



Human rights and accountability in Haiti

IACHR Thematic Hearing: Violence and Security in the Context of the Social Protests in Haiti

Haiti is at a crossroads, as a growing civic movement demands an end to corruption, increased government accountability, rule of law and systemic reform, in the midst of entrenched social and economic conditions that are acutely worsening under the current Administration.¹

Successive reports from Haiti's Senate (2016, 2017) revealed misappropriation of at least US\$1.7 billion in state funds from a long-term concessional oil-loan program from Venezuela (PetroCaribe), which had been intended for investment in infrastructure and social services.² The reports spurred calls for the government to answer the question of what happened to the funds; particularly in light of PetroCaribe's intended purpose of improving social conditions for the most vulnerable.³

What started as a small-scale call for accountability, largely driven by youth first through social media,⁴ has grown over the past year into a broad, national movement spanning rural and urban communities, religious groups, political parties, and civil society across social sectors. Tens of thousands of people have mobilized to demand not only accountability for individuals and government units implicated in corruption, but restitution of funds, the resignation of President Moïse, who has himself been personally implicated in corruption,⁵ and progressive structural reform to curb corruption's corrosive effects on socio-economic rights.⁶

The human rights impacts of the current political situation are far reaching, across economic, social, cultural, civil and political dimensions, and are worsening in light of failures of accountability.⁷

¹ Enomy Germain, *2018 : l'année la plus dévastatrice pour la gourde depuis 15 ans*, LE NOUVELLISTE (Dec. 20, 2018), <https://lenouvelliste.com/article/196237/2018-lannee-la-plus-devastatrice-pour-la-gourde-depuis-15-ans>.

² 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>.

³ Roberson Alphonse, *PetroCaribe : la CSC/CA déshabille « Ede Pep », le programme social-phare de l'ère Martelly...*, LE NOUVELLISTE (May 31, 2019), <https://lenouvelliste.com/article/202545/petrocaribe-la-cscca-deshabille-edep-le-programme-social-phare-de-lere-martelly>

⁴ Tania Karas and Amy Bracken, *Meet the Petrochallengers: A new generation wants to bring accountability to Haiti. Can they succeed?* PRI'S THE WORLD (Apr. 29, 2019), <https://www.pri.org/stories/2019-04-29/meet-petrochallengers-new-generation-wants-bring-accountability-haiti-can-they>.

⁵ Kim Ives, *President Moïse's Companies "Embezzled" Millions of PetroCaribe Funds, Court Finds*, HaitiLiberte (June 5, 2019), <https://haitiliberte.com/president-moises-companies-embezzled-millions-of-petrocaribe-funds-court-finds/>.

⁶ Françoise Marmouyet, *#PetrocaribeChallenge, la campagne qui mobilise les Haïtiens contre la corruption*, FRANCE24 EN DIRECT (February 15, 2019), <https://www.france24.com/fr/20190215-petrocaribe-challenge-campagne-mobilise-haitiens-contre-corruption-jovenel-moise>.

⁷ Esanon-Danica Coto, *Haitians Seek Basic Necessities in Aftermath of Government Protests* PBS (Feb. 18, 2019), <https://www.pbs.org/newshour/world/haitians-seek-basic-necessities-in-aftermath-of-government-protests>.

Corruption and Failures of Accountability – Human Rights Implications

The Senate’s reports revealed misappropriation of state funds occurring over successive administrations since 2008, with the 2017 Senate report implicating former ministers and senior officials in corruption and embezzlement.⁸ These Senate reports were later followed by 2 additional reports (January and May 2019) from Haiti’s Court of Auditors, with the latter directly implicating Haiti’s current president, Jovenel Moïse, in the misuse of funds.⁹

PetroCaribe corruption represents a significant missed opportunity for investment in infrastructure and social services needed to advance the economic and social rights of the population.¹⁰ Failure to effectively invest PetroCaribe funds contributed to significant and sudden budget pressures when the program ended, and a surging budget deficit (from 1.9% of GDP in 2017 to 4.3% in 2018),¹¹ driving Haiti into a deteriorating economic situation, that as the World Bank notes “further penalizes the poorest households.”¹²

The investigation and reporting by the Senate and Court of Auditors, in addition to efforts to advance judicial processes, mark important steps in the application of rule of law and measures for accountability. **These accountability efforts, however, have been frustrated at the Executive level,** as further outlined below:

