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

November 2020 through May 2021

The seven month period following IJDH’s October 2020 Human Rights and Rule of Law in Haiti update has been marked by increasing authoritarian actions by the government that have furthered concerns for the rule of law, including an unconstitutional exercise to change the constitution through referendum. A remarkable number of people in Haiti, including civil society groups, have courageously demonstrated against the continuation of the democratic crisis and have demanded respect for the rule of law. Many of these widespread demonstrations have been suppressed by the police through violent means while catastrophic insecurity, primarily comprised of attacks against civilians by armed actors and kidnappings, continues. Threats to judicial independence and impunity for these and other human rights violations additionally contribute to a deteriorating economic situation that frustrates the enjoyment of peoples’ economic, social, and cultural rights.

On January 5, 2021, the Administration used an executive decree to empower the Provisional Electoral Council (CEP) – already viewed as unlawful by many – to schedule a constitutional referendum, expressly forbidden by Haiti’s constitution, along with legislative, presidential, local, and municipal elections. Haiti’s 1987 constitution sets out a mechanism for constitutional revision via legislature, stating clearly in Article 284.3 that “[g]eneral elections to amend the Constitution by referendum are strictly forbidden.” The CEP itself was established extraconstitutionally in September 2020, never fulfilling Article 135.1 and 194.2 after Haiti’s Supreme Court deemed it unconstitutional. Though the Administration has postponed the referendum, civil society continues to call for a complete cancellation on the basis of its unconstitutionality.

On February 7, 2021 the Moïse Administration executed several arrests, later deemed wrongful by an appeals court, over an alleged coup. These arrests, occurring while the President and his Administration were contesting Article 134 of Haiti’s constitution and whether the President’s term is scheduled to end on February 7, 2022 or already ended February 7, 2021, were widely perceived as political. The actions of the Administration and President’s continued rule by decree in the absence of a Legislature have been heavily contested, and Haiti’s civil society has clearly expressed that free, fair, and credible elections cannot be organized under the current administration – given its undermining of the rule of law, the widespread insecurity disproportionately affecting voters in marginalized communities, specific security issues related to the election including the leader of the gang federation G9 an Fanmi allegedly threatening civil war if the referendum does not pass, controversies surrounding voter identification cards and eligible voter lists, and the administration’s current lack of credibility in the eyes of many of Haiti’s citizens due to impunity, failures of accountability, and the alleged implication of the President in the misappropriation and misuse of PetroCaribe funds, which remains a significant backdrop and one of the drivers of the current situation. These concerns are newly compounded by a resurgence of COVID-19 in the country even as Haiti has yet to receive a single dose of the vaccine as of June 11, 2021. Civil society actors continue to call for a structured transition to restore democratic order.
Human rights lawyers and advocates in Haiti from the Bureau des Avocats Internationaux (BAI), the Réseau National de Défense des Droits Humains (RNDDH), the Fondasyon Je Klere (FJKL), the Fédération des Barreaux d’Haïti (FBH), the Centre d’analyse et de recherche en droits de l’homme (CARDH), and others from Haiti’s civil society, have respectively raised concerns over the past year that the socio-political situation constitutes a grave threat to human rights and the rule of law—with a significantly weakened judiciary and legislative branch, decrees that have reconfigured the country’s legal code and institutions, a promulgation of unconstitutional exercises that undermine the foundation of the country’s democratic order, and repeated failures of accountability that embolden impunity and corruption.30

Antidemocratic and authoritarian government conduct

- Moïse failed to ensure legislative elections in 2019, and on January 13, 2020, announced that the terms of all deputies and senators, except 10, had expired with no replacements.31 Ruling by executive decree since January 2020, Moïse has issued over forty executive decrees several of which have unilaterally altered and created laws or appointed officials without the constitutionally required parliamentary approval.32 His decrees have also introduced criminal and civil penalties for citizens and businesses.33

- Throughout the period November 2020 – May 2021, Moïse issued several decrees, including those to: redefine domestic terrorism in Haitian law;34 create a new national intelligence agency, which prompted the country’s human rights ombudsman (OPC) to review and provide recommendations that were only partially adopted;35 remove and then appoint three judges on Haiti’s Supreme Court;36 and allow Haiti’s military to operate on domestic territory jointly with the Haitian National Police (PNH) after a police raid into a marginalized neighborhood left four police officers dead.37

- Haitian lawyers and constitutional experts, including the Federation of Haitian Bar Associations,38 the Conseil Supérieur du Pouvoir Judiciaire (CSPJ), Haiti’s official judicial oversight body,39 and the Chair on Constitutionalism in Haiti and Rector of Quisqueya University,40 all separately evaluated that Moïse’s presidency ended on February 7, 2021. A remarkable cross-section of Haiti’s civil society publicly supported this view.41

