

REFERENCE:KF/fup-118

7 décembre 2016

Excellence,

En ma qualité de Rapporteuse Spéciale chargée du suivi des observations finales du Comité des droits de l'homme, j'ai l'honneur de me référer à la procédure de suivi des recommandations adoptées aux paragraphes 7, 10, 19 et 20 des observations finales concernant le rapport initial soumis par Haïti (CCPR/C/HTI/CO/1), telles qu'adoptées lors de la 112^{ème} session du Comité en octobre 2014.

Le Comité a reçu la réponse de l'Etat partie le 4 février 2016 et a analysé les informations reçues à l'occasion de sa 118^{ème} session (octobre-novembre 2016). L'évaluation du Comité ainsi que les informations additionnelles de l'Etat partie requises par le Comité sont reflétées dans le Rapport sur le suivi des observations finales (CCPR/C/118/2). Je vous prie de trouver ci-joint une version préliminaire non éditée des sections pertinentes dudit rapport.

Le Comité a estimé que les recommandations sélectionnées pour la procédure de suivi n'ont pas été pleinement mises en œuvre et a donc pris la décision de demander des informations additionnelles quant à leur mise en œuvre. L'Etat partie est invité à soumettre lesdites informations additionnelles pour le **6 mars 2017**.

A l'occasion de sa réponse, l'Etat partie est également invité à ne pas soumettre les mêmes informations que celles déjà fournies précédemment au Comité.

Une version électronique en format Word de ces réponses écrites devrait être adressée au Secrétariat du Comité des droits de l'homme (Mme Kate Fox, kfox@ohchr.org et ccpr@ohchr.org). Conformément à la Note du Comité des droits de l'homme concernant la procédure de suivi des observations finales (voir CCPR/C/108/2), le rapport de suivi ne devrait pas dépasser les 3.500 mots.

Le Comité attend avec intérêt la poursuite de son dialogue constructif avec l'Etat partie quant à la mise en œuvre du Pacte.

Je vous prie de croire, Excellence, en l'assurance de ma plus haute considération.



Sarah Cleveland

Rapporteuse Spéciale chargée du suivi des observations finales du Comité des droits de l'homme

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Assessment of replies

Reply/action satisfactory

- A** Response largely satisfactory

Reply/action partially satisfactory

- B1** Substantive action taken, but additional information required
- B2** Initial action taken, but additional information and measures required

Reply/action not satisfactory

- C1** Response received but actions taken do not implement the recommendation
- C2** Response received but not relevant to the recommendation

No cooperation with the Committee

- D1** No response received within the deadline, or no reply to a specific question in the report
- D2** No response received after reminder(s)

The measures taken are contrary to the Committee's recommendations

- E** Response indicates that the measures taken are contrary to the Committee's recommendations
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Haiti

Concluding observations:	CCPR/C/HTI/CO/1, 27 October 2014
Follow-up paragraphs:	7, 10, 19 and 20
First reply:	4 February 2016
Committee's evaluation:	Additional information required on paragraphs 7 [C1], 10 [B2], 19 [C1] and 20[B2]
Non-governmental organization :	La Coalition des Organisations Haïtiennes des Droits Humains sous la Coordination des Défenseurs Plus

Paragraph 7: In order to effectively combat the impunity that prevents advances in the rule of law in Haiti, the State party should pursue its investigations in the Duvalier case and bring to justice all those responsible for serious violations committed during that presidency and give victims fair and equitable reparation. The State should implement the recommendations of the National Commission on Truth and Justice in respect of the serious violations committed between 1991 and 1994. The Committee recalls the State party's obligation to bring criminal proceedings for any serious violation of human rights.

Summary of State party's reply:

Regarding the Duvalier case, the State party explains that the investigating judge of the Port-au-Prince Court of First Instance, by order dated 30 January 2012, referred the case against Mr Duvalier to the correctional court for charges of embezzlement and rejected the accusation of crimes against humanity. Following this decision, an appeal was filed by the civil party and on 20 February 2014, the Court of Appeal upheld the decision regarding the

Haiti

accusation of financial crimes and declared admissible the accusation of crimes against humanity against Mr Duvalier and a judge was designated to reexamine the case.

The civil party then brought a claim in front of the Cassation Court for the recusal of the designated judge. While the appeal in front of the Cassation Court was still pending, Mr Duvalier died on 4 October 2014. All implicated persons were questioned. The concerned judge did not reveal any information on the progress of the inquiry by invoking the confidentiality of the investigations.

