

Haiti at a Crossroads

An Analysis of the Drivers Behind Haiti's Political Crisis



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I. Introduction

Haiti is in the midst of an escalating political crisis that has repeatedly paralyzed the nation. Tens of thousands have been taking to the streets to protest President Jovenel Moïse's corruption, economic mismanagement and impunity for human rights abuses.¹ While the demonstrations have largely been peaceful, some protests have resulted in property damage, and clashes with police have at times turned deadly.² During the ten days of protest in February that placed the country in lock-down, at least 34 people died and over 100 people were injured.³ People were unable to leave their homes to access food, water and other basic necessities, placing an already-vulnerable population on the brink of a humanitarian emergency.⁴

The current wave of protests started in the summer of 2018 in response to a deteriorating economic situation and widespread government mismanagement, including revelations that senior government officials across administrations embezzled billions of dollars from a subsidized oil fund known as PetroCaribe.⁵ The movement is unprecedented in recent decades in its persistence and broad support base that spans a diverse range of social sectors. Protesters are demanding President Moïse's resignation—a call that is backed by a coalition of political parties, many civil society organizations, and Senators and Deputies including from the President's own political party.⁶ The President has in turn forced the removal of Prime Minister Jean Henry Céant, which resulted in a Parliamentary no-confidence vote that ended Céant's tenure on March 18, 2019.⁷ President Moïse is now forming a new government for the third time during his two years in office.⁸

The reshuffling of the cabinet is unlikely to resolve the current crisis. Protesters are demanding systemic reforms to increase government accountability and responsiveness, to reign in widespread impunity for corruption and human rights violations, and to give Haiti's impoverished and marginalized a meaningful voice in governance.⁹ To fully understand the political crisis, it is necessary to understand how political failures over the last several years have set the stage for the current protests, and how those failures are enabled by longer-term structural injustices.

This report seeks to put the current crisis in Haiti into context by explaining the short-, medium- and long-term factors driving the unrest, including detailing some of the gravest human rights violations in Haiti during President Moïse's tenure. In the short term, the PetroCaribe scandal galvanized civil society and was the spark that brought Haitians into the streets. In the medium term, the movement is a response to the Moïse administration's broader abuses of authority and de-prioritization of the rights and needs of the impoverished majority. President Moïse assumed office without a true popular mandate, having been elected in a low-turnout process that left him beholden to foreign and elite interests and a patronage network over the impoverished majority.¹⁰ In office, his administration has engaged in human rights abuses, flouted the rule of law, and mismanaged the economy in ways that disproportionately impact the poor.¹¹ In the long term, this administration's failures are enabled by years of flawed elections, a dysfunctional justice system and domestic and foreign economic policies that have impoverished the majority of Haitians.

The drivers behind the movement reflect repeated failures by Haitian leaders to serve their people, but they are also the result of decisions made by actors outside of Haiti. While the international

community has invested billions in building up rule of law institutions in Haiti,¹² powerful governments and international institutions have also exerted influence on Haiti to forge ahead with problematic, exclusionary elections and to accept a system of justice that allows foreign and elite actors to operate above the law.¹³ The faults of the decades-long prioritization of short-term stability over rule of law are now cracking. If the international community is to support a sustainable way forward for Haiti, it must finally take its lead from Haitians and support systemic reform that will be long and difficult. Systemic reform is the only way for Haiti to emerge out of this crisis into a place of true stability.

II. Immediate Triggers

While the economic and political situation in Haiti has been deteriorating for several years, the mass demonstrations that have come to characterize the crisis were triggered by several immediate factors. The first round of protests erupted in July 2018 in response to a Government announcement to end fuel subsidies that would have sharply increased the cost of transport, cooking and other basic needs.¹⁴ The following month, protesters returned to the streets to demand accountability for corruption, propelled by a social media post by a Haitian filmmaker asking “Kot Kòb Petwo Karibe a???” or “where is the PetroCaribe money???”¹⁵ The demand for accountability for the missing funds went viral on social media and sparked the mass mobilization in the streets that have continued regularly since. In February 2019, while the country was in virtual lockdown during PetroCaribe demonstrations, the arrest and subsequent unlawful release of a group of heavily--armed foreign mercenaries further underscored the ability of the rich and powerful to operate above the law and became another rallying point for demonstrations.¹⁶

A. Fuel Price Hike

In July 2018, simmering tensions exploded into massive protests after President Moïse announced a fuel-price hike that would have devastated Haiti’s poor majority¹⁷ who are already struggling to survive on \$2 per day.¹⁸ The price increases—between 38 and 51%—were required earlier that year by the International Monetary Fund as a condition of its bailout of the Haitian Government.¹⁹ President Moïse responded to the protests by suspending the price hike and replacing then Prime Minister Jack Guy Lafontant to placate protesters.²⁰ But he did not take further measures to address the rising costs of living and predatory corruption that made the price hikes so devastating in the first place. The failure to address these deeper drivers made the situation ripe for further uprisings. IJDH Director Brian Concannon warned at the time that “if Haiti’s government does not confront poverty and corruption, more unrest will follow.”²¹