The current Administration’s response to date is a seeming failure of accountability that ignores State parties’ duty, as articulated by the Inter-American Commission on Human Rights (‘Commission’), to establish effective mechanisms to eradicate corruption in order to guarantee the exercise of human rights against the violations and restrictions caused by the phenomenon of corruption,¹³ as well as the essential elements of representative democracy articulated in the Inter-American Democratic Charter, including access to and exercise of power in accordance

⁸ SENATE OF THE REPUBLIC OF HAITI, REPORT OF THE SPECIAL SENATORIAL COMMISSION OF INQUIRY ON THE PETRO CARIBE FUND (2017), <https://www.scribd.com/document/364151103/Rapport-Petro-Caribe-October-2017>; see also Jake Johnston, *Haitian Government on the Defensive Following UN Welcoming of Corruption Investigation*, CTR. FOR ECON. POLICY RESEARCH (Mar. 7, 2018), <http://cepr.net/blogs/haiti-relief-and-reconstruction-watch/haitian-government-on-the-defensive-following-un-welcoming-of-corruption-investigation> [hereinafter Johnston, *Haitian Government on the Defensive*].

⁹ Hillary Leung, *Haiti: President Says He Won't Resign, Grip Capital Protests*, TIME (Feb.15, 2019), <http://time.com/5530334/haiti-jovenal-moise-protest/>.

¹⁰ This is an example of the dynamic outlined by the Commission in Resolution 1/18 (‘Corruption and Human Rights’), in stating that corruption “jeopardizes the capacity of governments to comply with their social rights obligations, including health, education, water, transportation or sanitation, which are essential for the realization of economic, social, cultural and environmental rights and in particular, of the most vulnerable populations and groups.”

¹¹ *PetroCaribe épaulait la gourde*, LE NOUVELLISTE (Jun. 24, 2019) <https://lenouvelliste.com/article/203536/petrocaribe-epaulait-la-gourde> ; The World Bank, *Overview: The World Bank in Haiti* (Apr. 5, 2019).

¹² The World Bank, *Overview: The World Bank in Haiti* (Apr. 5, 2019), <https://www.worldbank.org/en/country/haiti/overview>.

¹³ Inter-American Commission on Human Rights Resolution 1/18 “Corruption and Human Rights” <https://www.oas.org/en/iachr/decisions/pdf/Resolution-1-18-en.pdf>

with rule of law, transparency in government activities, probity, and responsible public administration.¹⁴

In the face of the growing accountability movement, government actors and agencies have been implicated in violence against those calling for accountability. The Administration appears unwilling to take measures to counter repressive force, implicating violations of the rights to freedom of association and assembly (articles 15, 16), freedom of expression (article 13), right to personal liberty and security (article 7), and right to life (article 4) under the American Convention on Human Rights (ACHR).¹⁵

A Chronology of the Administration's Response amid Public Calls for Accountability:

2017

- President Moïse fires the director of UCREF, the financial crimes unit that had produced an investigative report during the 2016 elections implicating Moïse in money laundering and puts in place an “interim” director viewed to be more favorable to the President.¹⁶

2018

- At least 9 deaths by police are reported in October and November 2018 protests.¹⁷
- November 2018, Amnesty International calls on the Haitian National Police (HNP) to avoid excessive force against protestors.¹⁸
- November 2018, at least 71 civilians are massacred by armed gangs in the Port-au-Prince neighborhood of La Saline. Investigations, including from the UN (MINUJUSTH, OHCHR), *Reseau Nationale de Defense des Droits Humains* (RNDDH), Haitian Central Directorate of Judicial Police (DCPJ) and independent journalists, uncover evidence of state actor complicity.¹⁹

¹⁴ Inter-American Democratic Charter, 28th Spec. Sess. of the OAS General Assembly, OAS Doc. OEA/Ser.P/AG/RES.1 (XXVIII-E/01), (Sept. 11, 2001) articles 3, 4 ,

https://www.oas.org/charter/docs/resolution1_en_p4.htm; see also Inter-American Commission on Human Rights Resolution 1/18 “Corruption and Human Rights” <https://www.oas.org/en/iachr/decisions/pdf/Resolution-1-18-en.pdf>

¹⁵ Organization of American States, American Convention on Human Rights, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123 [hereinafter ACHR]

¹⁶ Kim Ives, *Illegally Ousted Anti-Corruption Chief: “The President Had to Find Someone Who Was More Obedient,”* HAITILIBERTE (Jul. 19, 2017), <https://haitiliberte.com/illegally-ousted-anti-corruption-chief-the-president-had-to-find-someone-who-was-more-obedient/>.

