Human Rights and Rule of Law in Haiti: Key Recent Developments

March to October 2020

Widespread insecurity has gripped Haiti[1] since our February 2020 *Human Rights and Rule of Law in Haiti* update.[2] Local human rights organizations investigating the rise in violence have documented the involvement of police officers and state officials in numerous attacks against marginalized communities and raised credible concerns that gang violence is being deployed as a tool of political repression.[3] At minimum, the government has failed to control violence that affects some of Haiti's most marginalized communities.[4] In addition, there are numerous reported incidents of government violence against protesters and the press;[5] impunity for these and other human rights violations, due at least in part to the politicization of the judiciary, is pervasive.[6] Such impunity leaves victims without recourse and is emboldening perpetrators.[7] In spite of this and the global pandemic, Haitian civil society has continued its call for accountability and for a clear response from the government to corruption, insecurity, and other abuses.[8]

Concerns regarding democratic governance persist, now punctuated by serious disputes regarding a number of elections questions. President Moïse's continuing use of decrees to govern[9] drew formal rebukes from Haiti's legal community and large sections of civil society, and added political and electoral uncertainty to an already insecure climate.[10] On March 3, for example, Moïse appointed a Prime Minister and formed an executive cabinet in a manner that observers believe subverted constitutional procedure and ongoing political negotiations with the opposition.[11] In July, failure to hold elections caused the mandates of mayors to expire in all 141 of Haiti's municipalities and, on July 9, President Moïse used a decree to give himself the power to appoint municipal commissions, thereby taking away local electoral control.[12] In July, members of Haiti's provisional electoral council (CEP) resigned, calling for the executive branch to engage in dialogue regarding elections.[13] In spite of this, and over opposition from Haiti's civil society,[14] President Moïse installed a new CEP on September 18, shortly after the U.S. government issued a statement warning of "consequences" to Haitian civil society actors who stood in the way of the electoral process.[15] Key members of Haiti's civil society have rejected the new CEP, arguing that both the process by which it has been installed and its decreed mandate, which includes holding a constitutional referendum, are unconstitutional.[16] Haiti's Supreme Court has refused to swear in the new CEP.[17]

More generally, many in Haiti's civil society have called for a transitional government to oversee any electoral process, arguing that the Moïse administration lacks the legitimacy to preside over any elections, including due to its own challenged electoral history, allegations that it is complicit in serious financial corruption, and its inability to provide accountability and security for its citizens.[18] In addition to these political complexities, any elections or constitutional referendum would also be impeded by the current security situation, the government's incomplete and controversial effort to shift Haiti to a new form of identification cards,[19] and the pandemic.

Widespread insecurity and politically-linked violence

- The UN Secretary-General reported 701 confirmed killings in Haiti from March through August, with over 70 percent occurring in marginalized neighborhoods in and around Port-au-Prince, where gang attacks were prevalent.[20] One of the most recent massacres in the Bel-Air neighborhood of Port-au-Prince, which took place on August 31, left at least 12 dead and many displaced.[21] Another took place in the Pont Rouge neighborhood in May, with seven homes burned down, three people kidnapped, and six people killed.[22] The Secretary-General reported at the end of September that gang attacks have left at least 298 households displaced;[23] local observers estimate that the number of displaced individuals exceeds 1,000.[24]
- As described above, local human rights observers have in many instances directly linked the insecurity and gang violence to police and state official involvement and further report that the areas most affected are often associated with political opponents of the present administration, which they fear will have serious implications for participation in any elections.[25] The pattern of government-linked gang violence echoes the 2018 La Saline and 2019 Bel-Air massacres, which are likewise reported to have implicated police and state actors.[26] Notably, the above-mentioned attacks, along with many other instances of violence, are also linked to a newly formed gang alliance, the G-9, run by former-police-officer-turned-gang-leader Jimmy Chérizier, who remains free in spite of an active arrest warrant.[27]
- Monferrier Dorval, lawyer, constitutional scholar, and head of the Port-au-Prince Bar Association, was assassinated outside his home in August.[28] Mr. Dorval had previously signed on to a statement opposing the Moïse administration's use of decrees to govern and had given a radio interview earlier that evening where he opposed rushed elections and called for change,.[29] Mr. Dorval's assassination is just one of many in a dramatic rise of killings throughout 2020.[30]
- The UN Secretary-General reported that in the first half of 2020 Haiti experienced a 200 percent rise in kidnappings.[31] Haiti's civil society groups reported 161 kidnappings in 2020, with 21 in October alone.[32] In a recent incident that sparked mass protests demanding government action and accountability, high school student Evelyne Sincère was kidnapped and beaten to death when her family could not pay the demanded ransom.[33]
- Gender-based violence against women increased, with the COVID pandemic increasing risks of harm.[34] Observers commented that the general atmosphere of insecurity likewise leaves women more vulnerable to harm.[35]
- A police movement to unionize for better working conditions and to end internal corruption resulted in acts of violence and disruption in the public sphere.[36] In February, related protests by police officers escalated into a shootout with Haiti's army, raising questions about the authority and purpose of the newly reconstituted Haitian armed forces.[37]
- Violent demonstrations by the group "Fantom 509," a faction of police officers claiming to represent police officers killed in the line of duty and demanding back pay and better working conditions, further contributed to a climate of insecurity.[38] The group set fire to government offices and property, including the office responsible for the identification cards necessary for participating in elections, and violently agitated for the release of police officers detained in relation to violent demonstrations by the group in late April.[39]