B. PetroCaribe Corruption Scandal

Protests erupted again the following month, and have now coalesced around demands for accountability for the disappearance of an estimated \$3.8 billion from the PetroCaribe fund, which holds revenue from a low-interest fuel loan program from Venezuela intended to finance socioeconomic development in Haiti.²² Official investigations have implicated much of Haiti’s political class, including numerous high-level officials throughout recent administrations, in the corruption scandal.²³ In November 2017, the Haitian Senate’s Special Commission of Investigation released a 650-page report that identified 15 former ministers and top officials

suspected of corruption and misappropriation of the public funds, resulting in the loss of \$1.7 billion.²⁴ From May 2011 to January 2016, President Moïse's predecessor and patron President Michel Martelly allegedly spent about \$1.256 billion of the \$1.7 billion (74% of all the money the Haitian government took over a decade from the PetroCaribe Fund) to finance projects that were either not finished or never started.²⁵ President Moïse is also personally implicated, accused of overbilling the government on a \$100,000 contract to install solar lamps back in 2013.²⁶

The implication of so many high-level officials in and close to this government has thwarted accountability at every level of government, even within supposedly autonomous agencies.²⁷ At the legislative level, the Senate obstructed investigations by blocking a vote on the Commission report for four months.²⁸ Senators with the majority party then passed a resolution condemning the report as politically-motivated in a clandestine session convened after opposition senators had left the building.²⁹ In a move described as "exposing the cowardice of the Senate", the resolution referred the dossier to the *Cour Supérieur des Comptes et du Contentieux Administratif* (CSCCA), a governmental body that had already signed off on the contracts in questions at the time they were awarded.³⁰ The CSCCA did issue an audit report in January 2019 that appears to be a serious attempt to advance the investigation.³¹ The report demonstrated that many state entities are delaying or denying the cooperation that the CSCCA needs to complete its work. Because of this, the CSCCA only addressed projects where it had enough information. In April 2019, the CSCCA announced that a follow-up report was further delayed due to inadequate resources to complete the investigation.³² At the executive level, President Moïse unlawfully fired the director of UCREF, the financial crimes unit that produced an investigative report during the 2016 elections implicating President Moïse in money laundering, and replaced him with an unlawful "interim" director more favorable to Moïse.³³ The new Parliament dominated by President Moïse's allies then passed a law that granted the executive *de facto* control over the entity, greatly undermining its independence.³⁴ Finally, at the judicial level, criminal prosecutions have been slow to advance. As of October 2018, private citizens had filed over 60 complaints in court, which are now before an investigative judge assigned to the matter.³⁵ According to a March 26, 2019 statement from civil society group *Fondasyon Je Klere*, the judge ordered the freezing of bank accounts associated with some of the individuals and companies implicated in the scandal, including Haiti's former Prime Minister Laurent Lamothe and several former ministers.³⁶ But no officials have been held criminally accountable for wrongdoing related to PetroCaribe to date.³⁷

Civil society is pushing for accountability from the streets in Haiti to social media around the world.³⁸ Massive protests were held in August, November and December 2018, and February 2019, and are expected to continue. President Moïse has mostly responded to the protests with silence, declining to address the concerns of the opposition. During the ten-day lockdown in February, he waited until day four to issue a five-minute statement that was widely criticized for lacking in substance.³⁹

C. Arrest and Release of Foreign Mercenaries

At the height of the February protests, the arrest and subsequent unlawful release to the United States of seven heavily armed foreign mercenaries further roiled the nation.⁴⁰ Haitian police intercepted the men in an unlicensed vehicle with a cache of automatic rifles and pistols outside the Central Bank.⁴¹ The men allegedly told the police they were "on a government mission."⁴²

They were arrested on weapons trafficking charges and held in Haitian jail. On the order of the Minister of Justice, a close ally of President Moïse, they were later transferred into U.S. custody and taken to Miami, where U.S. authorities released them without charge.⁴³ One of the men involved, ex-Navy SEAL Chris Osman, publicly lauded the release operation in a social media post, stating “I have seen the weight of the U.S. Government at work and it’s a glorious thing”.⁴⁴

While many of the details remain murky, subsequent journalistic investigations suggest that the men were in Haiti to provide security for a Haitian businessman with close ties to the President, who was moving \$80 million from the PetroCaribe fund into an account that the President controls in order to further consolidate power.⁴⁵ Osman has publicly contested this account, countering that the group’s understanding of the mission was to provide security protection during the signing of a multimillion dollar infrastructure contract.⁴⁶ While the true motives may not be known, the incident—eerily evocative of the U.S. marine occupation of Haiti in 1914 that started with a seizure of Haiti’s gold reserves at the Central Bank⁴⁷—sowed further anxiety at a time of intense insecurity in Haiti. The U.S. government’s interference with the Haitian justice system sparked particular outrage,⁴⁸ and contravened the U.S.’s own policy of not intervening when U.S. citizens are before the Haitian criminal justice system.⁴⁹ As the *Bureau des Avocats Internationaux* wrote in a letter to the U.S. Ambassador denouncing the interference, the action undermined stability, sovereignty and the rule of law.⁵⁰ It was a vivid reminder of the ways in which power interests operate above the law in Haiti, thus adding fuel to an already roiling fire.

