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Human Rights Committee

Human Rights Treaties Branch

Office of the UN High Commissioner for
Human Rights

12 September 2022

LEX/HTUR/MT/AP

Written submission to the Human Rights Committee on the implementation of the ICCPR in Haiti for the 136th session (10 October to 4 November 2022)

The International Trade Union Confederation (ITUC) welcomes the opportunity to make a written contribution on the human rights situation in Haiti in advance of the 136th session of the Human Rights Committee taking place between 10 October to 4 November 2022.

We are providing the attached submission with the hope of supporting the Committee's consideration of the 2nd periodic report by Haiti.

Yours sincerely,



Sharan Burrow
General Secretary
International Trade Union Confederation

Submitting organization

The International Trade Union Confederation (ITUC) represents 200 million workers in 163 countries and territories and has 332 national affiliates. The ITUC's primary mission is the promotion and defense of workers' rights and interests through international cooperation between trade unions, global campaigning, and advocacy within the major global institutions. The ITUC enjoys General Consultation Status with the UN ECOSOC.

Summary

The International Trade Union Confederation makes the following observations with respect to the compliance of Haiti with the ICCPR. In the recent years Haiti has seen a complete disintegration of public services, the breakdown of the rule of law and widespread human rights abuses. Trade unionists are faced with systemic repression and their rights are seriously attacked. The Inter-American Commission on Human Rights¹ (IACHR) has recently condemned the situation of insecurity in the country as increasing and extremely serious, especially with regards violence in poorer neighborhoods in the country's capital, Port-au-Prince. According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), during the first half of the year, 934 people were killed, 680 were kidnapped, and 684 were injured in actions perpetrated by criminal gangs.²

Also, according to the 2021 Human Rights Watch report, the country's most vulnerable communities face environmental risks, including widespread deforestation, industrial pollution, and limited access to safe water and sanitation.³

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has been requesting for many years the Government of Haiti to amend the national legislation, and particularly the Labour Code, to bring it into conformity with the provisions of the ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize, and to address violations of workers' rights in practice.

Trade unionists are faced with systemic repression. Attacks on unions by government is common. In the past 5 years, Haitian workers have been living in the situation of deteriorating rights and living conditions.⁴ The Government mainly responded by adopting further authoritarian and repressive measures.

In the past two years, the situation has worsened in terms of access to basic social services (education, health, electricity, etc.) as well as economic and income-generating activities and the rule of law. The current situation is characterized by corruption, terror and impunity.

1 https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2022/164.asp

2 <https://www.ohchr.org/en/taxonomy/term/1019>

3 Human Rights Watch Report 2021. <https://www.hrw.org/world-report/2021/country-chapters/haiti>

4 <https://www.cetri.be/STOP-SILENCE-HAITI?lang=fr> In 19 October 2020, 82 organizations (trade unions, NGOs, movements of farmers, feminists, citizens) from Haiti, France, Belgium, Canada, Spain, Germany and Benin called for international scrutiny of the situation in Haiti and described the situation of deteriorating rights and living conditions of the Haitian workers.

Violations of freedom of assembly (Article 21 ICCPR)

Below we provide several recent examples of violation of workers' right to freedom of peaceful assembly, protected by Article 21 ICCPR.

Illustrative cases:

- In January 2022, a coalition of unions had called on the Prime Minister to increase the minimum wage in the garment industry from 500 gourdes a day (US\$4.80) to 1,500 gourdes and organized a demonstration. The protests were brutally repressed by the police, who fired tear gas and beat protestors with batons outside the SONAPI free trade zone in Port-au-Prince.⁵
- On 10 February 2022, for the second day in a row, police fired tear gas and beat protestors with batons outside the SONAPI Free Trade Zone in Port-au-Prince, Haiti. Striking workers were calling on Prime Minister Ariel Henry to increase the minimum wage in the garment industry from 500 gourdes a day (US\$4.80) to 1,500 gourdes.⁶
- On 23 February 2022, journalist was killed and five workers were injured in Port-au-Prince, when police opened fire on peaceful demonstrators opposing the amount of the meagre wage increase announced by the government following weeks of protest. The cost of living has been steadily increasing in Haiti and violence has pervaded the country as gangs often wielded more power than the Government.⁷

Violations of freedom of association (Article 22 ICCPR)

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has been requesting for many years the Government of Haiti to amend the national legislation, and particularly the Labour Code, to bring it into conformity with the provisions of the ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize.⁸ CEACR also highlighted in its last report that since 2014 the Government of Haiti has failed to provide information regarding the application on the ILO Convention No. 87 in law and in practice.⁹ This failure to report demonstrates the Government's unwillingness to be accountable under the international system.

The Ministry of Social Affairs and Labour (MAST), through the Social Organizations Service of the Labour Directory continues to interfere in the management structure and functioning of the unions. Section 34 of the Decree of 4 November 1983 gives excessive powers to the Direction du Travail. This regulation allows the authorities to interfere in the establishment and operation of trade unions. The Labour Directory has the right to demand the modification of the statutes and constitutive acts of trade unions before their registration, at its own will. There are cases where the authorities refuse trade union registration under the pretext of minor administrative demands, such as the demand to change the name of the organization.

This has been the case of the trade union organization that was set up at Codevi (Syndicat des Travailleurs de Codevi, SYNTRAC). The Codevi Free Zone is a zone primarily serving the textiles industry which has attracted world-renown clothing brands. Codevi Free Zone is situated on the northern border of Haiti and Dominican Republic near Ouanaminthe.