Violence against protestors

- In October 2020, Grégory Saint-Hilaire, a student protesting government education policy, was shot and killed. Protestors and human rights observers allege that the General Security Unit of the National Palace, a specialized police agency, was responsible.[40] Student demonstrations escalated in response to the killing and have been continually met with police violence.[41]
- In June and July, the Haitian National Police (HNP) continued to use violence to disperse people assembled to protest corruption and insecurity, deploying tear gas and live rounds in targeted attacks meant to discourage social movements for government accountability.[42]
- A prominent political activist in Gonaïves, Ti Tcho, known for opposition to the current administration, was killed in June.[43]
- In May, HNP used tear gas, water cannons, and shot live rounds in response to civilian assemblies demanding the resignation of President Moïse.[44]

Violence against the press

- The Committee to Protect Journalists (CPJ) called on the Haitian government about attacks on and arson at a radio station at the end of February, which were possibly carried out by police agents; CPJ stated that the attack "should sound the alarm" on the high levels of violence journalists face in Haiti.[45] Haiti also dropped twenty-one places in the World Press Freedom Rankings by Reporters without Borders due to "dangerous and precarious working conditions" for journalists.[46] The CPJ letter noted continuing impunity for violence against the press.[47] Though some arrests have been made, that impunity persists.[48]
- On August 28, radio journalist Frantz Adrien Bony was killed after leaving a gathering of colleagues; investigations into the motive are ongoing.[49]
- On June 7, police struck two Haitian journalists in the head with tear gas canisters while the journalists were covering a demonstration against the administration's corruption.[50]
- In April, unknown assailants attacked a group of journalists investigating whether the National Identification Card office was violating Covid-19 protocols, and journalist Georges Emmanuel Allen of Radio-Television Caribbean was beaten by police while reporting.[51]
- On April 8, a week after being arrested by the government for making controversial statements on the Coronavirus pandemic, political commentator Lucko Désir was shot in his car by unknown assailants.[52]

Pervasive impunity for serious human rights violations and ongoing violence

- In June and September, the UN Secretary-General took note of how impunity for the 2019 Bel-Air Massacre, the 2018 La Saline Massacre, and the 2017 Grand Ravine Massacre was "creating an enabling environment for further violence."[53]
- The senior government officials directly implicated in massacres over the last three years remain free and some still hold official roles in the administration.[54] Human rights organizations identified former police officer Jimmy Chérizier as a striking example of impunity.[55]
- Colonel Jean-Robert Gabriel, who was convicted for his role in the 1994 Raboteau Massacre in the same proceedings as death squad leader Emmanuel "Toto" Constant, continues to hold a top position in Haiti's reconstituted armed forces.[56] Gabriel serves in exactly the same type of position he was convicted of abusing when he served as secretary of the army general staff and a public

spokesperson for the 1991-1994 *de facto* regime responsible for the Raboteau massacre and countless other atrocities.[57] In July, surviving victims of the Raboteau Massacre demonstrated against this ongoing and egregious example of impunity with a sit-in at the chief prosecutor's office in Gonaives.[58] Constant himself has been detained since he was deported in June, but no proceedings have been started, with attorneys representing victims as civil parties to the original case, including the BAI, noting government failures to formally communicate with victims.[59]

- The government has taken no steps to prosecute those responsible for serious human rights violations under the administration of Jean-Claude Duvalier or to recover over 120 million dollars that that the Duvalier family stole from Haiti's public funds.[60]

Corruption and failures of accountability

- In August, Haiti's Superior Court of Auditors and Administrative Disputes (CSCCA) issued its third and final report on misuse by government officials of over $1.7 billion in national development loans from a Venezuelan oil loan fund (called PetroCaribe),[61] Those implicated in the most recent reporting include former Prime Minister Pierre Guy Lafontant and former Secretary of State for Planning, Michel Présumé;[62] prior reports implicate President Moïse, among others.[63] CSCCA's third report further recommended that Haiti's parliament devise mechanisms to recuperate misappropriated funds and reform the way public contracts are managed.[64] Haitians continued to demand accountability for government corruption with respect to PetroCaribe funds in spite of widespread insecurity and police suppression.[65]
- In September, the Minister of Public Works visited CSCCA's premises with armed and hooded agents in what the CSCCA's president called "a threat to prevent the court from doing its job," though the Minister has denied his actions were intended to intimidate.[66]
- On September 6, President Moïse announced his intention to modify the law governing the CSCCA by decree.[67] The President sought to limit the CSCCA's ability to block government contracts after it did so with a $57 million no-bid General Electric contract in August.[68] CSCCA's president publicly opposed the plan and emphasized the Court's constitutional authority.[69] President Moïse nevertheless issued a decree (published in November, but apparently signed into force in September) making the Court's opinions on draft public procurement contracts advisory and non-binding, thus allowing the administration to award State contracts without prior Court approval.[70]
- The Moïse administration continues to appoint individuals implicated in the PetroCaribe corruption scandal to powerful state positions; they include Michel Présumé (see above), who was appointed director of the government entity responsible for electricity in Haiti this year.[71]
- None of the ministers or state officials implicated in the PetroCaribe corruption have been held accountable to date,[72] with the only related prosecution directed at a political rival of the administration.[73] In spite of overwhelming evidence and enormous public concern, there have been no criminal indictments, freezing of assets, or other interim measures against implicated state officials.[74]

Threats to the effectiveness and independence of the judicial system

- Courts at various levels have been forced to close throughout 2020 due to the widespread insecurity, leading to consistent complaints from judges and lawyers.[75]
- Recurrent strikes by legal professionals across the judicial system over working conditions and other concerns have likewise led to closures. Haiti's judges and their various professional associations began striking on June 8, for example, seeking greater budgetary support for the

judicial branch and its workers.[76] *Juges de Paix*, judicial officials with the power to issue warrants or adjudicate minor cases, initiated a strike on June 1 due to lack of support for their work and for the judicial branch as a whole.[77] In addition, Haiti's court clerks went on strike to seek better working conditions from July 28 through mid-October, when a two-month truce was struck with the Ministry of Justice.[78] Because the underlying conditions have not altered, continued disruptions of justice sector function remain likely.[79]