¹⁷ Human Rights Watch, Haiti: Investigate protest deaths (Mar. 22, 2019) <https://www.hrw.org/news/2019/03/22/haiti-investigate-protest-deaths>

¹⁸ Amnesty International, Haiti: Authorities must avoid excessive use of force during protests (Nov. 27, 2018) <https://www.amnesty.org/en/latest/news/2018/11/haiti-authorities-must-avoid-excessive-use-of-force-during-protests/>

¹⁹ Michael Weissenstein, Witnesses: Men in Police Garb Massacred Civilians in Haiti, Associated Press (Jan. 16, 2019), <https://apnews.com/d99258d01cce4b84a01e04b4eaff7236>; MINUJUSTH, La Saline : Justice Pour les Victims. L’Etat a l’Obligation de Protéger Tous les Citoyens (2019), https://minujusth.unmissions.org/sites/default/files/minujusth_hcdh_rapport_la_saline_1.pdf; RESEAU NATIONAL DEFENSE DES DROITS HUMAINS, THE EVENTS IN LA SALINE: FROM POWER STRUGGLE BETWEEN ARMED GANGS TO STATE-SANCTIONED MASSACRE (2018), <http://rdddh.org/content/uploads/2018/12/10-Rap-La-Saline-1Dec2018-Ang1.pdf>; Jacqueline Charles, Dozens Brutally Killed, Raped in Haiti Massacre, Police

- Witnesses saw attackers arriving in police vehicles, wearing police uniforms.²⁰
- National police did not intervene to stop 14hr long massacre, despite being less than 1km away, as set out in the UN report on the issue.²¹

2019

- January 2019, The Haitian Court of Auditors reports delays and lack of cooperation by state agencies with its PetroCaribe investigation.²²
- February 2019, thirty-four protestors are killed in encounters with police, following at least 9 deaths by police in October and November 2018 protests.²³
- Also in February, the Commission calls on the Haitian Government to respect protestors' rights to life, liberty, personal integrity, free assembly and free expression.²⁴
- April 2019, inflation reaches 17.7%.²⁵
- April 2019, the DCPJ investigation report into La Saline directly implicates two senior government officials, Government Delegate for the West Region Joseph Pierre Richard Duplan and Director General of the Ministry of Interior Fednel Monchery, in the massacre.²⁶
- June 2019, threats and attacks occur against journalists reporting on corruption and the popular movement, from both police and protestors.²⁷ At least three journalists are shot after covering corruption issues between June and September 2019, including Rospide Petion, assassinated by a group of shooters in June 2019.²⁸

Say. 'Even Young Children Were not Spared', MIAMI HERALD (May 15, 2019), <https://www.miamiherald.com/news/nationworld/world/americas/haiti/article230380739.html>.

²⁰ UN Investigating Brutal November Massacre in Haiti, VOA NEWS, (Jan. 14, 2019), <https://www.voanews.com/a/head-un-investigating-brutal-november-massacre-in-haiti-/4742755.html>; Michael Weissenstein, Witnesses: Men in Police Garb Massacred Civilians in Haiti, Associated Press (Jan. 16, 2019), <https://apnews.com/d99258d01cce4b84a01e04b4eaff7236>

²¹ MINUJUSTH, La Saline : Justice Pour les Victims. L'Etat a l'Obligation de Protéger Tous les Citoyens (2019), https://minujusth.unmissions.org/sites/default/files/minujusth_hcdh_rapport_la_saline_1.pdf;

²² Cour Supérieure des Comptes et du Contentieux Administratif, *Audit Spécifique de Gestion du Fonds PetroCaribe, Rapport I* (Jan. 31, 2019), <https://static1.squarespace.com/static/5b9f2b7c3917ee4972f3f2d0/t/5c53bdabeef1a194097d4a44/1548991930156/PETROCARIBE++31+JANV.+19.pdf>.

²³ Human Rights Watch, Haiti: Investigate protest deaths (Mar. 22, 2019) <https://www.hrw.org/news/2019/03/22/haiti-investigate-protest-deaths>

²⁴ La CIDH exprime sa préoccupation quant à l'aggravation de la violence et de la pénurie en Haïti et annonce la création de la Cellule de coordination et de riposte opportune et intégrée (SACROI) pour faire le suivi de la situation (Feb. 27, 2019) <https://www.oas.org/fr/cidh/prensa/comunicados/2019/046.asp>

²⁵ U.N. Secretary-General, *United Nations Mission for Justice Support in Haiti*, ¶ 12, U.N. Doc. S/2019/563 (Jul. 9, 2019);

²⁶ Jacqueline Charles, Dozens Brutally Killed, Raped in Haiti Massacre, Police Say. 'Even Young Children Were not Spared', MIAMI HERALD (May 15, 2019).