The Codevi textile factory, located in the zone, is one of Haiti's largest employers. The zone employs around 14,000 employees. For several years the Codevi workers reported terrible hygiene conditions, sexual harassment of female workers and wages below poverty line, and the need for

⁵ ITUC Inditex, 2022. <https://www.globalrightsindex.org/en/2022/countries/hti>

⁶ ITUC Inditex, 2022. <https://www.globalrightsindex.org/en/2022/countries/hti>

⁷ ITUC Inditex, 2022. <https://www.globalrightsindex.org/en/2022/countries/hti>

⁸ Observation (CEACR) - adopted 2020, published 109th ILC session (2021)

⁹ Observation (CEACR) - adopted 2021, published 110th ILC session (2022)

collective representation of their interests. However, when a trade union organization was finally set up in 2020, the MAST was blocking the registration for more than a year, while demanding, for no apparent reasons, the change of the name. By doing so, the authorities were putting the unionists at danger of reprisals from the company's management, since the information about setting up a trade union organization was already public, but the organization was not yet registered. We recall that according to ILO Convention No. 87 the workers have the right to have organizations of their choosing registered promptly and without previous authorization. As stated by the ILO Committee of Freedom of Association (CFA), The formalities prescribed by law for the establishment of a trade union should not be applied in such a manner as to delay or prevent the establishment of trade union organizations. Any delay caused by authorities in registering a trade union constitutes an infringement of Article 2 of Convention No. 87.¹⁰

The authorities often refuse to register independent trade unions that do not pledge allegiance to the President of the Republic. The Syndicat des Travailleurs-euses du Ministère de la Santé Publique et de la Population (STMSPP) and le Syndicat des Employés de l'Institut Haïtien de Statistiques et d'Informatique (SEIHSI), are among the unions that have been applying for registration for more than a year, but the MAST refuses to issue the certificate of registration because the CTSP to which these unions are affiliated is very critical of the government. La Confédération des Travailleurs Haïtiens (CTH) is in the same situation: l'Union Syndicale des Ouvriers de CODEVI (USOCO), le Syndicat des Ouvriers MAS-AKANSYÈL (SO-MA-AKAN), le Syndicat National des Employés de la DGI (SYNATE-DGI), le Syndicat des Employés du Ministère de l'Agriculture, des Ressources Naturelles et du Développement Rural (SEMARNDR), le Syndicat du Personnel de la Primature (SYPP) were also denied registration.

In addition, section 229 and 233 of the Labour Code also establish requirements that are not in line with Article 2 of the ILO Convention No. 87 as they do not allow young workers who have already reached the national statutory minimum age for admission to employment to join trade unions without parental authorisation. ILO CEACR called on the Government to amend sections 229 and 233 of the Labour Code in order to ensure that minors who have reached the statutory minimum age for admission to employment are allowed to exercise their trade union rights without parental authorization but the Government has not yet taken any action in this regard.

When trade unions attempt to access their legitimate right to a peaceful strike they face persecution from the authorities who often interfere directly and eliminate trade union leaders by ending their employment contracts or transferring them to different posts.

Illustrative cases:

- On August 13, 2020, the Education unions organized a sit-in in front of the headquarters of the Ministry of National and Vocational Education and Training (MENFP) in Nazon to demand better salaries and working conditions. Shortly thereafter, Professor Georges Wilbert FRANCK, Secretary General of the Union Nationale des Normaliens et Educateurs Haïtiens (UNNOEH) and the general Secretary of the Confédération Nationale des Educateurs Haïtiens (CNEH), Professor Magalie Georges¹¹, who actively participated in the protest, were transferred from their position with the clear intention of dissuading workers and unions leaders from future protest actions.

¹⁰ 2018 ILO CFA Digest, para 427.

¹¹ <https://lenouvelliste.com/article/219740/la-syndicaliste-magalie-georges-qualifie-son-transfert-dattaque-a-la-democratie-et-a-la-liberte-syndicale>

- In order to weaken the strike movement within the Syndicat des Employé-e-s du Ministère de l'Éducation Nationale (SEMENFP) the Minister of National Education has decided to transfer from their positions four unions leaders.
- On July 7, 2020¹², the workers of Electricity of Haiti (ED'H), the Haitian state-owned National Electricity Company of the Haitian State, went on strike to protest the appointment the new General Manager of EDH. The headquarters of the CSTP and FESTRED'H were occupied for three days by the police. At the same time, the company also transferred union leaders to other locations far from their original place of work with the clear intention of harming their union activity.

Impunity and lack of access to justice

The judicial system in the country is dysfunctional, which creates an environment of total impunity. Workers face situations of abuse, denial of justice and lack of protection. The Observatoire Haïtien des Crimes contre l'humanité and Harvard Law School's International Human Rights Clinic¹³ issued a report alleging Haitian government complicity in three massacres targeting impoverished neighbourhoods between 2018 and 2020. The political instability present in the country due to corruption and impunity since the assassination of President Jovenel Moïse in July of 2021, ended up collapsing the government and its institutions.¹⁴

Conclusions

The seriousness of the allegations presented call for urgent action. We request the Committee to express concern over the situation of human and labour rights in the country in relation to the rights protected by Articles 21 and 22 of the ICCPR and, in the Concluding Observations on the 2nd Report, call on the Government to take and intensify all necessary measures to respect, protect and fulfill its obligations under international human rights law.

¹² <https://publicservices.international/resources/news/hati-lisp-appelle--la-propriet-et-au-contrle-publics-de-energie-?id=10995&lang=fr>

¹³ <https://www.amnesty.org/en/location/americas/central-america-and-the-caribbean/haiti/report-haiti/#:~:text=HAITI%202021,of%20Haitians%20sought%20international%20protection.>

¹⁴ <https://csa-csi.org/2021/12/20/la-csi-y-la-csa-hacen-un-llamado-para-no-abandonar-a-haiti-en-medio-de-la-profundizacion-de-la-crisis/>