- On February 7, Judge Yvickel Dieujuste Dabrésil of Haiti’s Supreme Court was arrested along with more than seventeen others over an alleged coup,42 which multiple human rights groups immediately denounced as violating Haitian law’s prohibitions on arrest without warrants and arrest at night without an active crime in progress.43 Justice Dabrésil was released in February based on legal provisions governing arrests and detention of Supreme Court judges,44 and on March 24, 2021, Haiti’s Appeals Court ordered the release of the seventeen people arrested who were still detained, basing its decision on Haiti’s habeus corpus law governing unlawful detentions.45

- Haiti’s civil society and legal community have consistently cited Article 284.3 of Haiti’s constitution to argue that the proposed referendum would expressly violate existing provisions in the country’s current constitution.46 Of additional concern, the May draft of the proposed document for vote47 not only would reshape institutional structures and consolidate additional power in the Executive,48 but it has been developed through a process that has been non-transparent, non-participatory, and, most concerningly, unlawful.49

- Despite the credible concerns voiced by the country’s population that free, fair, credible elections are impossible under the current administration,50 and despite criticizing the Administration’s use of executive decrees,51 the international community has maintained a policy position and support to the Moïse Administration to organize elections planned for September and November 2021.
The OAS deployed a mission from June 8-10 to “facilitate a dialogue that would lead to free and fair elections.”52 While the US and UN continue to articulate support for “free and fair” elections in 2021, they have now come out against the referendum through an April 13 statement from BINUH and with statements by the US Department of State on May 18, May 24, and June 9.53 Notably, sixty-nine US congresspersons, including the Chair of the Committee on Foreign Affairs, sent the US Secretary of State a letter on April 24, 2021 demanding that, beyond the US publicly stating that it will not support a constitutional referendum, the US “not provide any support, financial or technical, to facilitate the proposed constitutional referendum, including through multilateral institutions.”54

**Threats to the effectiveness and independence of the judicial system**

- Judge Renor Regis was attacked in his car in November 2020 shortly after issuing a written order for the production of evidence relating to allegations of the First Lady’s knowledge of the assassination of Monferrier Dorval, before it was reported. Dorval was the former head of the Port-au-Prince Bar who was killed in August 2020.55 Judge Regis reported experienced death threats in January 2021 shortly after another arrest of a suspect in the Dorval case was made.56 Journalists reported at the end of May 2021 that Judge Regis was set to interview key witnesses, including the former Prime Minister and the current First Lady.57

- In January 2021, President Moïse decided to not renew the mandates of three judges against the recommendation for continued service and favorable review by the CSPJ.58 Haiti’s Professional Association of Magistrates (Association Professionnelle des Magistrats / APM) issued a statement on January 26 explaining how all three judges presided over cases that involved allegations implicating the President and members of his Administration and relating to either the La Saline Massacre or PetroCaribe corruption.59 The non-renewal of these three mandates has now left the cases stalled at this time.60

- On February 8, after arresting Supreme Court Judge Dabrésil over the alleged coup, Moïse used a decree to remove Justice Dabrésil and two other judges from Haiti’s Supreme Court even though Article 177 of Haiti’s constitution makes them irremovable absent a “legally determined abuse of authority,”61 a condition not present in any of the three removals.62 On February 11, Moïse appointed three replacements outside of constitutional procedure.63 Shortly thereafter, the Office of the United Nations High Commissioner for Human Rights (OHCHR) released a statement on attacks on judicial independence in Haiti.64

- Beginning on February 15 and lasting through April, judges went on strike over chronic underfunding, poor working conditions, and executive interference.65 Work stoppages due to the strikes and insecurity blocking access to the courts have led to the suspension of cases, backlogs in civil and criminal courts, and an exacerbation of prolonged pre-trial detention.66

- Attorneys and advocates in the Grand-Anse area of Haiti asserted that improper exercises of judicial and prosecutorial discretion were enabling crimes against women, girls, and their children.67

**Violence against protesters**

- Widespread and multi-sector demonstrations continued to face repression by police agents, including the shooting of James Pierrin, a student at the State University of Haiti who was shot during a demonstration in January and only survived after emergency surgery.68 IJDH’s review of journalists’ coverage of public demonstrations during our reporting period revealed at least
eighteen instances of police use of tear gas (November 4 and 18, 2020; December 10, 2020; January 17, 19, 20, 21, and 27; February 3, 9, 10, 14, 21 and 22; March 3 and 29; April 15 and 29) and at least eleven instances where the PNH used live ammunition against assemblies and demonstrations (November 18, 2020; January 17, 19, 20 and 27; February 3, 9, 10, 14 and 22; April 29). In January, local human rights organization RNDDH detailed the ongoing political repression of demonstrators. 

