

Justice Sector Challenges in Haiti

I. Executive Summary

1. This report, submitted on behalf of the *Bureau des Avocats Internationaux* (BAI), the Institute for Justice & Democracy in Haiti (IJDH), Alternative Chance, and the *Reseau National de Défense des Droits Humains* (RNDDH), provides an overview of Haiti's ongoing challenges in complying with its human rights obligations relating to judicial remedies and accountability. It focuses on chronic impunity and the lack of an independent justice sector, resulting in systematic violations of the rights to prompt and effective remedies, fair adjudication within the time frame allotted in the law, and to equal protection under the law, as guaranteed by, *inter alia*, the International Covenant on Civil and Political Rights (CCPR),¹ the Universal Declaration of Human Rights (UDHR),² and the American Convention on Human Rights (ACHR).³ Under Haiti's constitution, all such international treaty obligations are incorporated into domestic law and supersede any conflicting provisions.⁴

2. Since Haiti's last universal periodic review (UPR) in 2016, Haiti has regressed with respect to these obligations. Impunity for human rights abuses has deepened and is contributing to Haiti's current state of catastrophic insecurity. The judiciary remains in a state of chronic dysfunction, including due to increased political interference, threats against judicial actors, lack of resources, and persistent failures to orient itself towards and make itself accessible to Haiti's poorest and most vulnerable. Corruption is rampant and there are clear indications of the judiciary acting to vindicate political and other ends, rather than those of justice. Further, including as a consequence of these failures, Haiti most of Haiti's prison population is being confined without process in pretrial detention, in conditions that are inhumane and often life-threatening.

3. These challenges are taking place against an acute crisis for human rights and democracy in Haiti.⁵ No elections have been held since 2017⁶ and the Haitian parliament was dissolved in January 2020 as the mandates of all but ten parliamentarians expired.⁷ President Jovenel Moïse was assassinated on July 7, further deepening the democratic and security crisis.⁸ Mr. Moïse's mandate had been disputed since February 7, 2021.⁹ He had been governing by decree since the dissolution of Parliament and taking increasingly authoritarian actions.¹⁰ The results have been escalating protests and a political deadlock over the presidential mandate; elections – which most in Haiti's society do not believe could have been credibly held under the Moïse administration¹¹ or in the aftermath of his assassination;¹² and a proposed referendum on the constitution, which is expressly prohibited by the constitution currently in force.¹³ Haiti is also in a state of devastating insecurity,¹⁴ further exacerbated by the Moïse assassination.¹⁵ There have been at least 20 massacres of civilians since Haiti's last UPR review, with hundreds of resulting casualties and over 1.5 million directly affected by the crisis.¹⁶ Several of the massacres directly implicate state actors and may amount to crimes against humanity.¹⁷ Massive demonstrations have been held across the country in protest of ongoing human rights abuses and the conditions of Haiti's political and human rights crisis.¹⁸

II. Failures of Implementation: Significant Violations of Rights to Justice and Accountability

4. Haiti has faced serious and long-standing problems of impunity for human rights violations as well as weaknesses and dysfunction in its justice sector,¹⁹ all violations of its human rights obligations. These have become worse since the last UPR review, with conduct by the executive undermining judicial function and, in some cases, potentially amounting to crimes against humanity. Key observations in line with the expertise of the submitting organization are presented below; they are not intended to be exhaustive.

A. Pervasive Impunity

5. Chronic impunity, including for grave violations of human rights, has persisted in Haiti,²⁰ in violation of its obligations to provide prompt and effective remedies,²¹ and its acceptance of corresponding recommendations during the last UPR cycle.²² Individuals are unable to obtain remedies for violations of their rights and perpetrators are rarely brought to justice. The most recent report of the United Nations Integrated Office in Haiti (**BINUH**) emphasized that the Haitian government has exhibited a “chronic lack of commitment to effectively addressing underlying and structural human rights violations.”²³ Accountability is particularly scarce with respect to alleged government misconduct, which may in some cases constitute crimes against humanity.²⁴ Between July 2018 and May 2021, BINUH documented approximately 175 deaths, 375 injuries, and at least 740 human rights violations at the hands of law enforcement officers, including during anti-government protests.²⁵ Even as reports of such abuses have increased, investigations and judicial action remain rare.²⁶

6. Such widespread impunity for human rights violations has had extensive consequences across Haitian society. Not only has it emboldened perpetrators and enabled further recent violence,²⁷ impunity has also fostered pervasive public distrust in government institutions²⁸ and exacerbated the dysfunction of the judiciary.²⁹ Notable examples follow.