- The 2019 U.S. State Department's report on Haiti's human rights practices, released in March, found that "senior officials in the executive and legislative branches exerted significant influence on the judicial branch and enforcement."[80]
- The assassination of Mr. Dorval discussed above is viewed by Haiti's legal community and civil society as highlighting ongoing threats to the security and independence of the judicial system.[81]
- In September, Judge Wendell Coq, a member of the Haiti's highest appeals court received death threats. The National Association of Haitian Magistrates speculated that the threats were meant to punish the court for opposing the President's effort to seat an electoral council.[82]

Deteriorating social and economic rights landscape

- The United Nations Integrated Office in Haiti's (BINUH) September report to the UN Security Council showed that widespread insecurity severely undermined already dire social and economic conditions in Haiti.[83]
- Inflation continued to decrease local purchasing power, with the Haitian Institute of Statistics and Informatics finding in July that the average price of goods and services had increased 25.7 percent over the prior year,[84] with certain key items like medicine and rice, increasing far more (48.5 and 33.6 percent, respectively).[85]
- In June, Haiti's Coordination Agency for Food Security estimated that 4.1 million Haitians were at risk of food insecurity between March and June 2020.[86] According to the UN and Haiti's government, more than 4 million people in Haiti needed humanitarian assistance in September, and a projected 4.5 million will be in a situation of acute food insecurity in 2021.[87]
- The gourde sharply appreciated against the U.S. dollar in August; the effects continued to be felt through the time of writing.[88]
- Haiti's Department of Epidemiology, Laboratories and Research reported 8,000 confirmed cases of COVID-19 and over 200 related deaths.[89] Further, the impact of COVID-19 on the global economy has reverberated in Haiti, affecting livelihoods, access to education, and access to food.[90]

BINUH mandate renewal

The UN Security Council renewed BINUH's mandate on October 15, recommitting it to "advise the Government of Haiti in promoting and strengthening political stability and good governance."[91] However, the UN's record of accomplishment in Haiti has been deeply tainted by the cholera epidemic it caused and its ongoing failure to provide adequate remedies to victims.[92] Fourteen of the UN's own human rights experts catalogued the UN's failures in an April letter to the Secretary-General.[93] The UN has also failed to live up to its responsibilities with respect to the legacy of harms arising from sexual exploitation and abuse by UN peacekeepers.[94]

As the UN enters its sixteenth year of continuous presence in Haiti, it must do better at supporting the Haitian people's efforts to enjoy and advance their human rights and democracy. It must make every effort to support Haiti's civil society by (i) demanding that all perspectives, including especially those

of Haiti's poorest and most marginalized, have a meaningful seat at the political table; (ii) denouncing and refraining from external pressures for rushed elections that do not conform to Haiti's constitution; and (iii) ensuring meaningful participation in their government by all Haitian citizens. Further, it is critical that the UN ensure its investigations fully and accurately capture the human rights situation on the ground and consider civil society's extensive reporting of police and state complicity in gang violence.[95] Finally, to credibly assist with confronting widespread impunity in Haiti, the UN must address its own lack of accountability with respect to the cholera epidemic and UN peacekeeper abuses.

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[1] *See* Jacqueline Charles, *Criminal gangs for hire: Corrupt cops and the fight for votes in Haiti's next elections*, Miami Herald (June 26, 2020), https://www.miamiherald.com/news/nation-world/world/americas/haiti/article243738862.html; Ingrid Arnesen & Anthony Faiola, *In Haiti, coronavirus and a man named Barbecue test the rule of law*, Washington Post (Aug. 14, 2020), https://www.washingtonpost.com/world/the_americas/haiti-moise-coronavirus-barbecue/2020/08/14/2554fce4-cf4d-11ea-8c55-61e7fa5e82ab_story.html; *see also* Press Release, *U.S. Congresswoman Maxine Waters, Rep. Waters Urges U.S. Ambassador Michele Sison Not to Let Haiti Descend into Chaos and Violence* (May 28, 2020), https://waters.house.gov/media-center/press-releases/rep-waters-urges-us-ambassador-michele-sison-not-let-haiti-descend-chaos; *Letter from Congress Member Maxine Waters to Ambassador Sison* (Oct. 5, 2020), http://www.ijdh.org/wp-content/uploads/2020/10/RepWatersLetterToAmbSison-ElectionsInHaiti-10-05-20FINAL.pdf.

[2] Institute for Justice & Democracy in Haiti (IJDH), *Human Rights and Rule of Law in Haiti: Key Recent Developments* (Feb. 2020), https://www.ijdh.org/2020/02/projects/human-rights-and-rule-of-law-in-haiti-key-recent-developments/; *see also* IJDH, Haiti at a Crossroads: An Analysis of the Drivers Behind Haiti's Political Crisis (May 2019), http://www.ijdh.org/wp-content/uploads/2019/05/IJDH-Report-Haiti-at-a-Crossroads-May-2019.pdf.