- The appointment of PNH chief Leon Charles in mid-November, outside of the law governing such appointments, raised concerns among human rights organizations due to his previous tenure as chief of police in 2004-2005 when he was alleged to have repeatedly ordered police to use force stop political demonstrations. After Charles’ re-appointment, state violence against demonstrators continued undeterred, insecurity continued to increase, and a failed police raid into Village de Dieu in March further undermined confidence in the State’s ability to secure Haitians right to life.

- On January 20, while announcing the release of a report condemning violence against protesters in Haiti from 2018-2019 by the Moïse Administration, OHCHR spokesperson Marta Hurtado stated that the political tension around the referendum and election “raises concerns of renewed human rights violations by security forces during the policing of protests as seen during the months-long protests in 2018 and 2019, as well as during demonstrations in October and November of last year.”

- In its March statement, the UN Security Council noted with concern “reported violations and abuses of international human rights, including those involving the alleged use of deadly force against protesters.” It called on the government to “to respect freedom of expression and freedom of association, and for the Haitian National Police Inspector General to conduct a thorough investigation of these incidents.”

Violence against journalists and human rights defenders

- On February 8, 2021, journalist Alvarez Destiné was shot in the hand and Méus Jeanril shot in the stomach as police and military officers used live ammunition to disperse a protest against the Administration. That same week, police shot tear gas canisters into Radio-TV Pacific’s truck while it was clearly marked and carrying journalists displaying their press credentials.

- From December 2020 to May 2021, journalists suffered violent attacks from state authorities while covering demonstrations against the Moïse regime, including being shot with live ammunition, tear gas canisters, and rubber bullets. In November 2020 and February 2021, media reported that violence against journalists, ongoing impunity for perpetrators, and Moïse’s decrees on domestic terrorism increased the chilling effect on investigative journalism and the expression of opinions opposed to those of the administration.

- In February, the Administration drew public statements of condemnation from the InterAmerican Commission for Human Rights (IACHR) as well as the International Federation of Journalists and the Committee to Protect Journalists, and Moïse was criticized for attempting to justify the Administration’s violence against the press by arguing that terrorists were disguising themselves as journalists.

- In its 2021 World Press Freedom Index, Reporters Without Borders cited intimidation and violence against journalists to lower Haiti four places since 2020, to 87th out of 180 countries ranked. And in March, the OAS Special Rapporteur for Freedom of Expression published his annual report noting continuing “trends of attacks and threats directed against the media in Haiti.”
Deteriorating security situation

- Since our last update, kidnappings and insecurity involving armed gangs have continued to increase—with repeated instances of mass violence in marginalized neighborhoods, involving shootings, burnings, rapes, and house destruction that has left at least thousands displaced.\(^{84}\) The mass violence repeatedly involved the G-9 an Fanmi gang alliance,\(^{85}\) though other armed gangs such as 400 Mawozo or 5 Segond have also been implicated in kidnappings and insecurity.\(^{86}\) Haitian civil society continued to allege collusion between the G-9, led by former police officer Jimmy Chérizier, and state actors in the Moïse Administration to sow insecurity in marginalized neighborhoods that were sources of escalating demonstrations against the Administration.\(^{87}\)

- RNDDH reported that massacres by the G9 in Bel-Air and Cité Soleil between August 2020 and May 2021 killed 125 people—with 23 women killed, 31 people kidnapped or disappeared, 168 houses burned, and 428 children orphaned.\(^{88}\) In June 2021, the UN reported that mass violence in Port-au-Prince had left at least 10,000 people internally-displaced in a little over a year’s time.\(^{89}\) The UN reported on June 8, 2021 that least a thousand had been displaced over a seventy-two hour period after gun battles and house burnings, particularly in and around Martissant, Cité-Soleil and Bel-Air, and the government of Haiti confirmed on June 11, 2021 that at least 1,500 people were staying at an emergency center at the Carrefour Sports Center after having been displaced recently from the Martissant/Fontamara area.\(^{90}\)

- The kidnapping and murder in Port-au-Prince of an twenty-two year old woman who had just passed her final examination to graduate high school gained international attention in November 2020,\(^{91}\) and kidnappings continued to terrorize people in Haiti from November through May 2021.\(^{92}\) CARDH identified 796 kidnappings in 2020\(^{93}\) and reported a 300% increase in kidnappings in April 2021 as compared to March 2021.\(^{94}\) Witnesses told journalists that people wearing PNH uniforms and driving state vehicles were implicated in kidnappings,\(^{95}\) and the coordination between the government and kidnappers in the case of the return of a Dominican film crew in February fueled further speculation that the Administration was working with kidnappers.\(^{96}\)

