarding the number of investigations carried out and sentences handed down in cases of torture and ill-treatment. He asked whether it was true that the Criminal Code referred only to physical as opposed to psychological torture, what sentences of forced labour for life meant in practice, and whether the provisions on torture contained in the draft Criminal Code currently under discussion were in conformity with the Covenant. He wished to know whether acts of domestic violence were effectively punished, and he requested further information about rehabilitation and compensation measures for victims of domestic violence or torture. Lastly, he asked whether the draft Criminal Code expressly prohibited corporal punishment both in the home and in institutions.

20. **Mr. Shany** asked about the current status of the bill on violence against women and wished to know whether it contained explicit exceptions to the ban on abortion in cases of rape or incest.

21. **Ms. Chanet** requested clarification about the statute of limitations relating to the criminal prosecution of crimes against humanity on the basis of customary international law in the absence of any applicable national law in force at the time when the crimes had been committed. She asked why the ratification of the Second Optional Protocol to the Covenant, along with other international instruments, had been withdrawn from the agenda of the parliament's forty-ninth session.

The meeting was suspended at 4.15 p.m. and resumed at 4.40 p.m.

22. **Ms. Auguste** (Haiti) said that the Government was always willing and eager to collaborate with human rights organizations and made efforts to maintain regular contact with them. Human rights organizations throughout the country would be consulted about the draft human rights action plan, which would be issued by December 2014. The State authorities at the highest level of the government were committed to supporting the rights of lesbian, gay, bisexual and transgender (LGBT) persons. The authorities were mindful of the need to conduct awareness-raising campaigns in order to change attitudes among the general population and among leaders who influenced public opinion.

23. A new draft Code of Criminal Procedure was currently being prepared by a commission of experts and would be ready by December 2014. The Interministerial Committee on Human Rights made publicly available the various documents relating to its work, at least some of which were published in Creole.

24. **Mr. Belizaire** (Haiti) said that, during the La Scierie trial, the Covenant had been invoked before the Court of Appeal, which had overturned the ruling issued by the judge at first instance, determining that it was incompatible with the Covenant. The persons concerned had subsequently been released from detention. The Government had organized training for judges on the contents and importance of the Covenant, so as to prevent such incompatible rulings in the future. The Covenant had not yet been translated into Creole, but there was clearly a need to do so.

25. It was true that the trial of Jean-Claude Duvalier had suffered long delays, due in part to the fact that in Haitian culture it was not common for victims of crime to lodge formal complaints. Several steps had been completed in the proceedings, however, and the case had been referred to the Court of Cassation, which must issue a ruling before any further action could be taken. If victims continued to request reparation, then prosecution of the other perpetrators involved in the crimes would be pursued.

26. In many cases, persons who had received a sentence of forced labour for life had been released early if it was clear that they no longer posed a danger to society. While current national law emphasized the criminalization of physical torture, he recognized the need to address psychological torture as part of the judicial and legal reforms under way.

27. Excessively long pretrial detention was a long-standing problem in the country but had worsened in recent years. Efforts to address the problem had been hindered by strikes staged by judges and judicial officers, which had slowed down the justice system. A commission had been set up within the Ministry of Justice to study the problem and seek solutions. Detention judges had been introduced and were tasked with ensuring that limits on pretrial detention were enforced.

28. **Ms. Auguste** (Haiti) said that the problem was primarily of a managerial nature, as police stations were not equipped with a computerized system that would allow them to track each detainee's case file. A task force had been set up to consider the possibilities for upgrading the relevant technology.

29. **Mr. Belizaire** (Haiti) said that, in the case concerning the Raboteau massacre, the Court of Cassation had overturned the convictions handed down by the Criminal Tribunal of Gonaïves, citing procedural irregularities. Due to poor record-keeping by court clerks, no information was available on the amount of compensation awarded to victims. Current national law did not provide for any alternatives to pretrial detention, but such provisions would be considered as part of the legal reform under way.

