



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the fifth periodic report of Togo*

1. The Human Rights Committee considered the fifth periodic report of Togo¹ at its 3780th, 3781st and 3782nd meetings,² held on 29 June, 30 June and 1 July 2021. The meetings were held in a virtual format owing to the coronavirus disease (COVID-19) pandemic. At its 3797th meeting, held on 23 July 2021, it adopted the present concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its fifth periodic report in response to the list of issues prior to reporting prepared under that procedure.³ It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing after the dialogue.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative, political and institutional measures:

(a) Act No. 2019-003 of 15 May 2019 amending the Constitution of 14 October 1992, which includes provisions that strengthen a number of Covenant rights and embed the abolition of the death penalty and of life imprisonment in the Constitution;

(b) Organic Act No. 2018-006 of 20 June 2018 establishing the composition, organization and functions of the National Human Rights Commission and designating the Commission as the national mechanism for the prevention of torture;

(c) Act No. 2016-021 of 24 August 2016 on the Status of Refugees in Togo;

(d) Act No. 2015-010 of 24 November 2015 (the new Criminal Code), as amended by Act No. 2016-027 of 11 October 2016;

(e) Act No. 2013-010 of 27 May 2013 on Legal Aid in Togo;

(f) Act No. 2012-014 of 6 July 2012 (the Personal and Family Code), as amended by Act No. 2014-019 of 17 November 2014.

* Adopted by the Committee at its 132nd session (28 June–23 July 2021).

¹ CCPR/C/TGO/5.

² See CCPR/C/SR.3780, CCPR/C/SR.3781 and CCPR/C/SR.3782.

³ CCPR/C/TGO/QPR/5.



4. The Committee welcomes the State party's accession, on 14 September 2016, to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty. It also welcomes the ratification of, or accession to, the following international instruments by the State party:

(a) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, on 16 December 2020;

(b) The International Convention for the Protection of All Persons from Enforced Disappearance, on 21 July 2014.

C. Principal matters of concern and recommendations

Applicability of the Covenant in national law

5. While it notes that the Covenant and other international legal provisions become directly applicable under national law once they have been ratified, the Committee is concerned by the fact that some of the laws that are adopted and the interpretation given to those laws are not always in full conformity with the Covenant. It, furthermore, regrets that the State party has not provided sufficient examples of cases where the provisions of the Covenant have been invoked before or applied by the courts (art. 2).

6. **The State party should examine and, if necessary, revise national law provisions in order to align them more fully with the rights guaranteed by the Covenant and ensure that national law is interpreted and applied in keeping with the State party's obligations under the Covenant. It should also fully embed the provisions of the Covenant in its national law, redouble its efforts to provide specialized training on the Covenant to civil servants, public prosecutors, judges, and members of the National Assembly, and organize public awareness-raising activities.**

Customary law and the application of the Covenant at the national level

7. While it takes note of the State party's explanations to the effect that positive law takes precedence over customary law, the Committee is concerned by reports that customary law continues to be applied in practice in a manner that is incompatible with the Covenant (art. 2).

8. **In accordance with the Committee's general comment No. 31 (2004) on the nature of the general legal obligations imposed on States parties to the Covenant, the State party should guarantee the rights set forth in the Covenant to all persons present in its territory and take all measures necessary to align traditional and customary norms with the Covenant, ensuring, in the case of a conflict between them, that the Covenant takes precedence over customary law.**

National Human Rights Commission

9. While it takes note of the State party's explanations, the Committee remains concerned by the fact that the reports issued by the National Human Rights Commission are confidential documents, unless the Commission decides to publish them, a practice that is likely to undermine the implementation of its recommendations. Notwithstanding the existence of article 40 of Act No. 2018-006 authorizing the reporting of human rights violations to the competent judicial authority, the Committee expresses its apprehension regarding the implementation of the article and notes with concern the lack of information on the follow-up given to complaints that the Commission submits to judicial bodies. The Committee likewise expresses its concern about alleged interference by members of the Government in the report that the Commission published in 2012 on its investigation into allegations of torture and ill-treatment in National Intelligence Agency facilities, including in the "Kpatcha Gnassingbé and co-defendants" case, and allegations of threats being levelled against the former President of the Commission, who was forced to leave the country out of fear for his safety (art. 2).