- In May, the Moïse Administration announced it had negotiated a two-month truce between gangs,\(^{97}\) and human rights lawyers from RNDDH and CARDH raised concerns of ongoing collusion between the government and gangs, this time with a negotiated truce just long enough to secure peace before Moïse’s desired referendum, which had been scheduled for June prior to its postponement.\(^{98}\) Despite the announced ceasefire, a leader of the G-9 was alleged to have made threats of civil war via social media if the referendum did not pass and also personal death threats to human rights attorney, Pierre Esperance of RNDDH;\(^{99}\) the CEP acknowledged in May that many polling locations are inaccessible because of pervasive violence that has escalated under Moïse;\(^{100}\) and armed gangs began targeting police stations for attacks in June 2021, with RNDDH reporting that the G-9 was responsible for nine of the attacks.\(^{101}\)

Pervasive impunity for serious human rights violations

- In December 2020, two ex-officials of the Moïse Administration were sanctioned by the US for their involvement in the November 2018 La Saline massacre.\(^{102}\) The two officials, Fednel Monchéry and Richard Duplan only left office in September 2019 following public pressure amidst revelations that both officials had been indicted in official reports from investigative police earlier
in April 2019. Monchéry was arrested on February 13, 2021 for improper license plates and then freed, and he and Duplan remain free. Chérizier, also sanctioned by the US, continues to move freely in public while being implicated in subsequent mass violence.

- The UN Secretary General in February highlighted how “[t]he lack of protection by the State, including the lack of accountability for human rights abuses committed by prominent gang members, especially those who were already the subject of national police warrants, such as Jimmy ‘Barbecue’ Chérizier, fueled the recurring cycle of violence.” The Secretary General noted a lack of accountability for massacres in Grand Ravine in 2017, La Saline in 2018, and Bel-Air in 2019. In March, the UN Security Council issued a resolution on Haiti stressing “the urgency of accountability for human rights violations and abuses” and “call[ing] on the government of Haiti to take immediate action to end impunity for those responsible.” The alleged perpetrators of these crimes, however, still remain free.

- Massacre survivors in Haiti continued to call for an end to ongoing impunity in these cases. On January 15, human rights lawyers, including BAI’s Mario Joseph, activists, and survivors spoke to AyiboPost about the lasting impact of the Raboteau Massacre and the ongoing harm created by the impunity for those convicted, such as Jean Robert Gabriel who currently serves in Haiti’s army despite convictions in absentia over the Raboteau Massacre. Also in January 2021, survivors of the November 2019 massacre in Bel-Air recounted how the absence of justice has created ongoing harms.

- Founded in October 2020, the Observatoire Haïtien de Crimes Contre l’Humanité en Haïti (OHCCH) released a report on April 22, 2021 with Harvard Law School’s International Human Rights Clinic concluding that, based on publicly available evidence of the 2018 La Saline Massacre, the November 2019 Bel-Air Massacre and the 2020 Cité Soleil Massacre, there is a reasonable basis to conclude that actors in the current regime have, along with non-state actors, committed crimes against humanity—with Moïse potentially carrying liability under the command responsibility doctrine.

- Moïse said he is using decrees to combat gangs and insecurity, but the results and the uneven application of the rule of law under his Administration have significantly undermined his credibility on the issue with many within Haitian civil society. The lack of trust was highlighted after a failed police raid that some PNH officers allege was intentionally planned to fail by PNH leadership due to political motivations.

- No meaningful accountability for PetroCaribe corruption has been realized, and Moïse issued a decree in November to limit the oversight power of Haiti’s Superior Court of Auditors and Administrative Disputes (CSCCA), the organization that has detailed PetroCaribe corruption. Civil society continued to call for justice and accountability. Meanwhile, Transparency International released its 2020 corruption perception index in which Haiti now ranks 170th out of 180 because of its lack of progress towards any accountability over government corruption.

- As reported in IJDH’s last update and discussed at the IACHR hearing in December, the government has continued to fail to take steps to prosecute those responsible for serious human rights violations under the Jean-Claude Duvalier administration or to recover over 120 million dollars that the Duvalier family stole from Haiti’s public funds.

**Accountability for international actors**

- Media has reported on lobbying efforts by the Moïse Administration. In January 2020 and February 2021, the US, the OAS, and the UN articulated support that Moïse’s mandate extends
through February 7, 2022, a position strongly criticized by local civil society and individuals. A wide array of voices from diverse sectors have outlined how this iteration of Haiti’s socio-political crisis, and the undermining of Haiti’s democracy, stems from policies that exert undue influence of international actors and prioritization of short-term stability over acknowledging and engaging with country-led knowledge, perspectives, and long-term solutions.

- In November 2020, the UN Special Rapporteur on Extreme Poverty and Human Rights criticized the UN’s continued refusal to acknowledge any legal responsibility for its introduction of cholera to Haiti and ruling out any requests for compensation for damages suffered by victims. On December 31, 2020, UN Secretary-General Guterres announced the end of the mandate of the UN Special Envoy for Haiti, Josette Sheeran, with no indication that the position will be replaced, raising serious concerns about the viability of implementation efforts of the UN’s New Approach to Cholera in Haiti, including individual compensation to victims.