[3] National Human Rights Defense Network (RNDDH), Attacks on deprived neighborhoods: The RNDDH demands the end of the protection of armed gangs by the authorities in power, para. 98 (June 25, 2020), https://web.rnddh.org/wp-content/uploads/2020/06/7-Rap-Attaque-Quartiers-Defavorise-Version-Anglaise-23Jun2020-2.pdf ("RNDDH, Attacks on deprived neighborhoods"); RNDDH, Assassinations, Ambushes, Hostage-taking, Rape, Fires, Raids: The authorities in power have installed terror in Cité Soleil, paras. 107, 108, 110 (Aug. 13, 2020), https://web.rnddh.org/wp-content/uploads/2020/08/Version-Anglaise-Rap-Cit%C3%A9-Soleil-082020.pdf ("RNDDH, Assassinations, Ambushes, Hostage-taking, Rape, Fires, Raids"); La Fondasyon Je Klere (FJKL), Terreur dans les quartiers populaires / Pont Rouge au cœur d'une stratégie électorale macabre : La Fondasyon Je Klere (FJKL) tire la sonnette d'alarme, paras. 36, 37, 40, 42, 43 (June 22, 2020) https://fjkl.org.ht/images/doc/FJKL_Situation_de_terreur_au_pont_rouge.pdf ("FJKL, Terreur dans les quartiers populaires"); Press Release, FJKL, *Violence aveugle en Haïti n'épargnant pas des bébés et des femmes enceintes : La FJKL condamne la banalisation du droit à la vie et l'installation d'une culture d'impunité dans le pays* (Aug. 7, 2020), https://www.fjkl.org.ht/note-de-presse/violence-aveugle-en-haiti-n-epargnant-pas-des-bebes-et-des-femmes-enceintes-la-fjkl-condamne-la-banalisation-du-droit-a-la-vie-et-l-installation-d-une-culture-d-impunite-dans-le-pays; *Statement by Mr. Jacques to the UN Security Council, Le Bureau des Droits Humains en Haïti, paras. 2-4* (June 19, 2020), https://bdhhaiti.org/archives/495.

[4] *Id.*; *see also* Ricardo Lambert, *L'OPC dénonce auprès du Premier ministre les récents cas de violation des droits humains*, Le Nouvelliste (July 16, 2020), https ://lenouvelliste.com/article/218676/lopc-denonce-aupres-du-premier-ministre-les-recents-cas-de-violation-des-droits-humains; *Haïti - Justice : L'OPC exige l'arrestation des individus impliqués dans les affrontements de Bel-Air et de bas Delmas*, HaitiLibre (Sept. 3, 2020), https://www.haitilibre.com/article-31706-haiti-justice-l-opc-exige-l-arrestation-des-individus-impliques-dans-les-affrontements-de-bel-air-et-de-bas-delmas.html.

[5] *See infra* notes 40-52 and associated text.

[6] *See infra* notes 53-60, 75-82 and associated text.

[7] *See infra* note 53 and associated text.

[8] *See, e.g.*, Evens Sanon, *Hundreds march in Haiti after outrage over student's slaying*, AP News (Nov. 6, 2020), https://apnews.com/article/port-au-prince-jovenel-moise-kidnapping-united-nations-haiti-213f7167befc1216521dceae9855a7a2; *Criminalité : Des dizaines de citoyennes et de citoyens dans les rues, de Carrefour, ce vendredi 23 octobre 2020, pour dénoncer les actes de kidnapping en Haïti*, AlterPresse (Oct. 23, 2020), https://www.alterpresse.org/spip.php?article26326#.X5czhIhKiM9; Jean Daniel Sénat, *17 octobre : une manifestation de l'opposition dispersée par la PNH à Port-au-Prince*, Le Nouvelliste (Oct. 19, 2020), https://lenouvelliste.com/article/222221/17-octobre-une-manifestation-de-lopposition-dispersee-par-la-pnh-a-port-au-prince; Edrid St Juste, *Des médecins marchent contre l'insécurité et le kidnapping*, Le Nouvelliste (Oct. 8, 2020), https://lenouvelliste.com/article/221875/des-medecins-marchent-contre-linsecurite-et-le-kidnapping; *Droits humains : Plusieurs organisations soupçonnent le directeur général ad intérim de la Police nationale d'Haïti, Rameau Normil, de « favoriser les oppresseurs, criminels et bourreaux »*, AlterPresse (July 20, 2020), https://www.alterpresse.org/spip.php?article25922#.X3H5aWhKiM-; AFP, *Haiti police break up demo protesting worsening crime*, France24 (July 6, 2020), https://www.france24.com/en/20200706-haiti-police-break-up-demo-protesting-worsening-crime?ref=tw; *Politique : L'Association professionnelle des magistrats menace de se mobiliser pour le renforcement de la justice en Haïti*, AlterPresse (May 26, 2020), https://www.alterpresse.org/spip.php?article25695#.X5g4bIhKiM9; *Droits humains/Insécurité : L'Opc réclame des mesures d'accompagnement en faveur des familles du Village de Dieu en Haïti*, AlterPresse (May 7, 2020), https://www.alterpresse.org/spip.php?article25596#.X5g6k4hKiM9; *Haïti-Insécurité : Des organismes de droits humains dénoncent la complicité et le laxisme des autorités*, AlterPresse (Apr. 20, 2020), https://www.alterpresse.org/spip.php?article25509#.X5g7sohKiM9.

[9] As noted in our previous update, President Moise has been ruling by decree since January, when the terms of most of the Parliament expired with no election scheduled to elect their replacements.

[10] *See* U.N. Secretary-General, *Report of the Secretary General United Nations Integrated Office in Haiti*, U.N. Doc. S/2020/944, para. 6, 8 (Sept. 25, 2020), http://www.undocs.org/en/S/2020/944; *Politique : Le Bureau des avocats internationaux appelle les juges des 18 juridictions en Haïti à faire fi des décrets inconstitutionnels de la présidence*, AlterPresse (Aug. 7, 2020), https://www.alterpresse.org/spip.php?article25986#.X3QTRGhKiM9; Lemoine Bonneau, *Quand la Fédération des barreaux s'attaque aux décrets adoptés par Jovenel Moïse*, Le Nouvelliste (Aug. 3, 2020), https://lenouvelliste.com/article/219258/quand-la-federation-des-barreaux-sattaque-aux-decrets-adoptes-par-jovenel-moise; *Politique : La Fédération des barreaux d'Haïti exige le retrait des décrets présidentiels*, AlterPresse (July 27, 2020), https://www.alterpresse.org/spip.php?article25951#.X5id4ohKiM-; Jameson Francisque, *Qui peut abroger les décrets pris par l'administration de Jovenel Moïse ?* Ayibopost (July 21, 2020), https://ayibopost.com/qui-peut-abroger-les-decrets-pris-par-ladministration-de-jovenel-moise/; *see also* IJDH & BAI, *Human Rights and Rule of Law in Haiti: Key Recent Developments* (Feb. 2020), https://www.ijdh.org/2020/02/projects/human-rights-and-rule-of-law-in-haiti-key-recent-developments/.