III. Medium-term Factors

While the PetroCaribe scandal has served as a catalyst for the recent protests, the mobilization is also driven by a broader rejection of the Moïse administration’s governance. President Moïse has lacked a popular mandate from the start, and further alienated Haitians through economic mismanagement and violent abuses of authority.

A. Lack of Popular Mandate

Beyond the immediate triggers, Haiti’s political crisis can be traced back to the electoral process that brought President Moïse into power.⁵¹ President Moïse was elected in 2016 in the lowest voter turnout elections since the end of the Duvalier dictatorship in 1987.⁵² The Presidential elections took place during a protracted election cycle characterized by widespread fraud and violence, much of it committed by President Moïse’s PHTK party and its allies.⁵³ Fraud in the first attempt at the Presidential elections forced a redo.⁵⁴ The second time only about 20% of the eligible population voted due to a combination of disenfranchisement and disillusionment with the electoral system.⁵⁵ President Moïse received only 600,000 votes in a country of 10 million.⁵⁶

The electoral machinations of President Moïse and his party put him in Haiti’s National Palace, but without much popular support. Without a popular mandate to govern, President Moïse and his appointees have instead relied on a patronage network to support them.⁵⁷ In order to maintain this network of supporters, the government diverts funds from the treasury and from social programs, resulting in further economic problems for an already-impoverished country.⁵⁸ President Moïse has been accused of prioritizing the wishes of the powerful rather than policies to support the masses, and has turned to repression to consolidate power, in turn spurring further protests.⁵⁹

B. Economic Mismanagement

The current protest movement is also a response to the Moïse administration's grave economic mismanagement, which has had devastating consequences for the majority of Haitians who are poor. In order to feed its patronage machine, the administration has both borrowed and printed substantial sums of money, leading to a record deficit, extreme inflation and sharp currency depreciation.⁶⁰ The government's budget deficit has grown to a record \$89.6 million since October, and the national budget is nine months late.⁶¹ The Haitian *gourde* has lost 37% of its value in the last year, and in February inflation reached 17% after years in double digits.⁶²

The Moïse administration's mismanagement has also hampered the release of international development assistance. For example, due to a flawed negotiation of a multi-billion dollar Toussaint-Louverture airport revitalization project agreement with the Industrial and Commercial Bank of China that violated the regulations on interest rates imposed by the IMF and World Bank, the Haitian government has been forced to abandon the project, and has failed to recoup \$42 million already invested in it.⁶³ Furthermore, the Inter-American Development Bank decided to suspend the disbursement of a \$41 million grant for the construction of buildings to expand the Caracol Industrial Park because of management problems including safety, security, and the high price of electricity.⁶⁴ Moreover, the IMF agreement with the Haitian Government of a three-year loan of US\$ 229 million negotiated in March is currently on hold and has not yet been put before the IMF Executive Board for discussion and decision due to the current political situation in Haiti and the government's failure to introduce its budget.⁶⁵ Meanwhile, the Haitian government's absence in major international conversations regarding the country's development has stifled international investment. For example, in February 2018, the Haitian government canceled its participation in a UN high-level donor retreat regarding infrastructure to address the ongoing cholera epidemic in protest of a United Nations Mission for Justice Support in Haiti (MINUJUSTH) statement that welcomed the assignment of investigative judges in the PetroCaribe court cases.⁶⁶

As a result of the economic mismanagement, millions of Haitians who were living on the edge of desperation have fallen off that edge in recent years. Families cannot eat, send their children to school, or access the most basic healthcare.⁶⁷ The country's economic malaise has even started reaching the middle and upper classes of society.⁶⁸ Outside of Haiti, the U.S. Government's termination of Temporary Protected Status for Haitians in the United States has threatened to return 50,000 people to Haiti⁶⁹ and put an end to remittances that support an estimated 250,000 family members in Haiti.⁷⁰ Remittances from abroad makes up 25% of Haiti's national income.⁷¹ The desperate economic situation further explains why the PetroCaribe corruption scandal has triggered such a mass mobilization.

C. Impunity for Human Rights Abuses

President Moïse's implication in human rights violations, direct misuse of state institutions for his personal interest, and inadequate responses to abuses by others have further eroded confidence in his leadership, and have intensified the current crisis. President Moïse oversees a government responsible for grave human rights violations, including extrajudicial killings, violent evictions,

and police abuses. The state-sponsored violence has targeted the poor and vulnerable, and has been used to suppress the opposition movement and consolidate power for President Moïse. Abuses have largely been carried out with impunity, and victims have been unable to obtain legal recourse in violation of their rights. The Moïse administration has responded to brutal rights violations with silence in Haiti, while vehemently rejecting concerns from abroad. President Moïse pushed out the UN's chief officer in Haiti in 2018 after she spoke out on corruption, and more recently, the administration responded publicly to a March 2019 letter from 104 members of the U.S. Congress stating that it "categorically denies all allegations of human rights violations."⁷² The following examples illustrate both the government's rights abuses and impunity:

