



**THE COVID-19 PANDEMIC SLOWLY HITTING ITS STRIDE IN HAITI**  
**Time is for state and collective action, not for show**

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## I. Acronyms

- CSPJ: Conseil supérieur du pouvoir judiciaire [*Superior Council of the Judiciary*]
- CARDH\*: Centre d'analyse et de recherche en droits de l'homme [*Center for Analysis and Research in Human Rights*]
- DASH\*: Développement des activités de santé en Haïti [*Development of health activities in Haiti*]
- MAST\*: Ministère des affaires sociales et du travail [*Ministry of Social Affairs and Labor*]
- MSPP\*: Ministère de la santé publique et de la population [*Ministry of Public Health and Population*]
- MJSP\*: Ministère de la justice et de la sécurité publique [*Ministry of Justice and Public Security*]
- MEF\*: Ministère de l'économie et des finances [*Ministry of Economy and Finance*]
- OPC\*: Office de la protection du citoyen et de la citoyenne [*Citizen Protection Office*]
- PNH\*: Police nationale d'Haïti [*National Police of Haiti*]
- TPS: Temporary protection status
- WHO: World Health Organization

*\*In-text French acronyms*

## II. Context

1. CORONAVIRUS was identified in central China, more specifically in the city of Wuhan, in December 2019 and has rapidly spread to other parts of the country. In record time, the epidemic reached almost all regions of the world and claimed the lives of thousands, with the number of confirmed cases continuing to rise: Italy; Spain; France; United States of America; Iran...
2. Thus, on March 12, 2019, the COVID-19 outbreak was officially labelled a pandemic by the World Health Organization (WHO)<sup>1</sup>.
3. Some countries can no longer manage this disaster and cry for help! Italy, the second epicenter of the pandemic, recorded 919 deaths in 24 hours on March 27, 2020<sup>2</sup>. According to official data, the country now counts 10,779 deaths and 97,689 people infected (03/30/2020)<sup>3</sup>.
4. Many countries have taken drastic measures, restricting fundamental freedoms – most of which are derogable – aiming at limiting the spread of the disease: state of emergency; border closure; containment; restrictions of movement; limitation on the acquisition of food and hygiene items...
5. Haiti is part of the American continent and is not immune to the pandemic. New York, where many Haitians live, some with Temporary Protection Status (TPS), others illegally, is the city of the United States most affected by the pandemic, with 1'026 deaths and 60,679 people who tested positive (03/30/2020). The Dominican Republic, bordering Haiti, has 901 cases and 42 deaths (03/30/2020).

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<sup>1</sup> World Health Organization (WHO) (03/12/2020) “WHO announces COVID-19 a pandemic”: <http://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/news/news/2020/3/who-announces-covid-19-outbreak-a-pandemic>

<sup>2</sup> BBC News (03/27/2020), “Coronavirus: More than 900 deaths in a day in Italy”: <https://www.bbc.com/news/world-europe-52067673>

<sup>3</sup> Coronavirus COVID-19 cases worldwide, daily updates, Center for Systems Science and Engineering (CSSE), Johns Hopkins University: <https://www.arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6>

## II. COVID-19 in Haiti

### A. Development of COVID-19 in the Haitian media

6. At the dawn of the epidemic, the Haitian media (newspapers, radios, television, social networks, etc.) made COVID-19 the headlines of their daily reports. Some of Haiti's neighboring countries (the United States and the Dominican Republic) were affected. Experts and opinion leaders recommended that the state close its borders and airports. The Moïse administration did not follow their recommendations.
7. On Thursday March 19, 2020, President Moïse officially announced the first two cases of Coronavirus in Haiti. A series of measures were subsequently declared.
8. On March 28, 15 cases were confirmed, which represents a potential spread with disastrous consequences. Given that the virus is easily and rapidly transmitted, the main problem therefore resides in the limited capacity of health establishments to receive infected people presenting symptoms requiring respiratory assistance in intensive care. In such circumstances, Haiti is particularly fragile. On March 19, 2020, the national newspaper *Le Nouvelliste* published the results of a study revealing the existence of only 124 intensive care beds nationwide for a population of over ten million<sup>4</sup>. It is therefore imperative not to wait for the announcement of additional cases to start acting.
9. Given the troubling examples of the most affected countries, has the Haitian State acted effectively as the primary duty-bearer for safeguarding the right to life? What is the role of the community as a whole, in the face of this global scourge knocking on our door?

