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HAUT-COMMISSARIAT

Annual Report on the situation of human rights in Haiti
Executive Summary and Recommendations
1 July 2014 – 30 June 2015



February 2016

Executive Summary

1. The present report, prepared by the Human Rights Section of MINUSTAH / United Nations High Commissioner for Human Rights (HRS), presents and analyses the key elements of the situation of human rights in Haiti between July 2014 and June 2015. It follows a report covering the period from January to June 2014 and released in December 2014.¹

2. Among the most important developments are the promulgation of the electoral decree on 2 March 2015 by the President of the Republic, followed by the publication of an electoral calendar for the first round of legislative elections. Haiti has become party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The initial report of Haiti concerning the implementation of the International Covenant on Civil and Political Rights was considered by the Human Rights Committee. The eighth and ninth joint periodic reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women have been submitted. The State continued its collaboration with the Special Procedures of the Human Rights Council by welcoming two visits of the Independent Expert on the situation of human rights in Haiti and a visit of the Special Rapporteur on the human rights of internally displaced persons.

3. The prisons population has continued to increase during the reporting period, making even more alarming a situation that was already critical, equivalent to cruel, inhuman and degrading treatment.² Dysfunctions of the judicial system and the large number of illegal arrests are among the causes of this situation that continues to deteriorate since 2004. The measures so far adopted have been ineffective to bend this trend. The occupancy rate of available space for prisoners in all prisons in the country is 804% while the average space per inmate amounts to 0.55 square meters. Furthermore, this information is only valid for 17 places of detention that are under the jurisdiction of Penitentiary Administration and does not take into account persons awaiting trial and convicts held in police stations.

4. The HRS followed up several allegations of illegal use of force by state agents, resulting in death in many cases, despite the existence of a national legal framework determining the exceptional circumstances in which state agents can resort to the use of force, including their firearms. The Human Rights Committee expressed concern at the recurrence of cases of deaths caused by firearms by law enforcement officials. Other allegations of illegal use of force – not involving the use of a firearm – and ill-treatment and illegal or arbitrary arrests by police officers were also reported during the period. The Human Rights Committee and HRS note that despite efforts in communication and transparency on the part of the General Inspectorate of the National Police, the institution does not allocate enough resources to investigate the crimes committed by police officers.

5. The extreme slowness of judicial proceedings in cases related to past political crimes, such as the so-called "Duvalier" and "Aristide" affairs or the case of the murder of journalist Jean Léopold Dominique, highlights the inability, or unwillingness of the public prosecutor to conduct such proceedings and represents an obstacle in the fight against impunity. The Human Rights Committee has also expressed concern at the slow pace of the trial against Mr Duvalier and urged the government to continue the investigation and bring to justice all those responsible for gross violations and provide victims with fair and equitable compensation.

6. The HRS received complaints and documented cases of violence and discrimination against vulnerable population groups, including women, children, and lesbians, gay, bisexual,

¹ MINUSTAH and HCHR, *Biannual Report on the human rights situation in Haiti, January-July 2014*, available at : <http://bit.ly/1N8dM8p>.

² *Idem*, para. 32.

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transgender and intersex (LGBTI), journalists and human rights defenders. HRS questions the effectiveness and even the will of the authorities to respond to such situations as provided by the national regulatory framework.

7. A worrying situation has emerged on the border between Haiti and the Dominican Republic where thousands of people of Haitian origin, or regarded as Haitians by the Dominican authorities, returned or were deported to Haiti. This situation has developed after a ruling of the Dominican Constitutional Court according to which children born in the Dominican Republic from undocumented parents have no more access to Dominican nationality. Following this decision, 210,000 people of Haitian origin were deprived of their nationality. According to the Dominican government, 524,000 migrants are in an irregular situation, many of them of Haitian origin. Concerns remain about the capacity of Haiti to address the urgent humanitarian needs related to such returns. Institutional constraints led to the installation of precarious and informal settlements. Beyond the migration situation at the border with the Dominican Republic, HRS is concerned about the limited capacity of Haiti to address the risk of deportation created by a regional migration policy increasingly strict and that especially affects people of Haitian origin, particularly from countries such as the Bahamas, Turks and Caicos Islands and the United States.

8. This report has been shared with the government. Their comments have been taken in consideration when possible.

Recommendations

9. In view of the many challenges related to the implementation of human rights highlighted in the present report and several others by international and regional bodies as well as UN experts, HRS recommends:

- a. The Haitian State to avail itself of the expertise of OHCHR and MINUSTAH, the United Nations, the international community and various human rights organisations to implement the recommendations made to it, in particular by the Human Rights Council's mechanisms, treaty bodies, the Independent Expert on the situation of human rights in Haiti and other special procedures.
- b. The Haitian State to avail itself of the expertise of the special procedures of the Human Rights Council, in particular the Working Group on Arbitrary Detention, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the independence of judges and lawyers, in its efforts to fight against prison overcrowding and prolonged pre-trial detention;
- c. The Haitian State to consider to become party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment as well as its Optional Protocol establishing a system of regular visits undertaken by independent bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment;
- d. The Haitian State to avail itself of the expertise of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence in its efforts to implement judicial and non-judicial measures to address the gross violations of human rights committed in the past, particularly during the presidency of Mr Duvalier.