

Recommendations

Report (interim) of the United Nations High Commissioner for Human Rights, Conclusions of the expert on the situation of human rights in Haiti, A/HRC/54/79, 25 September 2023

As regards the Haitian authorities, the expert recommends that:

- (a) The State must immediately relieve prison overcrowding. With this aim in mind:
- (i) Judges should review the legality of the deprivation of liberty of those in pretrial detention. Pretrial detention should be exceptional and based on an individualized determination that it is reasonable and necessary;
 - (ii) Judges must reconsider alternatives to pretrial detention if delays cannot be avoided. Persons who are not released pending trial must be tried as expeditiously as possible, consistent with their rights of defence;
 - (iii) The Haitian National Police should stop the practice of mass arrests under the rubric of “arrimage”. All deprivation of liberty by law enforcement officials must strictly comply with international human rights law and standards. Persons arrested or detained on a criminal charge should be brought promptly before a judge or other officer authorized by law to exercise judicial power and should be entitled to trial within a reasonable time or to release;
 - (iv) Legal assistance bureaux must be established in all 10 departmental capitals and must be provided with adequate resources to enable timely and quality legal services to detainees who cannot afford legal representation. Providing assistance to those in pretrial detention, including on the legality of the detention, should be a priority;
- (b) The State must ensure that prisoners are provided with daily food in a quantity and quality sufficient to satisfy the dietary needs of individuals. An effective oversight mechanism should be in place to ensure that persons deprived of liberty have timely access to food, clean drinking water, hygiene items and medication. Prosecutors and prison administrators must conduct regular inspections of all detention centres and take appropriate measures;
- (c) The Superior Council of the Judiciary must thoroughly consider complaints of judicial misconduct, strictly observing the time frame established by law and always without unreasonable delay. The Superior Council should continue its certification process of all judges while ensuring due process. Competent authorities, including the Inspection Unit of the Ministry of Justice, must also conduct regular evaluations of all prosecutors, court clerks and bailiffs to ensure their integrity and competence. The Superior Council and the Office of the Prosecutor should establish clear policies to ensure efficiency and accountability in that regard, including performance benchmarks;
- (d) Entities in charge of investigating corruption, such as the Anti-Corruption

Unit, must have sufficient resources, independence and protection to be able to fully discharge their functions and conduct their investigations. Measures should be adopted to ensure the independence and impartiality of judicial authorities in charge of considering cases of corruption, including ensuring the effective independence of the Superior Court of Accounts. Investigations and judicial proceedings must be carried out expeditiously and consistently with international human rights law;

(e) The Haitian National Police must complete the vetting of current officers by a certain date. The Haitian authorities, including the Inspector General of the Haitian National Police, should seek international advice and cooperation aiming at strengthening the Office of the Inspector General. The Office should set performance indicators in investigating complaints of police misconduct and disciplining officers found to have abused power or committed abuses, including determining clear, objective and transparent criteria for the prioritization of cases;

(f) The security policies of Haiti must be developed and implemented through a human rights-based approach. The Haitian National Police should adopt departmental security plans based on the security group model in the Grande-Anse. Working closely with civil society, the Haitian National Police should create safe areas to resist gang incursions from urban areas. That would encourage greater decentralization and allow goods and people to move more freely, depriving the armed groups of income and recruits.

(g) The Haitian National Police should integrate human rights standards into its regulations, protocols and manuals; as well as in training for staff.

(h) The State must immediately improve good governance based on human rights, including ensuring that the principles of transparency and accountability guide public expenditure and public administration more generally. The State should implement accounting and auditing standards, systems of risk management and internal control, as well as corrective action in cases of failure to comply with such requirements. Similarly, the State should provide unimpeded access to information, notably thanks to the adoption of a legal and policy framework that complies with international human rights law and standards. The Customs Service's current performance is a positive example that should be supported and replicated in other parts of the administration;

(i) The State should allocate its maximum available resources to achieve progressively the full realization of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights. To address the consequences of violence and poor governance, the Haitian authorities, with support from the international community, should:

(i) Buttress the right to education, especially by providing primary schools that are free of charge;

(ii) Provide progressively increasing access to clean drinking water with timebound targets;

(iii) Increase the number of community kitchens and locate them in areas that

are safely accessible and also increase funding for school meals;

(iv) Ensure the accessibility, availability and quality of health care, particularly in rural areas and for marginalized individuals and groups and lower-income socioeconomic groups;

(j) The Haitian authorities should create a civil/community service that offers job training, literacy courses and compensation to Haitian youth enrolled in the service;

(k) The State must increase its efforts to prevent sexual violence and to support medical, psychosocial, legal and economic services for survivors. In particular, it should:

(i) Increase advisory, technical and operational support to the Haitian National Police and the judiciary, including training on human rights law and standards, as well as a gender and age-sensitive victim-centred approach;

(ii) Establish sufficient accommodation centres for survivors and strengthen the service provided by those that already exist. The Ministry of Justice and Public Security, with the support of the international community, should establish a judicial task force to address impunity for crimes of sexual violence and process files within a reasonable time frame;

(iii) Implement targeted awareness campaigns to prevent cases of sexual violence and set vocational training programmes that enable the empowerment of women and girls.