- In April, the UN’s Office of Internal Oversight Services released a report revealing the lack of criminal and civil accountability system-wide for acts of sexual exploitation and abuse (SEA). Through a judgment from a Jacmel court issued in March 2021, the BAI secured a child support order against a UN peacekeeper who had impregnated and abandoned a Haitian woman. The claim faced significant hurdles to move forward over three years, including because the UN failed to provide necessary evidentiary documentation directly to the courts in accordance with Article 52 of the Status of Forces Agreement between the UN and the Government of Haiti.

**Deteriorating social and economic rights landscape**

- According to the Haitian Institute of Statistics and Informatics (IHSI), for the first time in twenty years, the economy in Haiti experienced negative growth for two consecutive fiscal years (-1.7% in 2019 and -3.3% in 2020). IHSI attributed the contraction to structural weaknesses in Haiti’s economy, the socio-political crisis, and the effects of the global contraction due to the pandemic.

- The deteriorating economic conditions affected peoples’ lives in drastic ways: increasing inflation persisted; thousands of families lost their savings due to the volatility and unreliability of credit unions; businesses experienced reduced sales and cash flow problems; and families relied more on remittances to Haiti, which increased as the economy lagged and kidnappings rose.

- In May, Haiti’s National Food Security Council confirmed that 4.4 million Haitians were food insecure as Haiti continued to struggle with domestic agricultural production.

- Insecurity forced multiple medical facilities across Haiti to sporadically close and frustrated access to care while facilities faced hardships due to Haiti’s economic difficulties.

- COVID-19 cases began rising in Haiti in May with more dangerous global variants of the virus B.1.525 and P.2 present. Though Haiti is a member of the UN COVAX program, Haiti had yet to receive any vaccines at the time of publication.

- Insecurity and the socio-political crisis have frustrated people’s access to education, with many schools forced to close due to changing and unsafe conditions. After an eight year old girl was shot while attempting to go to school in January 2021, the United Nations Children's Fund demanded that the government of Haiti confront insecurity so that the right to education was not denied. In March, public school teachers threatened a strike due to lack of pay. The National Conference of Haitian Educators announced on May 17 that public school teachers had not been paid in April and called for the state to take better care of all, including teachers.

- During the pandemic, only 5.6% of families in Haiti were able to continue their children’s education through distance learning, as reported by the UN in May 2021.
Throughout our reporting period, multiple organizations in Haiti denounced increases in gender-based violence during the pandemic and as a result of widespread insecurity, including Solidarité Fanm Ayisyèn, Kay Fanm, Fanm Deside, Rezo Fanm Radyo Kominotè Ayisyen, Réseau des Femmes Organisées de Jacmel, Mouvman Fanm Volontè an Aksyon, Fanm Yo La, Nègès Mawon and Operasyon Tèt Ansann.\(^{146}\) UNICEF reported that, from September 2021 to February 2021, violence against women and children in Haiti increased by 62% versus its previous reporting period.\(^{147}\)

Activity and outlook of BINUH / UN

In June 2021, the UN Security Council will meet to review and discuss the Secretary-General’s report on BINUH. In October, it will decide whether to renew its mandate in Haiti. The international community continues to support Moïse’s stay in power and to call on Haiti to hold elections this year in order to resolve the crisis, despite concerns from Haiti’s civil society and mounting evidence of its logistical constraints within the proposed timeframe. The recommendations from IJDH’s last update remain highly relevant.\(^{148}\) In addition to focusing on making amends for its own past violations of Haitians’ human rights in order to gain legitimacy amongst the population, the UN and other international actors can support human rights and the rule of law in Haiti by centering the perspectives of Haiti’s marginalized majority and both acknowledging and engaging with concerns extensively documented and raised by local civil society and individuals of authoritarian and anti-democratic conduct of the current administration, in respect of the Human Rights Council’s resolution on civil society space.\(^{149}\)

Specifically, as it continues its role as negotiator, the UN should give meaningful consideration of the clear demands emerging from Haiti’s civil society and the people of Haiti for a socio-political “Rupture,”\(^{150}\) not a change in one leader or administration but a structural reorientation in national and international governance after the last thirty years of democratic transition, nearly half of which have been spent with a UN peacekeeping presence.\(^{151}\) Moving forward with an unconstitutional referendum or elections under the current administration, which lacks legitimacy, is procedurally problematic, substantively troubling, and creates a real legitimacy risk going forward which may undermine its credibility and the rule of law for years to come. The current call from civil society for a proposed transition is understood to be intended to protect the gains made over the last thirty years while improving and accelerating the country’s democratic transition.