La Saline Massacre

On November 13, 2018, in the days leading up to long-planned nationwide protests, armed gangs carried out a brutal government-sanctioned massacre in La Saline, a longtime convening spot for anti-government protests.⁷³ Assailants killed at least 71 people, including women and children, raped at least 11 women and looted more than 150 homes, making this one of Haiti's worst massacres since the fall of the Duvalier dictatorship in 1986.⁷⁴ The assailants allegedly went house-to-house with long guns and machetes, pulled unarmed civilians into the alleys and killed them with single shots or machete blows.⁷⁵ Most bodies were burned or disposed in trash piles and fed to pigs.⁷⁶ Images of the aftermath circulated on social media and shook the nation. Following the massacre, approximately 300 people fled La Saline, and at the time of writing, dozens of families are still living in a makeshift camp across from the Parliament without any government support.⁷⁷

Investigations by rights groups, including the National Human Rights Defense Network (RNDDH), concluded that the La Saline massacre was perpetrated by gangs operating with the support and involvement of government forces.⁷⁸ Witnesses reported that perpetrators were transported to the areas in police vehicles, and that some wore official police uniforms.⁷⁹ La Saline residents also implicated government officials in orchestrating the massacre, claiming the attack was organized to retaliate against the neighborhood's involvement in the anti-government protests that had been planned for November 18.⁸⁰ A Galil automatic rifle used by a gang in the assault was traced to Haiti's National Palace.⁸¹

Despite the scale and horror of the atrocities, President Moïse has not formally condemned the killings and victims have not been provided protection or support.⁸² A declaration signed by a diverse group of civil society groups calling for an independent investigation and protection and remedies for victims has gone unanswered.⁸³ Following a lengthy investigation, the judicial police (DCPJ) released a report in May that recommends the arrest of 70 people in connection with the massacre.⁸⁴ The list includes two senior government officials: Joseph Pierre Richard Duplan, President Moïse's representative for the West region that includes La Saline, and Fednel Monchéry, the Director-General of the Interior Ministry, who are accused of supporting two gang leaders in the planning of the massacre.⁸⁵ Accounts differ as to how many arrests have been made in the case.⁸⁶ MINUJUSTH is also conducting its own investigation, but as of May 2019, it has not released any findings.⁸⁷

In the meantime, La Saline and other poor neighborhoods that are centers of anti-government organizing continue to suffer attacks by gangs associated with the government.⁸⁸ On May 7, seven

human rights organizations denounced a reported plan to assassinate RNDDH Executive Director Pierre Esperance, in retaliation for RNDDH's work on the La Saline massacre.⁸⁹

Use of Police to Repress Protesters

Reports indicate that President Moïse has attempted to directly and improperly control Haitian National Police (HNP) units. Human rights groups have criticized the widespread deployment of Palace Security Units, which are supposed to be restricted to the Palace grounds and the President's vicinity.⁹⁰ In the days preceding the October 17, 2018 protests, President Moïse personally visited HNP stations around Port-au-Prince without top leadership present, and reportedly handed out envelopes with cash to officers, encouraging them to take action to quell the protests.⁹¹ Meanwhile, UN investigations found the police responsible for 57 human rights violations during the October protests, including three summary executions and 47 cases of excessive use of force.⁹² In the subsequent November 2018 protests, the UN recorded another six deaths and 21 injuries at the hands of police.⁹³

Human rights groups fear that the government's increasingly-rapid revival of the notoriously brutal *Forces Armées d'Haïti* (FADH), which was disbanded in 1995 after a long history of involvement in coups, violent repression, and drug trafficking, is intended to provide the President with another tool to limit political dissent. President Moïse formally announced the re-establishment of the FADH in November 2017.⁹⁴ He appointed a High Command in March 2018, comprised of majors or colonels in the former FADH.⁹⁵ In January, 2019, the army opened its training center, and in April it graduated its first class of 250 soldiers.⁹⁶

Violent Evictions in Pèlerin 5

In July 2018, government actors illegally and violently evicted families living in the area adjacent to President Moïse's residence.⁹⁷ Following a request from the Director of the General Directorate of Taxes, the head prosecutor in Port-au-Prince sent illegal instructions to the HNP West Department Director to drive inhabitants of Pèlerin 5 away from the area by any means whatsoever.⁹⁸ Following this order, in the presence of 50 to 60 police officers, a tractor bearing the logo of the City Hall of Tabarre destroyed the homes of seven families.⁹⁹ The demolition of some of the houses took place at night, without any warning for the families inside the homes.¹⁰⁰ Twenty-two people, including 10 children, were rendered homeless.¹⁰¹ The government originally marked 36 homes for demolition¹⁰² and only abandoned the destruction when neighbors exited their homes and protested.¹⁰³ Those families living in marked homes continue to live in fear, not knowing if and when their homes will also be destroyed. Police also arrested one of the residents and his cousin during the demolition. The two were imprisoned and released the next day in the middle of the night. These arbitrary arrests and detentions, without a warrant and in the absence of judicial proceedings, amounted to further intimidation tactics against the residents of Pèlerin 5.

Victims' representatives have filed complaints with the Chief Inspector of the HNP and the Superior Council of the Judiciary.¹⁰⁴ The head prosecutor who issued the destruction orders is a member of the Superior Council of the Judiciary, however, making a fair process unlikely. At the time of writing, none of the complaints filed have been acted on by Haitian authorities.