30. **Ms. Auguste** (Haiti) said that she did not wish the Committee to gain the impression that there was any ambiguity or confusion in the Government's attitude to the case of Jean-Claude Duvalier. Considerations of national reconciliation bore no relation to the workings of justice and the rights of the victims. However, although it was open to victims to lodge

complaints, such formal action, she reiterated, was not customary in Haiti. Moreover, there were many improvements still to be made to the judiciary and the judicial system, so the Government's desire to enforce the rule of law would take time.

31. **Mr. Melodin** (Haiti) said, with regard to the question about hard labour, that the Criminal Code and the Code of Criminal Procedure dated from the nineteenth century, so some of the terminology used was outdated. "Hard labour" effectively meant imprisonment. As for the question of why the ratification of various instruments had been withdrawn from the parliamentary agenda, he said that, under the Constitution, it was for the Government to make a request, after which Parliament decided what action to take. The Government had no problem with the substance of the instruments. With regard to the statute of limitations, the case of Mr. Duvalier had been the first in which the statute had been waived and the Government was awaiting the ruling of the Court of Cassation to see whether the waiver had entered into case law.

32. **Ms. Romulus Petion** (Haiti) said that the Ministry for the Status of Women and Women's Rights had been established in 1994 and worked in coordination with every other government department. Since the ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Haiti had submitted its first report in 2009 and the latest very recently. The Ministry was working on a number of bills on such issues as domestic workers, maternity and violence against women. It was also working with women's organizations and the Ministry of Public Health on an abortion law, which was currently before Parliament. It had established focal points on gender equality and was currently finalizing a law on quotas for women in public services. Campaigns had been launched to promote the rule of law, to raise awareness of the topic of violence against women and to foster specific activities for women. A tripartite structure had been set up between her Ministry, the Ministry of Justice and Public Security and the Ministry of Health to assist women with their legal needs in cases of rape and other human rights violations. Her Ministry had contributed to the amendment to the Criminal Code whereby rape was recognized as a crime of violence. In that connection, two police stations had been opened to cater for women victims of violence. There was no truth in the rumour that the Ministry was to be abolished.

33. **Ms. Dolma** (Haiti) said that the national plan on violence against women 2012–2016 aimed to strengthen legislation on women's rights. Shelters had been established to remove women from their aggressors until a permanent solution to their problem was found.

34. It was important to distinguish between a state of siege and a state of emergency: the latter was governed by article 101 of the Constitution, which stipulated what the Government must do to assure security and maintain control. It applied only to the management of financial resources and the facilitation of public services. It did not affect human rights guarantees in any way.

35. **Mr. Jean** (Haiti) said that the Government had opened five hospitals in the metropolitan district and elsewhere. Moreover, medical teams were dispatched by the Ministry of Public Health every weekend to remote areas to provide consultations on various aspects of medical care. The service was not perfect, but the Government was doing what it could. With regard to habeas corpus, the system would be updated and included in the reform of the Criminal Code and the Code of Criminal Procedure, due out in December 2014.

36. **Ms. Romulus Petion** (Haiti) said, with regard to gender stereotyping, that the Ministry on the Status of Women and Women's Rights had organized awareness-raising campaigns on the matter, especially during the carnival festivities, using slogans, such as "Respect my body, it is my dignity", to make its point. The Ministry also worked in schools

and had recently arranged for the revision of school textbooks that included examples of stereotyping.