10. The Committee reiterates its recommendation that the State party strengthen the status of the National Human Rights Commission to ensure that it is in full conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).⁴ In particular, the State party should:

- (a) Strengthen the Commission's independence, putting an end to all forms of control over its activities exercised by government bodies;
- (b) Encourage the publication of the Commission's reports and facilitate access to them for all stakeholders;
- (c) Guarantee the Commission full access to the judicial system for the submission of complaints about human rights violations;
- (d) Launch a criminal investigation, led by the public prosecutor's office, into the allegations of torture of the seven victims concerned in the "Kpatcha Gnassingbé and co-defendants" case, as well as the other victims mentioned in the Commission's report;
- (e) Investigate the allegations of threats having been made against the Commission's former President.

Anti-corruption efforts

11. The Committee is concerned by the fact that corruption seems to be prevalent in the State party, especially in the justice sector. It is also concerned by the low number of investigations, prosecutions and convictions for corruption (arts. 2, 14 and 25).

12. The State party should:

- (a) Strengthen the High Authority for the Prevention and Fight against Corruption and Related Offences and adopt a national anti-corruption strategy;
- (b) Give members of the public prosecutor's office and law enforcement officials better tools for combating corruption, for example, by providing them with ongoing training and allocating them sufficient resources;
- (c) Ensure that all acts of corruption are investigated independently and impartially and that perpetrators, including the most senior officials in the State and other public figures, are brought to justice and given appropriate punishments, should they be found guilty;
- (d) Continue to run training and awareness-raising campaigns to inform politicians, State officials, the business community and the general public of the economic and social costs of corruption.

Ending impunity and addressing past human rights violations

13. While it welcomes the measures taken to establish transitional justice mechanisms, the Committee is concerned by the failure to convict the presumed perpetrators of the flagrant human rights violations that marked the presidential election of 2005. In this connection, the Committee notes with great concern the explanation provided by the State party to the effect that it had given priority to providing reparation over the punishment of the perpetrators of these grave human rights violations. The Committee is aware of the difficulties encountered in conducting investigations and identifying the guilty parties. However, it recalls general comment No. 31, in which the Committee affirms that States parties must ensure that perpetrators of grave human rights violations are brought to justice. Consequently, compensation measures, disciplinary measures and internal inquiries by the security forces are not sufficient for the State party to fully meet its obligations under the Covenant (arts. 2, 6, 7 and 14).

⁴ CCPR/C/TGO/CO/4, para. 8.

14. **The State party, as a matter of priority, should put in place a process that establishes criminal responsibility for grave human rights violations, ensuring that it is in line with international norms, including with regard to the independence and expertise of judges and access for victims to justice. The State party should, in particular:**

(a) **Ensure that all the presumed perpetrators of grave human rights violations are prosecuted in an impartial process and, if found guilty, that they receive punishments proportionate to the gravity of their offences, and [it should] relieve any person found to be implicated in grave human rights violations of his or her official duties;**

(b) **Implement the recommendations made by the Truth, Justice and Reconciliation Commission;**

(c) **Pursue its efforts to provide reparation, including through the High Commission for Reconciliation and Strengthening of National Unity.**

Non-discrimination and the rights of persons who belong to ethnic and sexual minorities

15. The Committee notes that article 553 of the Criminal Code and article 157 of Act No. 2020-001 of 7 January 2020, concerning the Press and Communications Code in the Togolese Republic, prohibit the making of any appeals to ethnic hatred that constitute incitement to discrimination, hostility and violence. However, it remains concerned by:

(a) The lack of any investigation into or legal proceedings being instituted, in line with the criminal law in force at the time, against political leaders and journalists who are suspected of having stirred up ethnic hatred in the course of the 2005 election;

(b) The persistence of impunity for these crimes, even after the adoption of the new Criminal Code and the Press and Communications Code, a situation that opens the door for the repetition of similar violations (arts. 2 and 20).