As regards the Raboteau proceedings, the judgment on the case was set aside by the Cassation Court. The State party submits that it is fully conscious of the need to secure justice for victims; however, this case poses certain difficulties due to the long elapsed period of time and the current weakness of judicial means to restart the proceedings. It further submits that the legal system is currently undergoing reform and that the government hopes to be in a position to address this issue once the reform process has achieved a certain level of maturity. Meanwhile, the State party focuses all its energy on creating mechanisms to prevent the repetition of such massive human rights violations.

NGO Information:

Since the death of Jean-Claude Duvalier, no investigation has taken place. Haiti should provide appropriate means for the judge to pursue the investigation, speed up the process and, finally, set up legal, material, psychological and protection support for victims.

There have been no trials for serious violations committed between 1991 and 1994 following the recommendations of the National Commission on Truth and Justice. The lack of determination to fight against impunity for serious violations continues to prevail.

Committee's evaluation:

[C1] The Committee notes the information provided by the State party and NGO information, according to which no investigations have been initiated since the death of Jean-Claude Duvalier. The Committee requests further and specific information on investigations initiated and efforts to bring to justice all those responsible for serious violations committed during the Duvalier presidency and to give victims fair and equitable reparation and the progress thereof since the concluding observations were adopted. The Committee also requests information on the ongoing reform of the legal system, including the timeline for adoption and the content of any reforms intended to combat impunity and to ensure that criminal proceedings are effectively pursued for any serious violation of human rights. The Committee requests information on measures taken to implement the recommendations of the National Commission on Truth and Justice in respect of the serious violations committed between 1991 and 1994. The Committee reiterates its recommendations.

Paragraph 10: The State party should, as a matter of urgency, look into these cases of firearm deaths caused by the forces of law and order and ensure that they are investigated in a prompt and effective manner, prosecute those thought to be responsible and, if they are found guilty, sentence them to penalties in proportion to the seriousness of the acts and grant appropriate compensation to the victims and their families. The State party should guarantee that the General Inspectorate of the National Police is able to carry out these investigations independently and to routinely maintain statistics on homicides committed by the forces of law and order and on the unlawful use of firearms, covering investigations carried out, prosecutions brought, penalties prescribed and reparation awarded. The Committee encourages the State party to continue its efforts to provide the forces of law and order with human rights training in accordance with its obligations under the Covenant and in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, in order to reduce the incidence of homicide and serious injury caused by firearms.

Summary of State party's reply:

The General Inspectorate of the National Police of Haiti has increased substantially the

Haiti

number of inquiries against the members of law enforcement. The State party provided statistical information on the number of cases against police officers processed and referred to prosecutors during the period from 2013 to July 2015.

The Government continues to provide the members of law enforcement with appropriate training at the police academy and during training sessions conducted by the General Inspectorate of the police.

NGO Information:

Some investigations into cases of police misconduct were undertaken by the General Inspectorate of the National Police of Haiti and, in some cases, investigation reports were made public. However, most of these cases resulted in disciplinary and not criminal sanctions.

Investigations into police misconduct are not sufficiently transparent. The General Inspectorate of the National Police of Haiti is not a body independent of the police. This is a major obstacle in bringing to justice police officers responsible for abuses resulting in no reparation being provided to victims.

Training sessions have been provided to law enforcement personnel, thus it can be affirmed that Haiti has implemented the Committee's recommendation in this regard. However, Haiti should step up its efforts in this area. Training sessions on human rights are not conducted regularly.

Committee's evaluation:

[B2]: The Committee notes the information provided but requests specific information on measures taken since the adoption of the Committee's concluding observations on 27 October 2014, including: (a) updated statistics on the number of complaints received against the members of law enforcement and security forces and any resulting investigations, prosecutions, convictions and compensation to victims; and (b) trainings conducted by the General Inspectorate of the police, including information on the content of the training, the number of persons trained and whether the training addresses obligations under the Covenant and is in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The Committee also requests information on measures taken to ensure that the General Inspectorate of the National Police is able to carry out investigations into police misconduct independently. The Committee reiterates its recommendations.

Paragraph 19: The State party should take the necessary steps to protect human rights defenders and journalists so as to enable them to carry out their activities with complete freedom and no restrictions. The State party should, as a matter of priority, investigate all attacks on the life and dignity of these persons and bring the perpetrators to justice.

