



ICCPR REVIEW OF HAITI: FREEDOM OF THE PRESS IN HAITI

The current state of the right to freedom of expression in Haiti fails to meet the standards governing freedom of the press, right to access public information, and freedom of expression. Members of the press and media in Haiti are subjected to hostility, derogation and a lack of transparency by the Haitian government and public officials, which violates both Haitian and international human rights laws.

Haiti's Normative and Legal Obligations

Several binding legal frameworks govern freedom of the press and expression in Haiti. Under Article 28 of Haiti's Constitution, every Haitian citizen has the right to express his or her opinion on any matter freely and by any means he or she chooses. This extends to members of the press who are also explicitly protected from any authorization or censorship, except in cases of war. The right to information is also guaranteed by the Haitian Constitution and serves as a fundamental component of the right of freedom of expression. Article 40 of the Constitution obligates the state "to publicize in oral, written and televised press in the Creole and French Languages all laws, orders, decrees, international agreements, treaties, and conventions on everything affecting the national life, except for information concerning national security."

In addition to the Constitution, Haiti is bound by the International Covenant on Civil and Political Rights ("ICCPR"). Article 19 of the ICCPR states that the right to freedom of thought and expression includes the freedom to seek, receive and impart information and ideas of all kinds through any medium of one's choice. General Comment No. 34 to ICCPR Article 19 provides that freedom of opinion and freedom of expression are indispensable conditions for the full development of the person and are essential to society. They constitute the foundation for every free and democratic society and are a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.

Haiti's Failure to Fulfill its Obligations

Haiti does not meet these forgoing obligations in several areas, including intimidation and violence against journalists, restrictions on access to public information, and threats of criminal prosecutions to deter journalistic inquiry.

Violence against journalists: Violence and threats of violence against journalists restrict journalists' freedom of expression. In our report filed on September 12, 2014 entitled *Freedom of Expression in Haiti: Violations of Freedom of the Press* ("Report"),¹ we cited a multitude of incidents of violence and intimidation against journalists that have been reported in the past few years. These reports recount journalists being subjected to arrest, harassment, intimidation, beatings, and death threats, by both government and non-government individuals. Use of such aggression by government actors or private individuals is intended to inhibit journalists from investigating abuses, irregularities, or illegal acts of any kind committed by public officials. Intimidation and violence against journalists seeks to silence the press in its investigatory role, and keeps society from being informed about individuals or institutions engaged in abusive or illegal actions. By permitting journalists to be subjected to violence and threats of violence for engaging in journalistic activities, Haiti is not maintaining the standards set by both its Constitution and ICCPR Article 19, which both require that Haitian individuals, including journalists, be permitted to form and express their opinions freely under the law.

Restrictions on Access to Public Information: The ability to access information held by the State is fundamental to the right of freedom of expression. Haitians, especially journalists, have difficulty accessing public information held by public institutions. The Government creates difficulties for journalists to locate public contracts and audits by refusing requests for information by State agents who do not believe they are required to follow the laws set out in the Haitian Constitution. As detailed in our Report, journalists indicate that the Government repeatedly stonewalls journalists' access to public information. This practice undermines Haiti's Constitutional obligation to publicize anything affecting the national life.

Defamation Suits: Defamation remains a criminal offense in Haiti, which conflicts with Article 19 of the ICCPR as disproportionate punishment compared to the important role that freedom of expression plays in a democratic system. As further detailed in our Report, journalists accuse the Government of restricting their freedom of press by using defamation allegations as a tool to prevent members of the press from publishing or broadcasting reports that are critical of government actors or public officials. The Government's use of threats—including threats of fines and penalties, as well as threats of criminal charges—pressures journalists into self-censorship, effectively obstructing the objectives of Haitian and international human rights laws and norms.

RECOMMENDATIONS

- 1) Under leadership of the Ministry of Justice, law enforcement and prosecutors should investigate and punish instances of threats and violence against journalists;
- 2) Government actors and public officials should refrain from using threatening and intimidating tactics against members of the press and media community;
- 3) Living and working conditions for journalists should be improved;
- 4) The quality of the profession of journalism and the public perception of journalists in Haiti should be protected by
 - a) Providing funding to public universities in order to provide classes on the ethical and moral responsibility associated with journalism;
 - b) Providing legitimate whistleblower protection to allow exposure of bribery and government coercion on the press and media;
- 5) Parliament should amend the Haitian Penal Code to bar criminal prosecutions for cases of defamation;
- 6) The Ministry of Communication should improve methods for information delivery so that they are consistent with the demography of the citizens of Haiti;
- 7) The Ministry of Communication should require all public agencies to make every effort to ensure easy, prompt, effective and practical access to public information.

QUESTIONS

- 1) Under the Haitian government's obligation to protect the freedom of the press, what steps are the State taking to prevent, investigate and prosecute cases of intimidation, threats and violence against journalists?
- 2) What is the Government doing to ensure that citizens have access to public records as is required for governmental transparency and accountability?
- 3) What is the Government doing to prevent government agents from pursuing legal action against journalists for investigating and reporting on significant issues of public concern?

¹ *Freedom of Expression In Haiti: Violations of Freedom of the Press*, Institute for Justice and Democracy in Haiti *et al.*, Submission for the 112th Session of the United Nations Human Rights Committee, October 8 & 9, 2014 (Sept. 12, 2014) available at <http://www.ijdh.org/2014/09/topics/law-justice/reports-sent-to-un-human-rights-committee/>.