16. **The State party should:**

(a) **Promptly launch investigations into and prosecution proceedings against political leaders and journalists whose incitement of racial hatred in the course of the 2005 election led to grave human rights violations;**

(b) **Prosecute, by impartial process, any persons whose public discourse had the effect of instigating such offences in violation of article 20 of the Covenant and ensure that those persons, if found guilty, receive punishments that are commensurate with the gravity of their offences.**

17. The Committee takes note of the provisions of the new Criminal Code concerning the criminalization of discrimination. It is, nevertheless, concerned by the fact that there is no clear definition or criminal classification of direct or indirect discrimination that covers all the grounds listed in the Covenant, including sexual orientation and gender identity. It also takes note of the information provided by the State party concerning the non-application, in practice, of criminal law provisions that characterize sex between consenting adults of the same sex as an offence and concerning the importance of first changing mindsets before introducing legislative changes in that area. However, it is concerned by the fact that these provisions have been retained in the new Criminal Code and that the applicable penalties have been increased. It is also concerned by reports that the security forces have subjected persons to harassment, attacks, ill-treatment and arbitrary detention on grounds of their actual or presumed sexual orientation or gender identity. It is, furthermore, concerned by the restrictions imposed on associations concerned with defending persons targeted on account of their sexual orientation or gender identity (arts. 2, 20, 22, 26 and 27).

18. **The State party should:**

(a) **Revise its national legislation to bring it fully into line with the Covenant, by including a definition of direct and indirect discrimination, including in the private**

sphere, that covers all the grounds mentioned in the Covenant and that encompasses sexual orientation and gender identity;

(b) Amend the Criminal Code to decriminalize sex between consenting adults of the same sex;

(c) Take all measures necessary, including measures to raise awareness among trial judges and prosecutors, as well as law enforcement officials and members of the security forces, to guarantee protection to persons who are targeted on account of their sexual orientation or gender identity and to organizations set up to defend such persons against all forms of targeted harassment, discrimination and violence.

Gender equality and discrimination against women

19. The Committee notes with concern that, notwithstanding the provisions of the Constitution that recognize gender equality, and the new provisions of the Criminal Code, articles 311 to 313 of which make it an offence to discriminate against women, several national laws still contain provisions that discriminate against them. In particular, the Committee notes with concern that discriminatory provisions are still to be found in the Personal and Family Code, as amended in 2014, including the requirement for women to wait for 300 days from the dissolution of their previous marriage before they can remarry and the provision authorizing polygamy.⁵ The Committee welcomes the information provided by the State party to the effect that it intends to adopt measures to put an end to the practice of polygamy. While it takes note of article 313 of the Criminal Code, which makes it an offence to impede women's access to land, the Committee is concerned by the fact that customary law and practice perpetuate gender inequalities, particularly in the areas of inheritance law and the right to property, and that cultural practices such as forced marriage still hold sway (arts. 2, 3, 7 and 26).

20. The State party should take urgent action to:

(a) Review national laws, including customary laws, that deal with the status of women and repeal or modify all provisions that discriminate against women in breach of the Covenant, notably those concerning marriage, polygamy, inheritance and property;

(b) Step up its efforts to counter discriminatory customary practices, including forced marriage, ensuring that, inter alia, inheritance matters are adjudicated fairly and that the harmful effects of these practices are publicized in rural areas;

(c) Strengthen public information and awareness-raising activities to eliminate sexist stereotypes, counter the problem of women's subordination and promote respect for the roles and shared responsibilities of men and women in the family and in society.