²⁷ *Violences contre la presse : association de journalistes et patrons de médias protestant*, LE NOUVELLISTE (Feb. 14, 2019) <https://lenouvelliste.com/article/198151/violences-contre-la-presse-association-de-journalistes-et-patrons-de-medias-protestant>

²⁸ *Journalist Rospide Pétion Murdered*, HAITI FREE (June 12, 2019), <https://www.haitilibre.com/article-27967-haiti-securite-le-journaliste-rospide-petion-assassine.html>; Charles *Haiti at a Standstill*, *supra* Note 26. *ASHAPS Consternée By This Cascade of Violences Against the Press*, CONNECTION INFO NEWS (June 14, 2019), <https://connectioninfonews.com/ashaps-consterne-par-cette-cascade-de-violences-contre-la-presse/>; *Journalist Luckson Saint-Vil survives shooting attack in southern Haiti*, Committee to Protect Journalists (Aug. 13, 2019), <https://cpj.org/2019/08/journalist-luckson-saint-vil-survives-shooting-att.php>.

- June 2019, three armed attacks are carried out on radio stations.²⁹ As at September 2019, the government has failed to hold anyone responsible and had not taken any positive steps to protect journalists.³⁰
- As of June 2019, food insecurity had doubled and the gourde (the local currency) had devalued 37% over the previous year.³¹
- June 2019, following the release of their second report into PetroCaribe, members of the Court of Auditors investigating the PetroCaribe scandal are targeted.³² In response to persistent threats, at least two of these judges are reportedly forced to flee Haiti in June.³³
- In July 2019, amid increasing pressures in response to report findings of President Moïse's implication in corruption by the Court of Auditors,³⁴ the President issues a public call for the OAS to undertake a separate audit of PetroCaribe,³⁵ sparking criticism that he is undermining Haitian judicial institutions.³⁶
- As of September 2019, neither Duplan nor Monchery have been suspended from their posts or arrested for their implication in La Saline.

Need for a human rights focused response

The Moïse administration's response to the population's civic push for accountability has undermined state institutions addressing corruption and created a political crisis. Three Prime Ministers have been fired or have resigned since July 2018,³⁷ and parliamentary approval of a government has been stymied since February 2019, blocking the presentation of a national

²⁹ Jacqueline Charles, *As Tensions Continue to Escalate in Haiti over President, Journalists Come Under Attack*, MIAMI HERALD (June 11, 2019). <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article231436843.html>; *Zenith Attacked TV Radio*, THIS IS HAITI.COM (June 19, 2019) <https://www.icihaiti.com/en/news-28024-icihaiti-security-radio-tele-zenith-attacked.html>. Haiti Libre, *Attacks on the Media are Multiplying* (Jun. 25, 2019) <https://www.haitilibre.com/en/news-28075-haiti-security-attacks-on-the-media-are-multiplying.html>

³⁰ *Armed Bandits Attacked Radio Tele Guinen Correspondent in St. Mark's*, THE NATIONAL (June 25, 2019), http://www.thenational.org/post_free.php?elif=1_CONTENTUE%2Factualitees&rebmun=5443.

³¹ U.N. Secretary-General, *United Nations Mission for Justice Support in Haiti*, ¶ 12, U.N. Doc. S/2019/563 (Jul. 9, 2019);

³² *Attempted Removal of 2 CSC/CA Auditors*, HAITI FREE (June 7, 2019), <https://www.haitilibre.com/article-27924-haiti-securite-tentative-d-enlevement-de-2-verificateurs-de-la-csc-ca.html>.

³³ *Attempted Removal of 2 CSC/CA Auditors*, HAITI FREE (June 7, 2019), <https://www.haitilibre.com/article-27924-haiti-securite-tentative-d-enlevement-de-2-verificateurs-de-la-csc-ca.html>.

Faced with Persistent Threats, Cscqa Members Would Have Left Haiti, ALTERPRESSE (June 27, 2019), <http://www.alterpresse.org/spip.php?article24476#.XRpYi5NKhbV>; *Prime Minister Rabbit visits the Superior Court of Auditors*, HAITI FREE (June 30, 2019) <https://www.haitilibre.com/article-28115-haiti-petrocaribe-visite-du-premier-ministre-rabbit-a-the-court-super-accounts.html>.