[11] Roberson Alphonse, *L'opposition ne décolère pas, la communauté internationale appuie le gouvernement Jouthe*, Le Nouvelliste (Mar. 4, 2020), https://lenouvelliste.com/article/213012/lopposition-ne-decolere-pas-la-communaute-internationale-appuie-le-gouvernement-jouthe; *Haïti-Politique : 20 ministres, dont 4 femmes, et 2 secrétaires d'Etat forment le nouveau gouvernement irrégulier de Jovenel Moïse*, AlterPresse (Mar. 4, 2020), https://www.alterpresse.org/spip.php?article25320#.X5g_VYhKiM9.

[12] Robenson Geffrard, *La présidence prend le contrôle des mairies*, Le Nouvelliste (July 8, 2020), https://lenouvelliste.com/article/218352/la-presidence-prend-le-controle-des-mairies.

[13] AlterPresse, *Haïti-Politique : Qu'est ce qui est à la base de la démission en bloc des 8 membres restants du Cep ?* (July 30, 2020), https://www.alterpresse.org/spip.php?article25959#.Xyw7yihKiM-.

[14] Jacqueline Charles, *Haiti finally has an elections commission, but controversy over constitution role brews*, Miami Herald (Sept. 21, 2020), https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245897040.html.

[15] Jacqueline Charles, *U.S. tells Haiti leaders on delayed elections: 'Do your respective jobs,'* Miami Herald (Sept. 16, 2020), https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245788370.html; Kim Ives,

With Washington's Support, Haitian President Forms Electoral Council Denounced by the Opposition, HaitiLiberte (Sept. 23, 2020), https://haitiliberte.com/with-washingtons-support-haitian-president-forms-electoral-council-denounced-by-the-opposition/. A bicameral group of members of U.S. Congress issued a letter strongly condemning the statement and calling for the U.S. Department of State to respect Haiti's constitution and the role of its civil society. Frederica S. Wilson, Edward J. Markey et. al, *Joint congressional letter to Secretary of State Mike Pompeo*, (Oct. 15, 2020), https://www.markey.senate.gov/imo/media/doc/Markey%20Wilson%20Letter%20Haiti%2010.15.20.pdf. Earlier in the year, the Organization of American States clashed with Haitian civil society in supporting Moise's term in office a full year beyond what most Haitian experts agreed was the proper length of his term. Jacqueline Charles, *OAS head gets Haiti constitutional lesson after entering fight on end of president's term*, Miami Herald (June 5, 2020), https://www.miamiherald.com/news/nation-world/world/americas/haiti/article243289426.html; Emmanuel Yves Moïse, *Quand Jovenel Moïse doit-il quitter le pouvoir ? En 2021 ou en 2022 ?*, Ayibopost (June 14, 2020), https://ayibopost.com/quand-jovenel-moise-doit-il-quitter-le-pouvoir-en-2021-ou-en-2022/.

[16] *See supra* note 14 and associated text.

[17] Jacqueline Charles, *Haiti's supreme court declines to swear in election council. Moïse installed them anyway*, Miami Herald (Sept. 22, 2020), https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245930435.html; Bernard H. Gousse, *«M. Moïse, tout Président que vous êtes, vous n'êtes qu'un citoyen», le rappel de Me Bernard Gousse*, Le Nouvelliste (Sept. 28, 2020), https://lenouvelliste.com/article/221407/m-moise-tout-president-que-vous-etes-vous-netes-quun-citoyen-le-rappel-de-me-bernard-gousse.

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[62] Fondasyon Je Klere (FJKL), Dossier PetroCaribe, Le rapport final d'audit de la Cour Supérieure des Comptes et du Contentieux Administratif (CSCCA) au regard du droit positif haïtien en matière de luttee contre la corruption : la FJKL juge le rapport pertinent et ouvre la voie à l'organisation des procès que le people haïtien attend (Aug. 27, 2020), https://www.fjkl.org.ht/images/doc/FJKL5-CSCCA-PetroCaribe-Rapport-final-27-aout-2020.pdf; *See also infra* note 71 and associated text.

[63] Jacqueline Charles, *Haiti president accused of embezzlement scheme in government audit of Venezuela aid money*, Miami Herald (June 4, 2019), https://www.miamiherald.com/news/nation-world/world/americas/haiti/article231122978.html; *see also* IJDH, *Human Rights and Rule of Law in Haiti* and Haiti at a Crossroads, *supra* note 2.

[64] Jacqueline Charles, *Haiti corruption scandal: Billions wasted in Venezuelan PetroCaribe aid, new report shows*, Miami Herald (Aug. 19, 2020), https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245045015.html; Robenson Geffrard, *Détournements, irrégularités, absence de pièces justificatives… le troisième rapport de la Cour des comptes*, Le Nouvelliste (Aug. 17, 2020), https://lenouvelliste.com/article/219898/detournements-irregularites-absence-de-pieces-justificatives-le-troisieme-rapport-de-la-cour-des-comptes; Thomas Laline, *PetroCaribe : une excellente opportunité ratée par Haïti*, Le Nouvelliste (June 17, 2019), https://lenouvelliste.com/article/203218/petrocaribe-une-excellente-opportunite-ratee-par-haiti.

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[66] Jacqueline Charles & Pierre Taylor, *Haiti's public works minister is accused of intimidating the country's watchdog agency*, Miami Herald (Sept. 23, 2020), https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245959635.html.