### B. COVID-19 and government announcements

10. In the evening of Thursday, March 19, 2020, accompanied by members of his government, President Jovenel Moïse officially announced the first two positive cases of COVID-19 on the Haitian territory. A presidential decree was published the following day in the official newspaper *Le Moniteur*, declaring the state of

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<sup>4</sup> *Le Nouvelliste* (03/19/2020), Claudy Pierre Junior, "124 lits de soins intensifs pour plus de 10 millions d'habitants en Haïti": <https://lenouvelliste.com/article/207336/124-lits-de-soins-intensifs-pour-plus-de-10-millions-dhabitants-en-haiti>

health emergency and presenting the following measures to be adopted throughout the territory for one month<sup>5</sup>:

- Closure of schools, universities, industrial parks, peristyles or Vodou temples, churches, mosques and other places of worship, international airports, land borders and territorial waters until further notice;
- Provision to hospitals of necessary medical supplies (masks, gloves, drugs, hand-sanitizer, etc.);
- Making private clinics and hospitals' isolation services available to the State;
- Demanding citizens to limit their movement to what is strictly necessary;
- Automatic quarantine (14 days) of people arriving from high-risk countries;
- Remuneration of owners of private property and structures that may be requisitioned by the State, in view to help the population;

11. Other measures were announced by the President in his speeches of March 19 and 21, 2020:

- Curfew from 8pm to 5am;
- Ban on gatherings of over 10 people;
- Respect for the principle of social distancing (1.5m);
- Avoiding crowding of public transports;
- Favoring working from home;
- Businesses (supermarkets, pharmacies etc.) to control the number of their indoor customers;
- Interdiction to move houses.

12. This health emergency will undoubtedly have economic and social consequences for the country, which the government says it is trying to appease, including through:

- The distribution of basic necessities in certain districts by the Ministry of Social Affairs and Labor (MAST);

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<sup>5</sup> See decree "Arrêté déclarant l'état d'urgence sanitaire sur toute l'étendue du territoire national pour une période d'un (1) mois", *Le Moniteur* N° 53, 03/20/2020.

- Compensation for employees of industrial parks who found themselves unemployed;
- Communication of measures taken by the banking sector on loans;
- The distribution of funds varying between 250,000 and 400,000 HTG to town halls in order to facilitate awareness-raising operations on COVID-19;
- Strengthening controls and sanctions to prevent black market of food, hygiene items and medicines.

13. What can be observed after the several press conferences held by the President?

### III. The measures announced by the government appear to be mere announcement effects

#### C. Public officials do not respect the measures announced

14. The reasonable measures announced on paper by the government seem so far to be a travesty, even within public administrations.
15. *a) Agglutinated Ministers and President.* At the official press conference announcing the first cases identified and the measures to be adopted, ministers and secretaries of state alongside President Moïse were themselves on top of each other.



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16. *b) Police officers exposed to COVID-19.* Until Wednesday March 25, six days after the announcement by the Moïse administration of the measures to be adopted, the police, in particular officers posted on the streets, had no preventive equipment (gloves, mask, hand sanitizer, etc.). The few police officers with a mask admitted to buying it with their own money. The police stations, the General Inspectorate and the General Management of the PNH have no preventive equipment.

17. At a press conference on Wednesday 25 March, the General Inspectorate of the PNH announced some measures<sup>6</sup> which, in CARDH and other specialists' opinions, are unconvincing, given that the State has not yet taken drastic measures in terms of public policy, to limit the consequences of the disease and protect society.
18. *c) National Identification Office (ONI): long queues of people in the street.* CARDH's investigators have observed citizens waiting in long queues to obtain the new National Identification Card: Port-au-Prince; Gonaïves...



*At the Oxyde Jeanty ONI station, in Champ-de-Mars, citizens without preventive equipment are queuing, waiting to obtain the new National Identification Card, © AyiboPOST.*

19. *d) Lack of preventive equipment for public administration personnel.* CARDH was able to note, during a visit to public institutions, that the staff have so far received no material from the State, except for a simple water container and soap to wash their hands.