37. **Ms. Auguste** (Haiti) said, with regard to the question of reducing maternal mortality, that, under the new course taken by the Government, maternal mortality was addressed in a much wider context. Free obstetric care was provided, but much more important was the Government's action in combating extreme poverty. The Government had put in place a wide-ranging social assistance programme, in which a number of ministries worked together to provide the poorest sectors of society with cash transfers, provided that they engaged in certain activities. Mothers received a cash transfer for any children attending school; persons with disabilities received financial assistance, while emergency vouchers were issued at times of natural disaster. The Government had emulated systems pioneered in Ecuador, Brazil and the Dominican Republic to deal with the food insecurity and high maternal mortality that were linked with extreme poverty. The neediest people were given food baskets, sourced by local producers, and 300 soup kitchens had been opened throughout the country. The Government also provided support for education: there was universal preschool and primary education and 1.4 million children attended free of charge. It was also operating literacy programmes aimed at 450,000 adults over two years. Furthermore, assistance known as "agricultural credit" was provided in rural areas: microenterprises were promoted and seeds or animals were issued to those in need. Important as civil and political rights were, the Government had introduced a whole new dynamic with its adoption of the intersectoral approach.

38. **Mr. Ben Achour** said that he still did not understand about the court ruling invoking the Covenant in the La Scierie case. He knew that claimants had invoked it, but it was not clear whether a court had done so. He added that the State had a crucial role to play in addressing gross human rights violations. To show that it truly had the political will to deal with such violations, it must prosecute offenders.

39. **Mr. Kälin** recalled that article 9, paragraph 3, of the Covenant stipulated that an individual detained on a criminal charge must be promptly brought before a judge. He asked what timeline was provided for under Haitian law and how much time elapsed in practice, given the recent strikes by judges and judicial staff. He also requested details of the figures contained in the report of the Office of the Inspector General of the National Police and also the figures on the number of people killed by firearms.

40. **Mr. Salvioli** expressed surprise that psychological torture was not considered a stand-alone crime under the Criminal Code on the grounds that it was difficult to prosecute. Haiti had ratified the Covenant in 1991 and the Committee's jurisprudence was crystal clear in referring to both physical and psychological torture. The State party had an obligation to legislate in accordance with general comment No. 20. Reform would be welcome, but he was concerned that psychological torture taking place before the reform was enacted would go unpunished.

41. **Ms. Waterval** asked whether there were women's shelters throughout the country and how many there were. She also wondered whether any programmes had been initiated to change the behaviour of perpetrators of violence and whether marital rape was punishable by law.

42. **Mr. Seetulsingh** asked about the situation of the 1 million Haitians currently in the Dominican Republic who were considered to be stateless. He asked what negotiations were taking place for their return and whether they would be welcomed back to Haiti.

43. **The Chairperson** noted that paragraph 47 of the replies to the list of issues contained information on the shooting dead of three people in Croix-des-Bouquets in Ouest Department. He asked when the incident had occurred and what the current situation was. Secondly, according to a well-known non-governmental organization (NGO), the Minister

of Justice and Public Security had issued instructions on 21 October 2013 that the police should not use legal warrants, when detaining a police officer, without prior authorization from the Ministry. Such instructions seemed incompatible with the State party's commitments under the Covenant.

44. **Mr. Belizaire** (Haiti) said that the instructions referred to by the Chairperson had been withdrawn. Police officers could, as a result, be brought before the courts. As for the killing in Croix-des-Bouquets, the police officer concerned had been charged and was being held in solitary confinement until the examining magistrate issued a decision. With regard to torture, he acknowledged that there were no statistics but assured the Committee that the issue would be addressed as part of the judicial reform process. As for habeas corpus, the law stated that a detained person must be brought before a judge within 48 hours; failing that, habeas corpus could be applied. As for the question about the point at which the Covenant had been invoked during the La Scierie trial, he could only confirm that the appeal court had delivered a judgement freeing the accused.

45. **Ms. Auguste** (Haiti) apologized for the fact that figures included in the country's CEDAW report had not been given to the Human Rights Committee. Briefly, she could say that 683 justices of the peace were men and 32 were women, and that, in the latest competitive examination for the National Police, 772 entrants were women, as against over 9,300 men. The situation in schools, however, was considerably better. The attendance figures of boys and girls were more or less equal; girls were increasingly attending school. A high percentage of the persons taking part in the literacy campaign were women. She would provide the Committee with the detailed figures in due course.

The meeting rose at 6 p.m.