[67] Jake Johnston & Kira Paulemon, *At Odds with Presidency, a Government Watchdog is Weakened by Executive Decree*, CEPR (Nov. 12, 2020), https://cepr.net/at-odds-with-presidency-a-government-watchdog-is-weakened-by-executive-decree/; Robenson Geffrard, *Jovenel Moïse veut modifier le décret de 2005 sur la Cour des comptes*, Le Nouvelliste (Sept. 7, 2020), https://lenouvelliste.com/article/220655/jovenel-moise-veut-modifier-le-decret-de-2005-sur-la-cour-des-comptes (reporting the President's statements); Pierre Lunick Revange, *Draft modification of the decree on the organization of the CSC / CA: ECC denounces the power*, Juno7 (Sept. 8, 2020), https://www.juno7.ht/projet-modification-decret-portant-csc-ca-ecc-denonce/.

[68] *Id.*

[69] *La Cour Supérieure des Comptes se défend contre les menaces ouvertes de l'Exécutif*, Juno7 (Sept. 8, 2020), https://www.juno7.ht/cour-superieure-des-comptes-defend-contre-executif/.

[70] *See supra* note 67; Robenson Geffrard, *Jovenel Moïse publie un décret qui enlève à la Cour supérieure des comptes une bonne partie de son pouvoir de contrôle*, Le Nouvelliste (Nov. 10, 2020), https://lenouvelliste.com/article/222919/jovenel-moise-publie-un-decret-qui-enleve-a-la-cour-superieure-des-comptes-son-autorite-de-controle.

[71] Jameson Francisque, *Le directeur de l'EDH indexé dans le rapport PetroCaribe et autres nominations controversées de Jovenel Moïse*, Ayibopost (July 14, 2020), https://ayibopost.com/le-directeur-de-ledh-indexe-dans-le-rapport-petrocaribe-et-autres-nominations-controversees-de-jovenel-moise/. For example, in July, Michel Présumé was appointed director of l'Électricité d'Haïti (EDH), the government entity responsible for electricity in Haiti, leading to protests from EDH employees and blackouts across Haiti. Présumé continues to implement the administration's plans to seize private operations even though the CSCCA named Présumé over thirty times in its reports on PetroCaribe embezzlement. Robenson Geffrard, *Jovenel Moïse supporte Michel Présumé et dévoile son plan de « résurrection de l'ED'H »*, Le Nouvelliste (July 20, 2020), https://lenouvelliste.com/article/218755/jovenel-moise-supporte-michel-presume-et-devoile-son-plan-de-resurrection-de-ledh; *Haiti - Security : Drastic rationing of electricity and consequences*, HaitiLibre (July 20, 2020), https://www.haitilibre.com/en/news-31401-haiti-security-drastic-rationing-of-electricity-and-consequences.html.

[72] French Associated Press (AFP), *PetroCaribe scandal: Haiti court accuses officials of mismanaging $2 bln in aid*, France24 (Aug. 18, 2020), https://www.france24.com/en/20200817-petrocaribe-scandal-haiti-court-accuses-officials-of-mismanaging-2-bln-in-aid?ref=tw.

[73] The UN Secretary-General noted that the only ongoing prosecution related to PetroCaribe accountability initiated by this administration has been characterized by human rights groups as an "instrumentalization of the judiciary for political purposes," selectively prosecuting only one political rival in order to achieve the administrations political goals related to electricity. U.N. Secretary-General, *Report of the Secretary General United Nations Integrated Office in Haiti*, U.N. Doc. S/2020/123 at para. 10 (Feb. 13, 2020), https://undocs.org/en/S/2020/123.

[74] *See, e.g.*, AFP, *PetroCaribe scandal: Haiti court accuses officials of mismanaging $2 bln in aid*, France24 (Aug. 18, 2020), https://www.france24.com/en/20200817-petrocaribe-scandal-haiti-court-accuses-officials-of-mismanaging-2-bln-in-aid?ref=tw.

[75] *See, e.g.*, Caleb Lefèvre, *« D'ici trois mois, des tribunaux fonctionneront avec un seul juge »*, Le Nouvelliste (June 2, 2020), https://lenouvelliste.com/article/216832/dici-trois-mois-des-tribunaux-fonctionneront-avec-un-seul-juge (describing a letter from l'*Association professionnelle des magistrats* explaining how the status quo in the political impasses will lead to the expiration of judicial mandates and will force more court closures in 2020); *Haïti-Justice : Le Rnddh souhaite la reprise des activités à la Cour d'appel de Port-au-Prince*, AlterPresse (Apr. 29, 2020), https://www.alterpresse.org/spip.php?article25556#.X2kRumhKiM- (reporting on demands that the Court of Appeals of Port-au-Prince, which has been closed since the end of 2019, be reopened); Ricardo Lambert, *Cinq millions de gourdes évaporées dans le bureau du doyen du tribunal civil de Port-au- Prince*, Le Nouvelliste (Feb. 6, 2020), https://lenouvelliste.com/article/212078/cinq-millions-de-gourdes-evaporees- (reporting on how insecurity had allowed mulitple raids on Port-au-Prince's Prosecutor's office where evidence was burglarized); Caleb Lefèvre, *«Le tribunal ne peut fonctionner au gré des bandits», s'indigne Jean Wilner Morin*, Le Nouvelliste (Jan. 22, 2020), https://lenouvelliste.com/article/211330/le-tribunal-ne-peut-fonctionner-au-gre-des-bandits-sindigne-jean-wilner-morin (quoting the president of the National Association of Haitian Magistrates discussing how insecurity is hindering the administration of justice); *see also* Secrétaire général de l'ONU, *Rapport du Secrétaire général du Bureau intégré des Nations Unies en Haïti*, U.N. Doc. S/2020/537, para. 19 (June 15, 2020), https://undocs.org/en/S/2020/537.