#### **D. Lack of legal framework**

20. As noted above, the enjoyment of certain rights may be subject to restrictions in circumstances provided for by international law and international customary law, as well as by the Haitian Constitution. However, these restrictions must be enacted in a text in order to avoid any dictatorial drift. Currently, the measures announced have no legal basis: the ban on gatherings of more than ten people is an example.

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<sup>6</sup> 1) establishment of a workshop with a capacity of 500 masks per day; 2) provisional cancellation of all training sessions that were ought to be held for the benefit of police personnel; 3) provision of prevention materials to the police (chlorinated water, containers, soaps for hand washing); 4) the soon establishment of a PNH health center (in Bon Repos, north of the capital), in order to ensure the management of any possible case of Coronavirus.

21. On Sunday 23 March, several pastors were placed in police custody for having held masses attended by more than ten people. On Wednesday 25 March, on *Frères* street, loaded *taptaps* were emptied by the police. These are two actions of law enforcement to protect people from the spread of the disease. However, they should be regulated.

## IV. Conclusions

### **E. Analysis: Between the obligation to protect in all circumstances, in accordance with international human rights law, and collective responsibility**

22. In view of the serious risks of spread of the COVID-19 pandemic, urgent, but above all effective measures must be taken. It is indeed undeniable that the Haitian institutions, extremely weak, ineffective, even non-existent in certain remote areas, will not be able to face the pandemic, which will most likely be spread throughout the territory, reaching the majority of the population, as expressed the director of the MSPP, Doctor L. Adrien<sup>7</sup>.
23. Doctors, specialists and scientists in the fields of public health and epistemology are the first to be called upon to advise and carry out research, in order to guide the population, limit the damage and find solutions to the crisis that threatens humanity as a whole.
24. In such circumstances, the State is sole entity responsible for using the advice and recommendations of professionals in order to take all measures, within the limits of its means, most of which ought to be binding, with the aim of protecting citizens. However, on a practical level, it is recurrent that Haitian leaders have failed, over the past three decades, to act effectively in the interest of the population in times of crisis. The catastrophe of January 12, 2010 is a striking example.
25. While governments should be held accountable, because consequences linked to their management of the crisis can be considered as human rights violations (actions, omissions, failure to comply with their responsibility to respect, protect and fulfill...), it is important to consider the assumption that leaders could further weaken citizens, either because of their political interests or their lack of skills, or

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<sup>7</sup> Speaking on radio magik 9, on Thursday, March 26, Dr. Ronald Laroche, president of the network of hospitals, developing health activities in Haiti (DASH), said that 80% of the population will catch the coronavirus. However, he noted that 80% of those who catch it will have no symptoms. 15% will have symptoms (cough, fever, flu, etc.) and will need symptomatic treatment.

by desire to enrich themselves personally including their economic group. That said, today, every Haitian must protect themselves and seek to help their community.



Photo on several social networks: The Haitian Minister of Public Health and Population, Mrs. Marie Greta Roy Clément, posting with the UNICEF representative in Haiti, Maria Luisa Fornara, receiving buckets of antiseptic.

26. The director of the Artibonite regional office of the MSPP, Dr. Marcel Chevalier, has already pointed out that the quarantine of the town of Saint-Michel de Latalaye, where the 63-year-old Belgian was tested positive, second case discovered, was not respected<sup>8</sup>.

#### **F. Recommendations (non-exhaustive list)**

27. *e) Citizen solidarity.* Scientifically, confinement is the most plausible thesis to limit the devastating effects of the COVID-19 pandemic, and the public should therefore respect it. However, given the high level of vulnerability of the vast majority of the population, the predominance of the informal market and the inability of the state to meet basic needs, this measure cannot be applied systematically. Raising awareness, via individuals, spots, social networks, megaphones, helicopters ... remains a key element of the measures to be adopted: 1m70 between people; non-discrimination against people tested positive or showing symptoms etc.
28. Highly-regarded personalities in society must use all means available to them to influence the population in this sense: artists; journalists; teachers; human rights defenders; local authorities; social leaders etc.