As regards the international community, the expert recommends that:

(a) A specialized force of international police to combat organized crime, armed gangs and international trafficking in arms, drugs and persons should be deployed to assist the Haitian National Police. Any such force must observe and adhere to international human rights laws and standards. There should be an independent oversight body charged with monitoring and reporting on the performance and conduct of the force. Any support from the United Nations to the multinational force will also need to be in strict compliance with the human rights due diligence policy on United Nations support to non-United Nations security forces;

(b) States that have in their possession relevant information and evidence in relation to events that may constitute corruption-related offences should support the Haitian authorities in charge of investigating and prosecuting corruption cases, such as the Anti-Corruption Unit and the Superior Court of Accounts. That includes providing them with the necessary information and evidence, in accordance with the applicable legal framework, including international human rights law;

(c) An immediate arms embargo should be declared, with exceptions for equipment for the Haitian National Police;

(d) Aid programmes should prioritize enhancing the oversight capacity of Haitian institutions with the aim of building a culture of accountability and integrity and include time-bound results;

(e) Humanitarian actors should align their objectives towards a better and more agile delivery of humanitarian assistance, within the scope of strict respect for humanitarian principles in particular when it comes to engaging with non-State armed actors;

(f) International experts in investigating and prosecuting gang violence, financial crimes and organized crime, corruption and gender-based violence should be deployed to provide assistance to their Haitian counterparts.

Report (full) of the United Nations High Commissioner for Human Rights A/HRC/55/76, 25 March 2024

The High Commissioner calls on all national stakeholders and relevant Haitian authorities to:

(a) Engage constructively in meaningful and participatory dialogue to ensure and facilitate a broad political agreement, providing for a democratic transition, leading to free and fair legislative and presidential elections, in strict compliance with international law, including international human rights law.

(b) Urgently undertake all necessary steps to address gang violence, including in cooperation with the future MSS, to establish a minimum level of public order as a first step to ensure access of humanitarian aid, provide basic needs to the population so they can live their lives in dignity, and create security conditions conducive to free and fair elections in Haiti.

In addition, the High Commissioner calls in particular to the Haitian authorities to:

(a) Strengthen the Haitian National Police, including with adequate resources and equipment, to respond to gang violence, protect and secure public buildings, in particular those used to provide services to the population, and ensure respect of human rights norms and standards; as well as expedite the vetting process of police officers in the Haitian National Police, and hold accountable all those involved in human rights violations, as well as misconduct and criminal acts, in accordance with international human rights norms and standards;

(b) Allocate sufficient resources for functional and effective rule of law and justice institutions to address gang criminality and organized crime, including for investigations and prosecutions;

(c) Ensure the independence and impartiality of the Judiciary, including *juge de paix*, and establish specialized judicial poles with competence to consider cases related to corruption and crimes involving allegations of human rights violation and abuses;

(d) Improve the conditions of detention, in line with international human rights norms and standards and review as a priority pre-trial detention order, ensuring it is an exceptional measure and imposed in accordance with international human rights law.

(e) Prioritize the increase of the resources allocated to the Anti-Corruption Unit's (ULCC) for investigations purposes and work more closely with the public prosecutor, through the specialized judicial poles;

(f) Urgently elaborate and implement comprehensive and articulated policies to address the consequences of violence and poor governance, with support from the international community as appropriate, including:

(i) Support the re-deployment and presence of state authorities and basic social services in marginalized areas and implement policies aiming at ensuring that people enjoy at least the minimum core obligations of the rights to education, health and employment;

(ii) Strengthen of medical and psychosocial care systems for survivors of sexual violence improving their availability, accessibility and quality;

(iii) Implement measures, with preventive and early intervention approach, to protect children from gang violence and recruitment, strengthen *the Institut du Bien Etre Social et de recherches* to develop community-based services that respond to the specific needs and problems of children, and implement tailored programmes for children in conflict with the law in the centre of detention of CERMICOL to promote their reintegration into the society;

(iv) Create and foster employment opportunities especially for the youth - at risk of returning to and/or being involved in criminal activities such as civic corp;

(v) Relocate immediately all IDPs currently living in squalid conditions in school premises to safe and appropriate facilities in accordance with international standards.

(vi) Promote social and civic initiatives, with a focus on gang affected areas, to prevent violence through grassroots engagement;

(vii) Provide a safe and enabling civic space for civil society actors, in Particular

The High Commissioner further calls on Member States to:

(a) Continue to support the rapid deployment of the MSS mission in strict compliance with international law, including international human rights law, as applicable, in accordance with United Nations Security Council resolution 2699 (2023).

(b) Encourage humanitarian and development actors to work hand in hand through the triple humanitarian, development and peace nexus to find mid- and long-term solutions to access to basic services and address the root causes of instability.

(c) In light of the UN Security resolutions 2653 (2022) and 2700 (2023), to consider the following measures:

(i) Take strict measures to prevent the direct or indirect illicit supply, sale, diversion, or transfer to Haiti, from or through their territories or by their nationals, or using their flag vessels or aircraft, of small arms, light weapons, and ammunition,

(ii) Increase inspection, in accordance with their national legislation and applicable international law, of all cargo to Haiti in their territory, including seaports and airports, if the State concerned has information that provides reasonable grounds to believe the cargo contains items the supply, sale, or transfer of weapons and ammunitions.