[76] *Haiti/Justice Poursuite de la grève générale au niveau de la magistrature haïtienne*, VantBef Info (June 15, 2020), https://www.vantbefinfo.com/haiti-justice-poursuite-de-la-greve-generale-au-niveau-de-la-magistrature-haitienne/; *Haïti-Justice/Crise : Les associations de magistrats maintiennent leur mot d'ordre de grève générale, depuis le 1er juin 2020, au niveau de l'appareil judiciaire*, Alterpresse (June 30, 2020), https://www.alterpresse.org/spip.php?article25861#.X3J29GhKiM-; *Haïti - Justice : La justice n'existe plus, depuis plus de de 2 semaines*, HaitiLibre (June 19, 2020), https://www.haitilibre.com/article-31064-haiti-justice-la-justice-n-existe-plus-depuis-plus-de-de-2-semaines.html.

[77] Danio Darius, *Les juges de paix sont en grève depuis lundi*, Le Nouvelliste (June 3, 2020), https://lenouvelliste.com/article/216934/les-juges-de-paix-sont-en-greve-depuis-lundi; *Santé/Justice : Une dizaine de juges de paix, suspectés d'être atteints du virus de Covid-19 en Haïti*, AlterPresse (June 4, 2020), https://www.alterpresse.org/spip.php?article25739#.XtjWTkVKjIU; *Budget Moise-Jouthe – La ligne de crédit budgétaire du pouvoir Judiciaire est moins élevée que celle du parlement caduc*, Rezo Nodwes (June 10, 2020), https://rezonodwes.com/2020/06/10/budget-moise-jouthe-la-ligne-de-credit-budgetaire-du-pouvoir-judiciaire-est-moins-elevee-que-celle-du-parlement-caduc/.

[78] Evens Carrière, *Grève des greffiers : l'ANAGH observe une trêve jusqu' à 14 décembre prochain*, Constant Haiti (Oct. 14, 2020), https://www.constanthaiti.info/2020/10/14/greve-des-greffiers-anagh-observe-une-treve-jusqu-a-14-decembre-prochain/; Robenson Geffrard, *L'appareil judiciaire paralysé en Haïti depuis plus de deux mois avec la grève des greffiers*, Le Nouvelliste (Sept. 17, 2020), https://lenouvelliste.com/article/221073/lappareil-judiciaire-paralyse-en-haiti-depuis-plus-de-deux-mois-avec-la-greve-des-greffiers; *Haiti - Justice : The judicial system paralyzed for almost 2 months*, HaitiLibre (Sept. 21, 2020), https://www.haitilibre.com/en/news-31857-haiti-justice-the-judicial-system-paralyzed-for-almost-2-months.html.

[79] RNDDH, Rapport du RNDDH sur le fonctionnement de l'appareil judiciaire haïtien au cours de l'année 2019-2020 (Oct. 7, 2020), https://web.rnddh.org/wp-content/uploads/2020/10/Rap-Justice-2019-2020-102020.pdf; *see also* Caleb Lefèvre, *Ouverture de l'année judiciaire 2020-2021*, Le Nouvelliste (Oct. 6, 2020), https://lenouvelliste.com/article/221725/ouverture-de-lannee-judiciaire-2020-2021.

[80] U.S. Dep't Of State, Bureau of Democracy, Human Rights, and Labor, Country Reports on Human Rights Practices for 2019: Haiti (2020), https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/haiti/.

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[82] Jacqueline Charles, *Haiti's supreme court declines to swear in election council. Moïse installed them anyway*, Miami Herald (Sept. 22, 2020), https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245930435.html; Robenson Geffrard, *L'ANAMAH dénonce des menaces de mort contre Wendelle Coq, juge à la Cour de cassation*, Le Nouvelliste (Sept. 27, 2020), https://lenouvelliste.com/article/221406/lanamah-denonce-des-menaces-de-mort-contre-wendelle-coq-juge-a-la-cour-de-cassation.

[83] U.N. Secretary-General, *Report of the Secretary General United Nations Integrated Office in Haiti*, U.N. Doc. S/2020/944, para. 61 (Sept. 25, 2020), http://www.undocs.org/en/S/2020/944.

[84] *Haiti - Economy: The country crushed by annual inflation close to 26%*, HaitiLibre (Sept. 21, 2019), https://www.haitilibre.com/en/news-31852-haiti-economy-the-country-crushed-by-annual-inflation-close-to-26.html.

[85] *Id.*

[86] *Insécurité alimentaire : l'heure est plus que grave, selon Mgr Ogé Beauvoir*, Le Nouvelliste (June 26, 2020), https://lenouvelliste.com/article/217874/insecurite-alimentaire-lheure-est-plus-que-grave-selon-mgr-oge-beauvoir.

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[88] Danio Darius, *Taux de change : La correction de la BRH est allée trop loin, selon Frantz Bernard Craan*, Le Nouvelliste (Oct. 15, 2020), https://lenouvelliste.com/article/222131/taux-de-change-la-correction-de-la-brh-est-allee-trop-loin-selon-frantz-bernard-craan; Roberson Alphonse, *Haïti va manifestement subir des impacts négatifs de la gourde forte, selon un haut responsable du FMI*, Le Nouvelliste (Oct. 23, 2020), https://lenouvelliste.com/article/222449/haiti-va-manifestement-subir-des-impacts-negatifs-de-la-gourde-forte-selon-un-haut-responsable-du-fmi; Patrick Saint-Pré, *Gourde forte : le secteur textile peut perdre jusqu'à 25 mille emplois avant décembre, selon Fernando Capellan*, Le Nouvelliste (Oct. 9, 2020),

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[89] Claudy Junior Pierre, *« L'évolution de la Covid-19 en Haïti est le fruit d'une bonne surveillance épidémiologique », décrit la DELR dans une étude sur la Covid-19*, Le Nouvelliste (Oct. 12, 2020), https://lenouvelliste.com/article/221613/levolution-de-la-covid-19-en-haiti-est-le-fruit-dune-bonne-surveillance-epidemiologique-decrit-la-delr-dans-une-etude-sur-la-covid-19.