³⁴ Sandra Lemaire, Exalus Mergenat, *Anti-Corruption Protests Sweep Haiti's City of Independence* (Jun. 14, 2019) <https://www.voanews.com/americas/anti-corruption-protests-sweep-haitis-city-independence>

³⁵ Jovenel Moïse, *If Haiti gives me a government, we can work together toward a better future*, MIAMI HERALD (Jul. 12, 2019), <https://www.miamiherald.com/opinion/op-ed/article232622617.html>.

³⁶ Danio Darius, *L'intention de Jovenel Moïse de faire appel à des experts de l'OEA dans le dossier PetroCaribe soulève l'ire de ses opposants*, LE NOUVELLISTE (Jul. 15, 2019), <https://lenouvelliste.com/article/204525/lintention-de-jovenel-moise-de-faire-appel-a-des-experts-de-loea-dans-le-dossier-petrocaribe-souleve-lire-de-ses-opposants>.

³⁷ *Jacque Charles, Haiti's president nominates a new prime minister, his fourth in less than three years* MIAMI HERALD (Jul. 22, 2019) <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article232979377.html>.

budget and undermining the viability of planned upcoming parliamentary elections.³⁸ This stalemate, and the economic downturn it is aggravating, risk reversing hard won improvements towards the progressive realization of social and economic rights over the past decade³⁹ while further entrenching a culture of corruption and impunity.

In the context of the September 23rd thematic hearing, the *Bureau des Avocats Internationaux* (BAI) and the Institute for Justice and Democracy in Haiti (IJDH) request the Commission's assessment of Haiti's compliance with ACHR and Inter-American legal framework, including by conducting an *in loco* visit to Haiti. We further request the Commission's action in working with the government to ensure that Haiti upholds its obligations to:

- (1) Hold both state and private entities accountable for the PetroCaribe corruption;
- (2) Create an environment free from intimidation for the exercise of freedom of expression by protestors and others who investigate, report and denounce acts of corruption; and
- (3) Prevent, investigate and punish attacks and harassment against leaders and other individuals who report acts of corruption.⁴⁰

BAI and IJDH further reiterate our request of August 9, 2019 to the Commission to issue urgent precautionary measures to protect survivors of the November 2018 La Saline massacre by compelling the Haitian government to provide urgent humanitarian assistance to survivors displaced by the massacre, improve security in La Saline and the surrounding neighborhoods where survivors have fled, through increased police presence, and address delays that have hampered access to justice for victims.⁴¹

Haiti is at a critical juncture, and the current lack of accountability disadvantages the protection and realization of the civil, political economic, social, and cultural rights of the population guaranteed by the ACHR, as well as the commitments to integral development to which Haiti has committed within the framework of the Charter of the Organization of American States.⁴²

³⁸ *Les élections « techniquement » impossibles cette année...* LE NOUVELLISTE (JUL. 7, 2019)

<https://lenouvelliste.com/article/204330/les-elections-techniquement-impossibles-cette-annee>

³⁹ see, for eg: CEPAL STAT, *Millenium Development Goals, Country Profile: Haiti* (Nov. 2015)

https://estadisticas.cepal.org/cepalstat/perfil_ODM/PDF/HTI_EN.pdf ; ONEPS and World Bank, *Investing in People to Fight Poverty in Haiti* (2014)

<http://documents.worldbank.org/curated/en/222901468029372321/pdf/944300v10REPLA0sment0EN0web0version.pdf>

⁴⁰ ACHR, articles 4, 7, 13, 15, 16; Inter-American Commission on Human Rights Resolution 1/18 ('Corruption and Human Rights') <https://www.oas.org/en/iachr/decisions/pdf/Resolution-1-18-en.pdf>

⁴¹ IJDH & BAI, *Precautionary Measures Request for X, X, X and X of La Saline, in the name of their community* (Aug. 9, 2019) <http://www.ijdh.org/wp-content/uploads/2019/08/IACHR-Precautionary-Measures-Request-Haiti-La-Saline-August-9-2019.pdf>

⁴² Organization of American States (OAS), *Charter of the Organisation of American States* (Apr. 30,1948), http://www.oas.org/en/sla/dil/inter_american_treaties_A-41_charter_OAS.asp. Chapter VII, Articles 30-34; Article 45