Grand Ravine Massacre

On November 13, 2017, the Haitian National Police and MINUJUSTH carried out a joint anti-gang raid in Grand-Ravine, an impoverished neighborhood of Port-au-Prince, that ended in the summary execution of at least nine civilians on a school campus.¹⁰⁵ The operation involved hundreds of police officers and was planned and executed jointly with MINUJUSTH to root out gang activity following months of increased violence.¹⁰⁶ Grand-Ravine is known as a gang-controlled neighborhood of Port-au-Prince.¹⁰⁷ According to reports, the police sought to capture gang members hiding in a school when two police were shot.¹⁰⁸ Chaos ensued and civilians, including teachers at the school who tried to calm police, were beaten and shot point blank in the head.¹⁰⁹

Key government officials and institutions have avoided taking responsibility for the incident and no convictions have followed.¹¹⁰ The police Inspector General completed investigations in 2017 and passed them on to an investigative judge who has the authority to issue arrest warrants and question witnesses.¹¹¹ The Port-au-Prince police director, Alain Auguste, who ordered the operation, was replaced.¹¹² Families of nine victims, including those of the two (2) police officers, received a one-time payment of about \$1,500 for funeral expenses.¹¹³ But, over a year and a half later, despite assurances that penal sanctions would follow police investigations,¹¹⁴ no judicial measures have been taken to hold those involved accountable.¹¹⁵ An independent journalist, Vladimir Legagneur, who was investigating the killings, disappeared in Grand Ravine on March 14, 2018.¹¹⁶ Mr. Legagneur is presumed dead.¹¹⁷ Following persistent calls for justice from international and local media groups, authorities arrested several individuals in connection with the disappearance.¹¹⁸ The UN has also evaded responsibility, denying direct involvement in the massacre.¹¹⁹ The UN spokeswoman, Sophie Boutaud de la Combe, claimed that “the reported civilian death[s] were not part of the planned operation but of a unilateral action conducted by some [Haitian police] officers after the conclusion of the operation.”¹²⁰

The international community, including the UN, have failed to meaningfully support calls for accountability for Moïse Administration. In January 2017, MINUJUSTH issued a statement urging an investigation into the Grand Ravine massacre and welcoming the assignment of an investigative judge to the PetroCaribe case.¹²¹ The Foreign Minister responded by condemning the UN’s statements, and, in an attempt to demonstrate the UN’s lackluster efforts to tackle corruption, human rights abuses and impunity in the country, President Moïse withdrew its ambassador to the UN and summoned the Secretary-General’s Special Representative in Haiti to explain her comments.¹²² There was no apparent international support for the Secretary-General’s Special Representative in Haiti against this attack, and she was promptly recalled and then replaced.¹²³ The UN has since largely refrained from speaking out against abuses.

IV. Root Causes

The root causes of the current mobilization extend beyond the current government, to decades of domestic and foreign policies in Haiti that have thwarted the ability of the impoverished majority to participate in democracy and enforce their basic human rights.¹²⁴ Haitians are taking to the streets because they have lost faith in state institutions and processes as viable vehicles for

accountability and social change. The movement is demanding fundamental change to the political and economic systems that result in extreme wealth for the few, and extreme poverty and desperate living conditions, and a denial of basic rights such as access to school, healthcare and safe housing for the majority of Haitians. The current crisis is the result of failures of Haitian institutions and government policies. But the international community—including powerful governments with long term involvement in Haiti, international organizations and financial institutions—also bears responsibility for decades of involvement in Haiti that has put superficial stability and the interest of powerful actors in Haiti and abroad above investment in true democracy and rule of law that would honor the rights of the poor majority in Haiti.¹²⁵

A. Non-Democratic Elections

Haitians are taking to the streets to demand systemic change because they have lost faith that another election alone can bring about a more representative government. Following the demise of 29 years of dictatorships under the Duvaliers in 1986, Haitians initially had high hopes in democracy¹²⁶. But repeated electoral violence, vote-rigging, disenfranchisement, and foreign interventions have bred deep disillusionment.¹²⁷ The United States and other countries have spent millions on building up Haiti's electoral system, but these investments have come with repeated meddling in election results,¹²⁸ and support for flawed elections that benefitted international actors' Haitian allies, producing an electoral system that is weaker, less trusted and more exclusionary.¹²⁹ In 2000, when Haitians voted enthusiastically—turnout was 68 percent—the results were overturned by the 2004 *coup d'état* organized by those who possess wealth and power in Haiti, the United States, Canada and France.¹³⁰ More recently, the 2010-2011 elections that brought Michel Martelly, President Moïse's predecessor and political patron into power, were marred by fraud, irregularities and the exclusion of Haiti's largest party, *Fanmi Lavalas*, from participation.¹³¹ Despite widespread protest from Haitians that elections needed to be redone and done properly, the United States and others repeatedly pushed for the process to move forward in the name of stability.¹³² As documented in U.S. diplomatic cables and by international and Haitian officials who were involved in the electoral process, U.S. Secretary of State Hillary Clinton ultimately forced the Electoral Council (by threatening to cancel U.S. visas) to change the first-round results to move third-place candidate Martelly into the runoff.¹³³ President Martelly's regime was itself marked by severe human rights violations and, after years of unconstitutional delay, the regime presided over elections with enough violence, corruption and voter exclusion to dampen participation.¹³⁴ President Martelly's protégé Jovenel Moïse won that election with only 20% of the electorate participating, reflecting both government intimidation and Haitians' reduced confidence in the ballot box as an avenue for social change.¹³⁵