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In international forums and media, Haiti’s civil society is often characterized as or alongside “Haiti’s opposition” or “Haiti’s opposition movement.” Here, for the purposes of clarity in this update, IJDH has excluded official political parties and formal representatives of political parties from our use of the term “civil society.” Otherwise, IJDH relies on the UN Human Rights Council’s prior usage of civil society, and the groups cited as civil society hereafter are representative of that usage. See Human Rights Council, *Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned*, UN Doc. A/HRC/32/20, (Apr. 11, 2016), https://undocs.org/A/HRC/32/20; see also, UN Office of the High Commissioner for Human Rights (OHCHR), *Civil Society Space and the United Nations Human Rights System: A Practical Guide for Civil Society*, https://www.ohchr.org/Documents/AboutUs/CivilSociety/CS_space_UNHRSystem_Guide.pdf (defining civil society as “individuals and groups who voluntarily engage in forms of public participation and action around shared interests, purposes or values that are compatible with the goals of the UN: the maintenance of peace and security, the realization of development, and the promotion and respect of human rights.”).


*Id.; see also infra notes 68-75 and associated text.


Article 284.3 unchanged by the controversial 2012 amendments and stating that «[f]oute Consultation Populaire tendant à modifier la Constitution par voie de Référendum est formellement interdite. »). See also Georges Michel, C’est encore la même constitution dictatoriale et le même projet anti-démocratique !, Le Nouvelliste (May 27, 2021), https://lenouvelliste.com/article/229301/cest-encore-la-meme-constitution-dictatoriale-et-le-meme-projet-anti-democratique.


February 7 also marked the 30-year anniversary of the day Jean-Claude Duvalier resigned as president and ended the Duvaliers’ 29 years in office. See Amy Wilentz, Haiti: Too Many Presidents, Too Little of Everything Else (Feb. 9, 2021), https://www.thenation.com/article/world/haiti-coup-president/.


See supra note 2.


card, and widespread insecurity make it impossible to organize free, fair, and credible elections under the current administration).

24 See supra note 7 and associated text.


28 See infra notes 138-140 and associated text.


31 See Charles, *Slow of presidential decrees have some wondering if Haiti is on the road to dictatorship*, supra note 2.

32 Id. In November 2020, the Port-au-Prince Bar Association officially and publicly stated that Moïse’s use of decrees was unconstitutional and a degradation of the rule of law. Winnie Hugot Gabriel Duval, « Le président commet une usurpation de pouvoirs préjudiciables aux valeurs républicaines », estime le barreau de Port-au-Prince, Le
On December 10, 2020, during a national funeral for a renowned lawyer, the head of the Port-au-Prince Bar association, Marie Suzy Legros, publicly criticized President Moïse’s excessive use of decrees as outside the rule of law. Ms. Legros also paid tribute to Monferrier Dorval, who she succeeded as head of the bar after he was assassinated in August 2020.


36 On February 8th, the day after arresting Judge Dabrésil, the Moïse administration used a decree to remove Judge Dabrésil, Judge Wendelle Coq Thélot and Judge Joseph Mécène Jean-Louis from the Haiti’s Supreme Court. Robenson Geffrard, Jovenel Moïse met à la retraite les trois juges de la Cour de cassation pressentis pour le remplacer, Le Nouvelliste (Feb. 9, 2021), https://lenouvelliste.com/article/226183/jovenel-moise-met-a-la-retraite-les-trois-juges-de-la-cour-de-cassation-pressentis-pour-le-remplacer; Winnie Hugot Gabriel, Ricardo Lambert & Caleb Lefèvre, Que disent les textes législatifs sur le départ à la retraite des juges de la Cour de cassation ?, Le Nouvelliste (Feb. 9, 2021), https://lenouvelliste.com/article/226209/que-disent-les-textes-legislatifs-sur-le-depart-a-la-retraite-des-juges-de-la-cour-de-cassation; Franklyn B Geffrard, Jovenel Moïse brandit l’article 136 de la constitution pour justifier la mise à la retraite de 3 juges de la Cour Cassation, RHInews (Feb. 10, 2021), https://www.RHInews.com/politique/jovenel-moise-brandit-larticle-136-de-la-constitution-pour-justifier-la-mise-a-la-retraite-des-juges-de-la-cour-cassation/.


38 FBH, Resolution 2021-01 Haitian Bar Federation (english version): On the institutional crisis and the end of the presidential term, supra note 19 (articulating the constitutional basis of the February 7, 2021 interpretation of the end of Moïse’s mandate in the Office of the President of Haiti and signed by the heads of over 21 bar associations across Haiti).