Violence against women

21. The Committee notes with concern the persistence of violence against women, particularly domestic and sexual violence. It takes note of the State party's explanations regarding the legal provisions that deal with domestic violence but regrets that there is no specific criminal provision on the subject that meets the requirements of the Covenant. The Committee is, furthermore, concerned by:

(a) The fact that the penalty for marital rape under the Criminal Code is lighter than the penalty for rape in general;

(b) The absence of measures, notably protection measures, to ensure that rape victims can have access to justice without fear of discrimination, stigmatization or reprisals;

(c) The persistence of the practice of female genital mutilation, even though it is an offence under articles 217 to 222 of the Criminal Code and is gradually being eradicated,

⁵ Articles 52 and 42 of the Personal and Family Code, respectively.

and the lack of information on the measures taken to protect women and girls from this practice during the COVID-19 pandemic (arts. 3 and 7).

22. The State party should redouble its efforts to prevent and combat all forms of violence against women, including by:

(a) **Amending the Criminal Code firstly to provide a specific definition of domestic violence and to establish it as a separate offence and secondly to align the penalty prescribed for marital rape with that prescribed for rape in general;**

(b) **Considering the adoption of a comprehensive law, in consultation with civil society, to prevent, combat and punish all forms of violence against women and girls, including domestic violence, in the public and the private domains;**

(c) **Stepping up its efforts to raise awareness among trial judges, prosecutors, law enforcement officials and the general public at large of the harmful effects of domestic violence, and taking all measures necessary, including protection measures, to grant rape victims access to justice, during the COVID-19 pandemic and beyond;**

(d) **Pursuing its awareness-raising efforts and developing new intervention strategies, including during the COVID-19 pandemic, in order to eradicate female genital mutilation.**

Voluntary termination of pregnancy and women's sexual health

23. The Committee is concerned by the large number of clandestine abortions and the high maternal mortality rate associated with this practice. It takes note of the State party's explanation to the effect that articles 829 to 832 of the Criminal Code, which make voluntary termination of pregnancy a criminal offence, are not applied in practice. However, it remains concerned by the fact that these provisions are in force and that, by virtue of their very existence, they encourage recourse to clandestine abortions. It is also concerned by the fact that adolescents and vulnerable groups in particular do not all have access to sexual and reproductive health information and services (arts. 3, 6, 7 and 17).

24. The State party should:

(a) **Redouble its efforts to reduce maternal mortality due to clandestine abortions by adapting its regulations on pregnancy and abortion so that women have proper access to legal and safe abortions;**

(b) **Revise its criminal legislation to ensure that women and girls who have abortions and the doctors and other health personnel who assist them are not subject to criminal penalties;**

(c) **Guarantee full access to sexual and reproductive health services and to comprehensive sex education for men, women, girls and boys throughout the country, including in rural and isolated areas.**

Torture and cruel, inhuman or degrading treatment

25. The Committee welcomes the integration of the national mechanism for the prevention of torture into the National Human Rights Commission and notes with satisfaction the information provided by the State party concerning visits by the mechanism to different places of deprivation of liberty. It is, however, concerned by the fact that visits to detention facilities by civil society organizations have been suspended pursuant to a decision issued in April 2020 citing the COVID-19 pandemic. While it welcomes the inclusion of the crime of torture in the new Criminal Code and the fact that the crime does not carry any statute of limitations, the Committee is concerned by:

(a) The fact that the definition set out in article 198 of the Criminal Code is not fully in line with article 7 of the Covenant;

(b) The allegations about torture and ill-treatment being frequently practised by law enforcement officials and members of the security forces in order to extract confessions from people, including children, being held in custody and pretrial detention;

(c) The almost complete absence of investigations and prosecutions by the public prosecutor's office for these acts of torture and ill-treatment, which helps to create and maintain a climate of impunity for the perpetrators (arts. 2 and 7).