B. Absence of Rule of Law

The lack of rule of law in Haiti is another root cause of the current protest. The Haitian justice system suffers from pervasive corruption and chronic underinvestment, resulting in systematic impunity for human rights violations.¹³⁶ The government's lack of financial investment in the judicial sector makes fertile ground for bribery, which is commonplace at every level of the judicial system.¹³⁷ For example, salaries for court officers including judges are notoriously low. A recent report by RNDDH found that annual salaries for judges in the courts of first instance averaged between \$4,800 and \$7,520,¹³⁸ which almost requires judges to accept bribes if they are to live a modest middle-class lifestyle. Allegations are rarely pursued since judicial agents are often

complicit in acceptance of bribes and preferential treatment of the elite.¹³⁹ The weak, politicized judicial system has meant that courts have exercised no restraint on governmental corruption and grave human rights violations.

Haiti's police force is also weak, undertrained, inexperienced and politicized, resulting in abuses of authority, lack of protection, and weak investigation capacity in the face of rights violations. There are approximately 15,000 people in the current police force, which has never reached the level deemed necessary to provide public safety for the country.¹⁴⁰ The HNP has developed relationships with gangs and does not have adequate structures for officer accountability when abuses occur.¹⁴¹ The police force's limitations, combined with a justice system that is unable to provide adequate deterrence to crime leaves Haitians, particularly those who are vulnerable and who live in poor neighborhoods run largely by gang members, extremely vulnerable.

The international community has long articulated the importance of the rule of law in Haiti, and has invested billions of dollars in building up a stronger judicial system and the rule of law.¹⁴² Over the past 25 years, the UN has regularly had peacekeeping and police missions in Haiti to train the Haitian police force and promote stability through rule of law. While the missions have increased the number of trained police officers, the UN's overall limited success in promoting rule of law is partly attributable to its own implications in rights violations with impunity. The UN Stabilization Mission in Haiti (MINUSTAH), which closed down in 2017, is implicated in a series of human rights violations, including indiscriminate killing of civilians during a July 2005 raid in Cité Soleil,¹⁴³ raping and sexually abusing civilians,¹⁴⁴ and causing a devastating cholera epidemic that has killed over 10,000 people and infected more than 800,000.¹⁴⁵ The UN took more than five years to publicly admit a role in the outbreak despite numerous scientific studies establishing that cholera was introduced to Haiti as a result of reckless disposal of human wastes from a MINUSTAH base.¹⁴⁶ Haitian civil society and international experts—including the UN's own human rights experts—have repeatedly warned that a failure to submit to justice for cholera undermines the UN's own credibility.¹⁴⁷

The UN's loss of credibility and resulting limited impact is demonstrated by MINUJUSTH's inability to call for accountability in the current crisis. As discussed above, since the Mission's unwelcomed statement supporting the assignment of an investigative judge to the PetroCaribe case and urging an investigation into the Grand Ravine massacre, in early 2018, the UN has largely refrained from directly speaking out in the face of abuses.

c. Deep-Seated Poverty

The deep-rooted poverty in Haiti is the result not only of corruption and economic mismanagement by President Moïse and his predecessors, but of centuries of Haitian governments serving the interest of the elite.¹⁴⁸ It is also the result of decisions made outside of Haiti that have repeatedly devastated Haiti's economy and thwarted development. Haiti won its independence in 1804 as the world's only nation founded through a slave revolt, and has paid a steep price for its provenance.¹⁴⁹ In 1825, France illegally extorted well over today's equivalent of \$19 billion from Haiti, as compensation for its "property" lost through emancipation.¹⁵⁰ Haiti's subsequent crippling debt took 122 years to repay, and prompted the U.S. to invade Haiti in 1915.¹⁵¹ The U.S. occupied Haiti for 19 years, during which it took financial control of the country and forced Haiti to put 40 percent

of its national income towards foreign debt repayment.¹⁵² The brutal occupation enforced a system of forced labor and murdered thousands of Haitians who resisted the occupying forces,¹⁵³ leaving a blueprint for future oppressive regimes. More recently, U.S. neoliberal trade policies towards Haiti have had devastating impacts on the agricultural economy. For example, President Bill Clinton infamously forced Haiti to reduce import tariffs on rice in the 1990s, which resulted in U.S. subsidized rice flooding the markets and destroying the Haitian rice industry—a policy for which Clinton eventually issued a public apology.¹⁵⁴

V. The Way Forward

Protest leaders and participants' primary demand is for President Moïse's departure, but they are also clear that the solution has to go deeper than a change in leadership, to address the systemic problems and structural violence. Meanwhile, the international community has urged elections as the way forward. In response to the February 2019 protests that shut down the country, the Core Group – composed of representatives from the UN, Brazil, Canada, France, Germany, Spain, the European Union, the United States, and the Organization of American States – issued a statement urging that “change must come through the ballot box”.¹⁵⁵ Elections alone are unlikely to result in the kind of systemic change that Haitians demand, however.