39 Conseil Supérieur eu Pouvoir Judiciaire (CSPJ), Resolution du Conseil Supérieur du Pouvoir Judiciaire (CSPJ) sur la question de l’échéance du mandat constitutional du President de la Republique, Son Excellence Monsieur Jovenal...
MOISE (Feb. 6, 2021), available at https://www.haitiwatch.org/home/cspifeb2021en (stating the opinion of Haiti’s Superior Council of Judicial Power (CSPJ), the body in charge of the administration and control of the judicial powers vested in the constitution, that Moïse’s mandate ends on February 7, 2021, even according to the interpretation Moïse applied to Parliament in 2020).


42 See supra note 16-20 and associated text.

After considering the habeas corpus appeal, the judge determined that the detention was unlawful – notably finding that the arrests took place without a warrant and in the middle of the night, which is expressly prohibited by Haitian law except in the case of an active crime– and ordered the immediate release of all those who had been detained. See Justice : La Cour d’appel de Port-au-Prince ordonne la libération des 17 prisonniers et prisonniers politiques du 7 février 2021 en Haïti, AlterPresse (Mar. 24, 2021), https://www.alterpresse.org/spip.php?article26844#.YFvxPS1h01I; Germina Pierre Louis, Attaque du président Jovenel Moïse contre la cour d’appel, Le Nouvelliste (May 6, 2021), https://lenouvelliste.com/article/228903/attaque-du-president-jovenel-moise-contre-la-cour-dappel (describing Moïse’s harsh criticism of the judiciary as a whole following the Court of Appeal’s decision).

40 See supra note 12 and associated text.


42 See Michel, C’est encore la même constitution dictatoriale et le même projet anti-démocratique !, supra note 12.

43 On April 17, 2021, journalists for AyiboPost reported that the independent advisory committee to draft the constitution for the proposed referendum was being heavily influenced by a close advisor to Moïse, Guichard Dore. Samuel Celiné, The new Constitution Project of Haiti is closely monitored by the National Palace, AyiboPost (Apr. 30, 2021), https://ayibopost.com/the-new-constitution-project-of-haiti-is-closely-monitored-by-the-national-palace/; see also infra note 53.

44 See supra note 23 and associated text.


47 For the latest draft of the proposed constitution, see Comite Consultatif Independant (CCI), Avant-Projet de Constitution: Deuxième version (May 2021), https://www.haitilibre.com/docs/18052021_2AVANTPROJET.pdf.

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49 On April 17, 2021, journalists for AyiboPost reported that the independent advisory committee to draft the constitution for the proposed referendum was being heavily influenced by a close advisor to Moïse, Guichard Dore. Samuel Celiné, The new Constitution Project of Haiti is closely monitored by the National Palace, AyiboPost (Apr. 30, 2021), https://ayibopost.com/the-new-constitution-project-of-haiti-is-closely-monitored-by-the-national-palace/; see also infra note 53.

50 See supra note 23 and associated text.


53 BINUH, Statement on Twitter (Apr. 13, 2021), https://twitter.com/BINUH_UN/status/1381981878866096132 (explaining how the constitutional referendum process is not transparent nor inclusive enough for BINUH’s support); Press Release, BINUH, Communiqué Du Core Group (Apr. 26, 2021), https://binuh.unmissions.org/fr/communique%5C3%94-du-core-group-2 (identifying insecurity and the ongoing socio-political impasse as impediments to “the implementation of an electoral calendar in a favorable climate.”); Julie J. Chung, Acting Assistant Secretary for U.S. Department of State, Working Toward a Democratic and Prosperous Haiti: U.S. Views (May 18, 2021), https://www.state.gov/working-toward-a-democratic-and-prosperous-haiti-u-s-views/ (remarking that the Moïse Administration has pursued the constitutional referendum “without an inclusive and credible consultative process that fully incorporates civil society.”); United States Mission to the UN, Readout of a Meeting Between Ambassador Linda Thomas-Greenfield and Haiti’s President Jovenel Moïse (May 24, 2021), https://usun.usmission.gov/readout-of-a-meeting-between-ambassador-linda-thomas-greenfield-and-haitis-president-jovenel-moise (publishing the US Ambassador’s statement to Moïse that “preparations for the constitutional referendum scheduled for June 27 have not been sufficiently transparent or inclusive.”); Jacqueline Charles, Biden


61 See supra note 12.


Jake Johnston & Kira Paulemon, Protests, Repression Mark Police Chief’s First Week, CEPR (Nov. 20, 2020) https://cepr.net/protests-repression-mark-police-chiefs-first-week/; see also infra note 116 and associated text. 


Id. 


80] See supra note 85.


84] See supra note 82.


See’Unprecedented’ rise in gang violence across Haiti’s capital displaces thousands, supra note 84; see also UN OCHA, HAITI: Displacements due to gang violence in Port-au-Prince, Situation Report No.2, supra note 84.