[90] Nesmy Manigat, *OP-ED: COVID-19 ou la danse sur le volcan en Haïti*, Ayibopost (July7, 2020), https://ayibopost.com/op-ed-covid-19-ou-la-danse-sur-le-volcan-en-haiti/; *Haïti-Santé : Alerte sur les conséquences psychologiques et socio-économiques du Covid-19,* AlterPresse (Mar. 18, 2020), https://www.alterpresse.org/spip.php?article25376#.X5sTsohKiM9; Stefanie Schüler, *Propagation du Covid-19 en hausse en Haïti, tous les départements touches*, RFI (May 12, 2020), https://www.rfi.fr/fr/am%C3%A9riques/20200512-propagation-covid-19-en-hausse-en-ha%C3%AFti-tous-les-d%C3%A9partements-touch%C3%A9s?ref=tw; Youyou Zhou, *These are the countries most affected by the falling remittances sparked by the Covid-19 pandemic*, Quartz (Apr. 9, 2020), https://qz.com/1834566/falling-remittances-will-hit-tonga-haiti-and-kyrgyzstan-hardest/; *Santé : Les mauvaises conditions de travail dans les usines, propices à une propagation du Covid-19, alertent les syndicats d'ouvrières et d'ouvriers en Haïti*, AlterPresse (Apr. 8, 2020), https://www.alterpresse.org/spip.php?article25467#.X5sXO0eSmM-; *Haiti - Covid-19 : The agricultural sector needs special measures*, HaitiLibre (Apr. 6, 2020), https://www.haitilibre.com/en/news-30458-haiti-covid-19-the-agricultural-sector-needs-special-measures.html; Jose Flecher, *Des entreprises ferment leurs portes pour limiter la propagation du Covid-19*, Le Nouvelliste (Mar. 22, 2020), https://lenouvelliste.com/article/213850/des-entreprises-ferment-leurs-portes-pour-limiter-la-propagation-du-covid-19.

[91] Press Release No. SC/14326, U.N. Security Council, *Security Council Extends Mandate of Year-Old Special Political Mission in Haiti without Changes for Another 12 Months, Adopting Resolution 2547 (2020)* (Oct. 15, 2020), https://www.un.org/press/en/2020/sc14326.doc.htm; U.N. Security Council, *Resolution 2547 (2020)*, U.N. Doc. S/Res/2547 (Oct. 15, 2020), https://undocs.org/en/S/RES/2547(2020); *see also* U.N. Security Council, *Resolution 2476 (2019)*, U.N. Doc. S/Res/2476(2019), https://undocs.org/en/S/RES/2476(2019).

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[93] U.N. Special Rapporteur on extreme poverty and human rights et. al., *Allegation Letter to Secretary-General Antonio Guterres on the continued denial of effective remedies to the victims of the 2010 cholera outbreak in Haiti* (Apr. 28, 2020), https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25228. One of the letter's principal authors, former Special Rapporteur on extreme poverty and human rights Philip Alston wrote that the Secretary-General's June 26 response to the letter "brazenly confirms that the UN has no intention of doing anything to deliver justice for Haitian cholera victims." Philip Alston (@PhilipGAlston), Twitter (July 1, 2020), https://twitter.com/PhilipGAlston/status/1278420175088496640.

[94] IJDH & BAI, *Open Letter to Assistant-Secretary General Jane Connors* (May 29, 2020), http://www.ijdh.org/2020/05/projects/on-international-day-of-un-peacekeepers-bai-ijdh-demand-answers-to-the-uns-application-of-functional-immunity-for-victims-of-sea/.

[95] Though BINUH reports and Security Council comments extensively discuss gang violence, Jimmy Chérizier, and the G-9, the UN and Security Council Members systematically ignore well-documented evidence from civil society regarding state actor complicity in that violence and requests for investigation and accountability. For example, in its most recent report, BINUH characterizes the violence against marginalized neighborhoods as follows:

> The G9, which was reportedly formed at the instigation of former police officer Jimmy "Barbecue" Cherizier – who is suspected of being implicated in the emblematic cases of Grand Ravine (2017), La Saline (2018) and Bel-Air (2019) – is notorious because of the diversity of its membership, its influence over vast swaths of territory in the Port-au-Prince metropolitan area and its narrative as a social movement fighting for better services and opportunities in poor neighbourhoods. *Its creation raised concerns among political and civil society actors about the detrimental impact partisan gangs can have on State institutions*.

U.N. Secretary-General, *Report of the Secretary General United Nations Integrated Office in Haiti*, U.N. Doc. S/2020/944, para. 16 (Sept. 25, 2020), http://www.undocs.org/en/S/2020/944 (emphasis added). The report only mentions the extensive reporting by Haitian human rights organizations on evidence of state complicity with a passing reference to "allegations of collusion between gangs and political stakeholders." *Id.* at para. 56. By contrast, Haiti's human rights organizations report the following:

> The National Network for the Defense of Human Rights (RNDDH) *is concerned that armed gangs protected by the power of Jovenel MOÏSE become more powerful day by day. They organize themselves with the blessing of the authorities who provide them with weapons and ammunition. They benefit, for the protection of the police institution*. This is the case for example of Jimmy CHERIZIER alias Barbecue, which is allowed to use the rolling stock of the PNH for as long as it says it wants attack underprivileged neighborhoods housing close relatives of the political opposition."

RNDDH, Attacks on deprived neighborhoods, para. 98 (emphasis added). The UN's failure to substantively engage with serious allegations of state misconduct is an abdication of the UN's mandate and responsibility.