26. The State party should:

(a) **Revise the definition of torture set out in the Criminal Code so as to bring it into full conformity with article 7 of the Covenant;**

(b) **Give clear instructions to senior security officials regarding the absolute prohibition of torture, the penalties for torture and the fact that the perpetrators of such acts will be prosecuted, and give clear instructions to the public prosecutor's office to investigate all cases of torture and ill-treatment and to bring the necessary prosecutions;**

(c) **Take the steps necessary to ensure that the restrictions imposed on civil society organizations regarding visits to detention facilities are lifted as soon as possible.**

Mob justice

27. The Committee expresses its concern about the phenomena of mob justice and lynchings and regrets that there are very few investigations by the public prosecutor's office or prosecutions and convictions of the perpetrators. It is also concerned by the defiance shown towards the State and its justice system, which is sometimes manifested in mob justice and lynchings of persons suspected of committing crimes (arts. 2, 6 and 7).

28. The State party should:

(a) **Investigate and prosecute all presumed perpetrators of mob justice and lynchings and, if they are found guilty, ensure that they receive appropriate penalties;**

(b) **Take practical measures to restore public confidence in its judicial institutions;**

(c) **Pursue the measures already taken to eliminate the phenomenon of mob justice and conduct campaigns to raise awareness of the illegal nature of swift, mob justice and the criminal liability of perpetrators.**

Prohibition of slavery and servitude

29. The Committee welcomes the State party's efforts to combat child exploitation and servitude. However, it remains concerned by the persistence of the phenomenon. It also regrets the fact that:

(a) Labour inspectors do not have sufficient resources to carry out their duties effectively and systematically in all sectors where child labour is prevalent;

(b) The National Action Plan to Combat Trafficking in Persons has not been renewed since 2008 (arts. 8, 16 and 24).

30. The State party should:

(a) **Guarantee the strict application of the provisions of the Criminal Code outlawing all forms of trafficking in persons and forced labour, and those of Decree No. 1556/MPFTRAPS of 22 May 2020 defining the forms of hazardous work in which Togolese children must not be employed;**

(b) **Strengthen the capacities of labour inspectors to enable them to carry out their duties effectively and systematically in all sectors where child labour is prevalent;**

(c) **Adopt, as soon as possible, the draft decree on the establishment, responsibilities, organization and functions of the National Commission to Combat Trafficking in Persons, and renew the National Action Plan to Combat Trafficking in Persons;**

(d) **Take the measures necessary to grant stay permits to victims of trafficking and provide them with protection.**

Detention and duration of custody

31. The Committee takes note of the criminal reform process under way in the State party, including the adoption of the Criminal Code, but deplores the length of time that it is taking to adopt the Code of Criminal Procedure, which is crucial to the full application of the Covenant. In this regard, the Committee expresses its concern regarding:

- (a) The lack of a clear legal basis to allow a person who has been arrested or detained to challenge the legality of the arrest or the detention in a court of law;
- (b) The repeated allegations of arbitrary arrests and detention and of failure to abide by the legal time limits on custody;
- (c) The non-application of alternatives to detention that are provided for in the new Criminal Code (arts. 9, 10 and 14).

32. **The State party should:**

- (a) **Expedite the revision of the Code of Criminal Procedure in line with the Covenant and with the Committee's general comment No. 35 (2014) on freedom and security of person, so as to allow all persons who are arrested or detained to petition a court for it to rule, in a timely manner, on the legality of the detention and order their release should the detention be found to be illegal;**
- (b) **Guarantee, in practice, compliance with the legal time limits for custody, put an end to all forms of arbitrary or excessive detention, and compensate all persons who are placed in detention in breach of the law;**
- (c) **Ensure that all cases of arbitrary or excessive detention give rise to an investigation, disciplinary measures and/or legal proceedings against the perpetrators in those cases;**
- (d) **Ensure that persons in detention are afforded full legal guarantees in conformity with articles 9, 10 and 14 of the Covenant;**
- (e) **Ensure that the national courts can make use of alternatives to detention following the adoption of the new Code of Criminal Procedure.**

Prison conditions and deaths in detention

33. The Committee welcomes the measures taken by the State party to address the situation of prisoners during the COVID-19 pandemic. The Committee is nevertheless concerned about:

- (a) The substandard conditions of detention in penitentiaries in the State party and, in particular, the very high levels of prison overcrowding resulting, inter alia, from the high percentage of persons present who are in pretrial detention;
- (b) The allegations of deaths in detention that are mostly linked to unsanitary conditions;
- (c) The fact that, because of prison overcrowding, the principle of holding pretrial detainees separately from convicted prisoners is not generally observed (arts. 6, 9 and 10).