94 Franklyn B. Geffrard, Augmentation de 300% des cas de kidnapping enregistrés dans la région métropolitaine pour le mois d’avril, selon le CARDH, RHInews (May 4, 2021), https://www.rhinews.com/actualites/augmentation-de-300-du-nombre-de-cas-de-kidnapping-enregistre-dans-la-region-metropolitaine-pour-le-mois-davril-selon-le-cardh/.


96 Jacqueline Charles, They were filming a movie in Haiti. Then they got kidnapped, Miami Herald (Feb. 24, 2021), https://www.miamiherald.com/article249458730.html.


100 See Jean Daniel Sénat, Le coronavirus peut hypothéquer le referendum, affirme le porte-parole du CEP, supra note 25.


105 Id.

106 See supra 84-101 and associated text.


108 Id.

109 See supra note 74 at ¶ 9.


119 See IJDH, Human Rights and Rule of Law in Haiti: Key Recent Developments (Nov. 2020), supra note 1.


See, e.g., Emmanuel Douyon, L’héritage encombrant de la Commission intérimaire pour la reconstruction d’Haïti, Ayibopost (Jan. 24, 2021), https://ayibopost.com/heritage-encombrant-de-la-commission-interimaire-pour-la-reconstruction-dhaiti;

André Gaudin, Haïti : Les Organisations qui sont venues «reconstruire» ont été plus destructrices que le tremblement de terre, HaitiLiberte (Jan. 27, 2021), https://haitiliberte.com/haiti-les-organisations-qui-sont-venues-reconstruire-ont-ete-plus-destructrices-que-le-tremblement-de-terre;


see also Emmanuel Moïse Yves, Voici comment s’organise le système scolaire inégalitaire haïtien, Ayibopost (Jan. 23, 2021), https://ayibopost.com/voici-comment-sorganise-le-systeme-scolaire-inegalitaire-haitien;


133 Emmanuel Moïse Yves, 200 000 Haïtiens ont perdu 17 milliards de gourdes. Les propriétaires de cooperatives restent impunis, AyiboPost (Nov. 23, 2021), https://ayibo.com/200-000-haitiens-ont-perdu-17-milliards-de-gourdes-les-proprietaires-de-cooperatives-restent-impunis/.


139 Id.


In November, the Ministry of National Education and Vocational Training announced that at least 73 girls between 14-17 in one region of Haiti became pregnant during the states’ COVID-19 lockdowns and noted how this threatened their access to education. Hervia Dorsinville, *74 adolescents enceintes dans huit écoles à Beaumont*, Ayibopost (Nov. 9, 2020), [https://ayibopost.com/74-adolescentes-enceintes-dans-huit-ecoles-a-beaumont/](https://ayibopost.com/74-adolescentes-enceintes-dans-huit-ecoles-a-beaumont/).


See IJDH, *Human Rights and Rule of Law in Haiti: Key Recent Developments* (Nov. 2020), supra note 1, (recommending that the UN “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.”).

See supra notes 29-54 and associated text; see also Human Rights Council, *Resolution adopted by the Human Rights Council on 1 July 2016: Civil society space*, UN Doc. A/HRC/RES/32/31, para. 10 (July 20, 2016), [https://undocs.org/A/HRC/RES/32/31](https://undocs.org/A/HRC/RES/32/31) (emphasizing “the essential role of civil society in subregional, regional and international organizations, including in support of the organizations’ work, and in sharing experience and expertise through effective participation in meetings in accordance with relevant rules and modalities, and in this regard reaffirms the right of everyone, individually and in association with others, to unhindered access to and communication with subregional, regional and international bodies, and their representatives and mechanism”).

See Nou Pap Dòmi, *Message for the nation!: The Solution to the Crisis is Rupture* (Feb. 5, 2021), [https://www.haitiwatch.org/home/npdmessagetothenation](https://www.haitiwatch.org/home/npdmessagetothenation); Forum Société Civile Haïtienne, *Notice of Launch: Commission for Haitian Solution to the Crisis* (May 12, 2021), [https://www.haitiwatch.org/home/commissionforhaitiansolution](https://www.haitiwatch.org/home/commissionforhaitiansolution); Position officielle de NouPapDòmi sur le projet de référendum inconstitutionnel de Jovenel Moïse, Le Nouvelliste (June 8, 2021), [https://lenouvelliste.com/article/229642/position-officielle-de-noupapdomi-sur-le-projet-de-referendum-inconstitutionnel-de-jovenel-moise](https://lenouvelliste.com/article/229642/position-officielle-de-noupapdomi-sur-le-projet-de-referendum-inconstitutionnel-de-jovenel-moise); see also supra note 29 and associated text.

See Wilentz, *After a Decade of Misrule, the People of Haiti Have Had Enough*, supra note 5.