Should President Moïse step down, the Haitian constitution provides that his resignation would trigger a caretaker government to hold prompt elections. There is uncertainty in the law about the details, however, as the 1987 constitution was amended in 2012 under controversial circumstances. One of the concerns is the fact that only the French version of the Constitution was amended, while the Haitian Creole version, which is also an official version, was not.¹⁵⁶ As a result, many lawyers in Haiti believe that both versions control. Under the French version, upon a Presidential vacancy the government is led by the Prime Minister and the Council of Ministers, and must organize elections in 60-120 days.¹⁵⁷ Under the Haitian Creole version, the President of the *Cour de Cassation* (Supreme Court) becomes President, and must organize elections in 45-90 days.

Because of the lack of trust in the current administration, civil society groups appear in agreement that if the President resigns, a *Cour de Cassation* justice should be appointed as President in accordance with the Creole version. The current President of the Court, Rene Sylveste, however, was only appointed to the court on February 1, 2019 by President Moïse.¹⁵⁸ As a result, civil society has pushed for an alternate justice on the court to become President. There is also broad civil society agreement that there should be an oversight body, a *Conseil National du Gouvernement*, with between 11 and 33 members, to apply public pressure on the government to take measures that lead to fair elections and fundamental changes to Haiti's unjust structures. Finally, there appears to be a consensus that it would be impossible to organize fair elections within 90 or 120 days, and that a longer period would be necessary to organize truly participatory elections.

Beyond a transition government, civil society is also pushing for the establishment of a National Conference as way forward. Such a convening would start at the grassroots level, and include representatives from each of Haiti's communal section who would come together to dialogue on the way forward for the country.

VI. Conclusion

Just as the causes behind Haiti's current political crisis are deep and complex, there is no quick or easy way out of the current crisis. If Haiti is to truly achieve stability, the deep-rooted democratic and rule of law deficiencies that have resulted in the exclusion of the impoverished majority will have to be addressed. The question facing the Haiti government, and the international community that has historically played an outsized role in Haiti, is whether the current turmoil will be used as an opportunity to truly invest in systemic change. Until they do, more chaos is likely to follow. It is thus a time of intense uncertainty, but also a time of renewed hope.

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⁷⁸ RESEAU NATIONAL DEFENSE DES DROITS HUMAINS, THE EVENTS IN LA SALINE: FROM POWER STRUGGLE BETWEEN ARMED GANGS TO STATE-SANCTIONED MASSACRE (2018), <http://rnddh.org/content/uploads/2018/12/10-Rap-La-Saline-1Dec2018-Angl.pdf>; see also Randall White, *Haiti Government Complicit in La Saline Massacre*, HAITI ACTION.NET (Dec. 4, 2018), http://www.haitiaction.net/News/RAW/12_4_18/12_4_18.html; Press Release, Human Rights Delegation Condemns Political Massacres Tied to Haiti's Government (May 8, 2019), <http://www.ijdh.org/wp-content/uploads/2019/05/DelegationPressReleaseFinal5-08-2.pdf> (U.S. human rights delegation concluding that “the months-long series of attacks in poor neighborhoods of Port-au-Prince ... were perpetrated by police and gangs associated with Haiti's government, and were done to punish neighborhood residents-many of whom identify as supporters of the Fanmi Lavalas party-for playing a leading role in a series of demonstrations opposing government corruption, mismanagement and brutality.”)

⁷⁹ White, *supra* note 78.

⁸⁰ RNDDH, *supra* note 78.

⁸¹ *Un fusil d'assaut Galil doté au palais national retrouvé en possession d'un gang indexé dans le massacre de La Saline...*, LE NOUVELLISTE, May 9, 2019, <https://lenouvelliste.com/article/201573/un-fusil-dassaut-galil-dote-au-palais-national-retrouve-en-possession-dun-gang-indexe-dans-le-massacre-de-la-saline>.

⁸² Weissenstein, *supra* note 73, at para. 10; Press Release, Bureau des Avocats Internationaux (Dec. 6, 2018), <https://www.ijdh.org/2019/01/projects/bai-call-for-independent-investigation-in-la-saline-massacre-2/>.

⁸³ *Dwa Pou Moun Viv Pa Konn Kanpe! Deklarasyon La Salin* (Dec. 27, 2018), <https://www.ijdh.org/2019/01/projects/deklarasyon-la-saline-dwa-pou-moun-viv-pa-konn-kanpe/>.

⁸⁴ See Jacqueline Charles, *Haiti Police on La Saline Massacre: 'Even young children were not spared'*, MIAMI HERALD, May 15, 2019, <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article230380739.html> [hereinafter *Haiti Police on La Saline*]. The list corresponds closely with the individuals identified in the RNDDH report released in December 2018. RNDDH, *supra* note 78.