34. **The State party should:**

- (a) **Redouble its efforts to improve the living conditions and treatment of detainees and ensure that they are separated according to detention regime, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners;**
- (b) **Take urgent measures to ensure that all deaths in detention are investigated thoroughly and impartially;**
- (c) **Pursue its efforts to remedy the problem of prison overcrowding, including by introducing an effective policy on the use of alternative measures and alternative penalties to deprivation of liberty.**

Legal aid

35. The Committee notes with concern that Act No. 2013-010 on Legal Aid in Togo is not being applied owing to the absence of an implementing decree, a situation which is likely to undermine the ability of indigent or vulnerable persons to gain access to justice. It is also concerned by reports that there is still not enough awareness or use by the population of ex officio legal assistance (arts. 2, 9, 10 and 24).

36. The State party should take prompt action to amend Act No. 2013-010 and to publish the decrees and orders implementing it with a view to guaranteeing in practice that all persons without means who are brought before the courts have access to legal aid. It should also step up its efforts to ensure that the population is aware of the existence of ex officio legal assistance and that it can make use of it in practice.

Administration of justice

37. Notwithstanding the explanations provided by the State party, the Committee is concerned by reports of frequent attempts at interference in the workings of the judicial system and the public prosecutor's office by public and private parties. It is likewise concerned by the lack of independence of the public prosecutor's office, which reports, legally and in hierarchical terms, to the Ministry of Justice. The Committee recalls its general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, in which it affirms that a state of affairs in which the functions and roles of the judiciary and the executive cannot be clearly distinguished and where the latter is able to control and manage the former is incompatible with the principle of an independent tribunal (arts. 14 and 25).

38. The State party should take prompt measures, including legislative measures, to protect the full autonomy, independence, impartiality and safety of judges, magistrates and prosecutors. It should also ensure that these persons are protected from any form of undue pressure or interference on the part of other entities, including the executive and the legislature.

Treatment of refugees and asylum seekers

39. While it welcomes the entry into force of Act No. 2016-021 on the Status of Refugees in Togo and the establishment of the National Refugee Commission and the Appeals Board, the Committee is concerned by the lack of information on the implementation of the Act and on how the two bodies established under the Act are working. While it takes note of the information provided by the State party confirming that it is possible for asylum seekers to petition a court, the Committee regrets the absence of any specific data or information that would allow for an assessment of the effective exercise of this right by them and of whether such petitions have suspensive effect (arts. 7, 9, 12 and 13).

40. The State party should provide more information about the implementation and impact of Act No. 2016-021 and about the functioning of the two bodies established pursuant to it, specifying what procedures and modalities are in place to allow asylum seekers to have recourse to the courts and whether such recourse has suspensive effect.

Freedom of religion and of association

41. The Committee is concerned by:

(a) Reports that associations, particularly religious associations, face significant obstacles when it comes to registration, and the fact that some religious organizations have reportedly been refused registration;

(b) The absence of a rule on the time limit for obtaining a receipt for associations, a matter that is left to the discretion of the administrative authorities;

(c) The vague criteria used to evaluate the registration applications of religious organizations (arts. 18, 22 and 26).

42. The State party should guarantee freedom of religion and of association and refrain from taking any action that is likely to curb the exercise of these freedoms,

beyond those restrictions allowed for in articles 18 and 22 of the Covenant. The State party should expedite the adoption of the new bill on freedom of conscience and religion, as well as the bill on freedom of association, with the active participation of civil society and in full conformity with the Covenant.