Summary of State party's reply:

The Minister of Justice and of Public Security has asked the prosecutor's office of the Port-au-Prince Court of First Instance, as well as the Director General of the National Police of Haiti, to take the measures necessary to guarantee the safety of human rights defenders, including the lawyer Mario Joseph who claimed to be a victim of threats in the media. Between November 2014 and 2015, no complaint was recorded against the forces of law and order and against political authorities for threats, harassment or intimidation against advocates of human rights, journalists and members of the opposition.

NGO Information:

No specific measures have been taken to protect human rights defenders and journalists. However, there has been a reduction in targeted attacks by the government against them since the consideration of the State party report by the Committee.

Some investigations had been launched, notably in relation to the assassination of the Dorsainvil couple in February 2014, but they did not succeed. Those responsible for their

Haiti

assassination have not yet been tried or sentenced and no form of support has been provided to the family of the victims.

Some government sympathizers continued to verbally attack journalists and human rights defenders. For instance, President Martelly had verbally abused journalist Liliane Pierre Paul before the armed attack on Radio Kiskeya that took place during the night from 30 November to 1 December 2015.

To date, there has been no follow-up by judicial authorities on complaints filed by human rights defenders.

Committee's evaluation:

[C1]: The Committee notes the information provided both by the State party and NGOs, and requests further and specific information regarding the measures taken after the adoption of the Committee's concluding observations on 27 October 2014 to protect human rights defenders and journalists. The Committee further notes the State party's information that no complaint has been recorded against the forces of law between November 2014 and 2015. However, it also notes that complaints lodged by human rights defenders remain unaddressed, as indicated by NGOs. The Committee therefore requests information on all measures taken since the concluding observations were adopted to investigate all attacks on the life and dignity of human rights defenders and journalists, including the assassination of the Dorsainvil couple in February 2014, and to bring the perpetrators to justice. The Committee reiterates its recommendations.

Paragraph 20: The State party should, as a matter of urgency, take the necessary steps to organize the legislative and municipal elections due to have been held in 2011, in order to ensure that citizens have effective access to their rights under article 25 of the Covenant.

Summary of State party's reply:

The State party indicates that, on 23 January 2015, a Provisional Electoral Council was installed after a consensus was reached between the major political forces of the country. On 13 March 2015, an electoral decree was published. On 14 May 2015, the list of approved candidates for the legislative elections was made public.

A budget of \$38 million was envisaged for organisation of the elections. On 9 August 2015, the first round of legislative elections took place. On 28 September 2015, the results were published.

In a decree dated 3 March 2015, the President authorised all persons holding an expired voter's card to vote in order to allow maximum participation in the elections. Furthermore, political parties were given an allowance to equalize participation in the elections.

For reasons of public security, measures were taken to increase the police personnel in all municipalities and especially in sensitive areas. Exceptional measures were put in place for the day of the election.

The presidential elections, the second round of the legislative elections and the rerun of the first round of the legislative elections in areas where it was cancelled due to irregularities had not yet taken place. They were scheduled for 25 October 2015 and the electoral period would end on 27 December 2015 with a second round of the Presidential elections if needed.

NGO Information:

The electoral process started in 2015 is still ongoing. Municipal and legislative elections were conducted in 2015 with major irregularities and cases of fraud were reported.

Despite the announcement of an electoral calendar revised regularly, local and presidential elections have not been conducted as of 20 September 2016. According to the new electoral calendar local elections, elections for one-third of the Senate membership, presidential elections as well as elections in regions where it had been cancelled on 25 October 2015



Haiti

due to massive fraud and serious irregularities, are planned.

There is no organic law regulating the Provisional Electoral Council. The Permanent Electoral Council mandated by the Haitian Constitution has still not been established.

Committee's evaluation:

B2]: The Committee notes that municipal elections and the first round of legislative elections were held and that other steps have been taken, but that presidential and legislative elections planned for October and December 2015 have not yet been held. The Committee requests further and updated information regarding the presidential elections, the second round of legislative elections and the rerun of the first round of legislative elections, as well as regarding the specific reasons that prevented the first round of the legislative elections to be conducted in some areas. The Committee additionally requests information on measures that were taken to address reports of violence and electoral irregularities in the recent elections, and what measures will be implemented by the State party in order to prevent electoral irregularities and violence in future elections. Finally, the Committee requests information on plans, if any, to establish a constitutionally-mandated Permanent Electoral Council.

Recommended action: A letter should be sent reflecting the analysis of the Committee.

Next periodic report: 31 October 2018