⁸⁵ *Haiti Police on La Saline*, *supra* note 84; Haïti : Deux hauts responsables de l'État dans le collimateur de la justice, *Vant Bèf Info*, May 8, 2019, <https://www.vantbefinfo.com/haiti-deux-hauts-responsables-de-letat-dans-le-collimateur-de-la-justice/>.

⁸⁶ A UN report from March 1, 2019 notes 19 arrests have been made in this case, but the prosecutor announced in May that 11 arrests had been made. Compare U.N. Secretary-General 2019 report, *supra* note 3, with *Massacre of La Saline: DCPJ Investigation Implicates 2 high officials*, ICIHAI.COM (May 9, 2019), <https://www.icihaiti.com/en/news-27679-icihaiti-massacre-of-la-saline-dcpj-investigation-implicates-2-high-officials-of-the-state.html>. It is unclear how these numbers correspond with the DCPJ list and whether further arrests have been made since the DCPJ list release. See Godson Lubrun, *Massacre La Saline : La DCPJ exige du parquet de Port-au-Prince l'arrestation de plusieurs hauts responsables de l'Etat*, HPN, May 8, 2019, <http://www.hpnhaiti.com/nouvelles/index.php/politique/36-space/5506-massacre-la-saline-la-dcpj-exige-du-parquet-de-port-au-prince-l-arrestation-de-plusieurs-hauts-responsables-de-l-etat>.

⁸⁷ See *Haiti Police on La Saline*, *supra* note 84; U.N. Secretary-General 2019 report, *supra* note 3.

⁸⁸ Margaret Prescod, *Reflections on Haiti, Chicano Poetry by Ron Baca*, SOJOURNER TRUTH RADIO (Apr. 9, 2019), <https://soundcloud.com/sojournertruthradio/sojourner-truth-radio-april-9>; Margaret Prescod, *Special Report: Massacres in Haiti – Pacifica's Margaret Prescod (1/2)*, REAL NEWS NETWORK (Apr. 14, 2019), <https://therealnews.com/stories/special-report-massacres-in-haiti-pacificas-margaret-prescod>.

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⁹⁰ Marie Laurette Numa, *Le Directeur Général de la PNH Clarifie*, HAITI LIBERTE, Nov. 21, 2018, <https://haitiliberte.com/le-directeur-general-de-la-pnh-clarifie/>; Jacqueline Charles, *Haiti Police Outgunned by Armed Gangs, Illegal Guns as U.N. Debates its Future Presence*, MIAMI HERALD, Dec. 12, 2018, <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article222945290.html> [hereinafter *Haiti Police Outgunned*].

⁹¹ *Haiti-Andrésol dénonce les visites de Jovenel Moïse dans les commissariats et les distributions d'argent*, INSTANT INFO, Oct 15, 2018, <https://www.instantinfo.fr/haiti-andresol-denonce-les-visites-de-jovenel-moise-dans-les-commissariats-et-les-distributions-dargent/>; Johnston, *Petrocaribe Protests*, *supra* note 68.

⁹² U.N. Secretary-General 2019 report, *supra* note 3, para. 37.

⁹³ *Id.*

⁹⁴ FREEDOM HOUSE, 2018 HAITI, *supra* note 53; Andres Martinez Casares, *Haitian Army Set to Make Controversial Return after Two Decades*, REUTERS, Nov. 18, 2017, <https://www.reuters.com/article/us-haiti-military/haitian-army-set-to-make-controversial-return-after-two-decades-idUSKBN1DJ01M>.

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⁹⁹ *Demande de Mesures Provisoires*, at paras. 15, 26.

¹⁰⁰ *Id.* at para. 3.

¹⁰¹ *Id.* at para. 44.

¹⁰² *Id.* at para. 12.

¹⁰³ *Id.* at para. 16.

¹⁰⁴ *Id.* at paras. 47-48.

¹⁰⁵ Jake Johnston, *A U.N.-Backed Police Force Carried Out a Massacre in Haiti. The Killings Have Been Almost Entirely Ignored*, THE INTERCEPT, Jan. 10, 2018, <https://theintercept.com/2018/01/10/haiti-raid-united-nations-police-grand-ravine/> [hereinafter *U.N.-Backed Police Force*].

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¹⁰⁹ *Id.*

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¹¹¹ *Id.*; U.N. Secretary-General, Report of the Secretary-General on the United Nations Mission for Justice Support in Haiti, U.N. Doc S/2018/241 (Mar. 20, 2018), <https://undocs.org/en/S/2018/241> [hereinafter U.N. Secretary-General 2018 Report].

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¹¹³ Johnston, *U.N.-Backed Police Force*, *supra* note 105.

¹¹⁴ In November, 2017, a week following the incident, the Prime Minister said investigations were ongoing and the Chief of Police assured that penal sanctions would follow « Ces mesures administratives seront suivies de sanctions pénales, assure le chef de la police. » See Samuel Celiné, *Bavure Policière à Grand-Ravine: La Division au Sein de la PNH a Encore Fappé*, LE NOUVELLISTE, Nov. 20, 2017, <https://lenouvelliste.com/article/179239/bavure-policiera-a-grand-ravine-la-division-au-sein-de-la-pnh-a-encore-frappe>.

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