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<sup>8</sup> Source : Radio Kiskeya

29. *f) Mobilizing all health personnel (public and private).* The State must mobilize all health professionals, whether public or private, through a structure, in order to maximize the skills at hand.
30. *g) Human rights-oriented public policies.* The measures adopted by the government are largely insufficient. Although it is recognized that the country has only meager resources, and that corruption is rampant, it is all the more legitimate that flawless transparency be clearly established. As a result, the government must:
- Develop and make public a clear and concrete strategic action plan to respond to the COVID-19 crisis.
  - Respect the measures announced and promises made for the allocation of funds and medical resources to respond to the threat of COVID-19.
  - Demonstrate transparency and rational management regarding the budgeting and allocation of said funds.
  - Continue to inform the population, regularly and in real time, about the evolution of the Coronavirus on the territory.
  - Respect the fundamental principles of human rights in the development and application of the action plan and measures related to COVID-19.
  - Join the international response efforts to COVID-19 and reiterate the obvious vulnerabilities and lack of resources of the Republic of Haiti to respond to a potential pandemic on its territory.
31. *h) Justice as a public service: permanence in an emergency.* Being a public service, it is urgently necessary to set up an intervention task force made up of the Ministry of Justice, Government Commissioners, Judges, the CSPJ, the OPC and the PNH, to assess the pending files before the courts, and determine those falling into the “emergency category”. Legal provisions must be adopted to this effect by the concerned authorities: Higher Council of the Judicial Power; Ministries of Justice and Public Security (MJSP), Ministry of Economy and Finance (MEF) etc.
32. *i) Prisons and police stations.* There is an urgent need for health intervention in prisons and police stations across the country, particularly in the regions most exposed to COVID 19, in order to provide equipment to detainees and prisoners, to raise awareness and to adequately equip these spaces. In addition, there is an urgent need to assess the situation of prison centers and police stations in order to release: prisoners and detainees who have committed a first-degree offense

(speeding ticket); those who have served their sentence etc. Those who cannot be released should benefit from all the necessary protection so as not to be exposed to the pandemic (hygienic conditions, psychological support, etc.).

33. *j) Presidential pardon.* Presidential pardon should also be considered as another means of limiting the spread of COVID-19. It concerns people convicted by a criminal court, based on a final and enforceable decision (article 146 of the Constitution).
34. *k) Speedy trials.* The State must also carry out speedy trials in Tribunals and Courts (Peace court, First Instances, Courts of Appeal, Cassation), even in prisons, in order to reasonably release certain prisoners and detainees, some on bail, and so clear certain files. This can be done with the help of bars, faculties and schools of law, or any other structures bringing together lawyers.
35. **N.B.** Human rights organizations should also be involved in this process, in order to ensure that it does not constitute a space to release notorious criminals, for economic or political gain.
36. *l) The National Police of Haiti.* Being the only task force on the territory responsible for protecting life and property in all circumstances, preventing crimes and deterring criminals, the National Police must have all the means to protect themselves and to intensify their work.
37. *m) Markets.* A large-scale awareness campaign in public markets, where the majority of people minimize the pandemic must be carried out. Indeed, given the configuration of markets in Haiti (Croix des Bossales, for example), merchants can be considered as one of the categories most exposed to the pandemic.
38. *n) Restriction on certain freedoms (overriding rights).* In times of crisis and disaster endangering the life of the population, the State may restrict the enjoyment of certain rights, falling into the category of derogable rights, provided that these measures are not incompatible with other obligations set by international law and that they do not give rise to any discrimination (see: articles 4 and 27 respectively of the International Covenant on Civil and Political Rights and the American Convention on Human Rights). In addition, these restrictions must be prescribed by law and in accordance with the standards governing a democratic society.
  - Total closure of airports, though giving a reasonable amount of time to Haitian nationals wishing to return home.
  - Rigorous control at the Haitian-Dominican border, as the repatriation of Haitians continues.

- Respect the curfew set on Friday March 20, 2020, from 8pm until 5pm. However, this measure must be established in law, which must also provide for exceptional circumstances for which non-compliance would be allowed.
- Significantly limit public transports. The conditions of public transports in Haiti are no doubt another factor which could considerably contribute to the spread of the disease. The state must therefore take all measures to limit the number of passengers in public buses and *taptaps*, in accordance with the standards laid down by specialists, and ensure that passengers have the necessary protection. However, such a provision would oblige the State to increase the means of transport and to take measures in favor of owners and drivers.