Freedom of expression

43. The Committee is concerned by:

(a) The existence of a number of legislative provisions that impose excessive limits on the content of speech, notably in the law on domestic security, the law on cybercrime and the Press and Communications Code, and is concerned that the vague nature of these norms is very much out of keeping with the content of article 19 of the Covenant;

(b) A number of articles of the Criminal Code that criminalize activities linked to the exercise of freedom of expression, such as seditious chants and cries in public places or meetings, the publication of fake news, and defamation;

(c) Allegations of the use of these criminal provisions to hamper the activities of journalists, trade unionists, opinion leaders and human rights defenders, and to curb their freedom of expression;

(d) Reports concerning numerous incidents involving threats, intimidation, harassment and arbitrary arrests of human rights defenders;

(e) Reports of suspensions of newspapers or bans on radio broadcasts, as well as doubts raised by the lack of independence of the High Audiovisual and Communications Authority, a situation which reportedly exposes the Authority to undue interference, including by the executive, and reportedly does not allow for adequate protection of journalists and the media (arts. 2, 6, 7, 14, 18, 19, 21 and 22).

44. **The State party should:**

(a) **Revise the laws cited in paragraph 43 above so as to bring them into line with article 19 of the Covenant;**

(b) **Refrain from intimidating, harassing, arresting, detaining or prosecuting, for vaguely defined offences, journalists and human rights defenders who are exercising their right to freedom of expression;**

(c) **Ensure that all the violations committed against journalists and human rights defenders are investigated thoroughly and impartially and without delay so that the perpetrators can be tried and sentenced to penalties commensurate with the gravity of their offences and that the victims can receive redress;**

(d) **Take all measures necessary, including legislative measures, to guarantee the full independence of the High Audiovisual and Communications Authority.**

Freedom of peaceful assembly and excessive use of force by State actors

45. The Committee expresses its grave concern regarding:

(a) Act No. 2019-010 of 12 August 2019 amending Act No. 2011-010 of 16 May 2011 establishing the conditions for the exercise of freedom of peaceful public assembly and protest, which includes provisions imposing unwarranted and disproportionate restrictions on the exercise of the right to freedom of peaceful assembly;

(b) The allegations that protests are often dispersed by law enforcement officials or members of the security forces, including armed personnel, using excessive force that has caused numerous deaths and injuries;

(c) The lack of information regarding investigations by the public prosecutor's office into these allegations and of information regarding prosecutions brought and convictions and penalties handed down (arts. 7, 9, 10, 14, 19 and 21).

46. **In keeping with the Committee's general comment No. 37 (2020) on the right to peaceful assembly, the Basic Principles on the use of Force and Firearms by Law**

Enforcement Officials and the United Nations Human Rights Guidance on the Use of Less-Lethal Weapons in Law Enforcement, the State party should:

- (a) **Revise Act No. 2019–010 to bring it into conformity with article 21 of the Covenant;**
- (b) **Ensure that impartial and thorough investigations are undertaken without delay by the public prosecutor’s office into all allegations of the excessive use of force or extrajudicial executions by State agents at protests, and ensure that the perpetrators are prosecuted and, if found guilty, that they are punished and that the victims receive redress;**
- (c) **Ensure that legislative provisions and rules on the use of force are in line with international norms, and ensure that the security forces apply non-violent measures before resorting to any use of force when controlling protests;**
- (d) **Take the measures necessary to ensure that armed personnel do not take part in operations designed to maintain order.**

D. Dissemination and follow-up

47. **The State party should widely disseminate the Covenant, its fifth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public.**

48. **In accordance with rule 75, paragraph 1, of the Committee’s rules of procedure, the State party is requested to provide, by 23 July 2023, information on the implementation of the recommendations made by the Committee in paragraphs 12 (anti-corruption efforts), 26 (torture and cruel, inhuman or degrading treatment) and 44 (freedom of expression) above.**

49. **In line with the Committee’s predictable review cycle, the State party will receive in 2027 the Committee’s list of issues prior to submission of the report and will be expected to submit within one year its replies to the list of issues, which will constitute its sixth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in 2029 in Geneva.**