- a. Staggering atrocities and human rights abuses were committed under the Duvalier dictatorships from 1957 to 1986.³⁰ In response to complaints by survivors against Jean-Claude Duvalier for the systematic human rights violations committed under his regime, the Port-au-Prince Court of Appeals ruled in February of 2014 that crimes against humanity are not subject to prescription periods.³¹ However, proceedings stalled following the death of Duvalier in October 2014. No progress has been made in bringing to account the individuals responsible, including several who have been indicted for crimes against humanity already.³² The window to do so is closing as perpetrators age.
- b. Insecurity and violence directed at civilians have reached catastrophic proportions. Since November 2018, there have been at least 18 civilian massacres³³ with a combined death toll of at least 515 and over 1.5 million people displaced or trapped in conflict zones.³⁴ There has been persistent reporting by local human rights organizations that the government of Haiti has failed to protect vulnerable communities,³⁵ and to the contrary, has been complicit in some attacks and massacres that may amount to crimes against humanity,³⁶ like the November 13, 2018 La Saline massacre. Police authorities never intervened to stop the attack.³⁷ There is evidence that the massacre was politically motivated,³⁸ and that at least two then-government officials, Fednel Monchery and Joseph Pierre Richard Duplan, planned it with then-police officer and gang leader Jimmy Chérizier, to whom they also supplied weapons, police vehicles, and uniforms.³⁹

Chérizier and the two officials have been sanctioned by the U.S. government⁴⁰ and denounced by the UN⁴¹ for their involvement. La Saline victims brought 74 formal complaints in April 2019 against these three and 95 others implicated in UN, police, and civil society reports.⁴² But only 16 arrests have been made⁴³ – none involving the sanctioned three, in spite of an outstanding arrest warrant for Chérizier.⁴⁴ Neither Chérizier nor any of the government officials implicated have been tried.⁴⁵ Administratively, one of the sanctioned officials resigned and the other was removed from his post, both only after months of sustained advocacy.⁴⁶ Judicial proceedings have been stalled since July 2019 over a recusal request⁴⁷ and there is little chance that the perpetrators will be held accountable in the near future, as the mandate of the investigating was not renewed in January 2021 and the case has not been reassigned.⁴⁸ In a recent report, the Haitian Observatory for Crimes Against Humanity⁴⁹ and the Harvard Law School International Human Rights Clinic analyzed the La Saline massacre along with two others to conclude that they likely amount to crimes against humanity implicating top government officials.⁵⁰ In addition to violating rights to prompt and effective remedies,⁵¹ the continuing impunity for such massacres⁵² has been directly linked to fueling subsequent attacks and the current catastrophic levels of violence and insecurity.⁵³ A ready illustration is that Chérizier has been identified as responsible for at least six subsequent attacks.⁵⁴ It is also noteworthy that an emblematic step towards securing accountability for a civilian massacre in 1994 – the 2000 Raboteau massacre trial and convictions – has been largely dismantled in the intervening years.⁵⁵ Indeed, an individual convicted *in absentia* for the massacre, Jean-Robert Gabriel, was appointed to a top position in Haiti’s recently reconstituted army, without any material public process or accounting.⁵⁶ The government of Haiti recently asserted to the UN Human Rights Committee that it would “serve no purpose” to pursue accountability for the Raboteau massacre⁵⁷ in spite of continued calls for justice by victims.⁵⁸

- c. Impunity likewise persists for corruption.⁵⁹ Transparency International listed Haiti as 170th out of 180 on its 2020 corruption perception index due to lack of corresponding accountability.⁶⁰ Allegations of extensive mismanagement and embezzlement of over \$ 2 billion USD from the PetroCaribe fund, a low-interest fuel loan program meant to finance socioeconomic development in Haiti, prompted national demonstrations for accountability that shut down Haiti for three months at their height.⁶¹ Multiple high-level government officials from recent administrations, including the late President Moïse, are implicated in the misuse of funds.⁶² Yet, there have been no material steps towards accountability.⁶³ An investigation was initiated in March 2019; civil parties to the case requested the judge’s recusal due to his inaction, after which he ordered seven high-level officials to appear.⁶⁴ Many complied only after several months’ delay.⁶⁵ The prosecutor resigned due to political pressure from the Executive⁶⁶ and the judge removed all 75 civil parties from the case.⁶⁷ The only serious prosecution targeted the Sogener company. The prosecution is widely regarded as the “instrumentalization of the judiciary for political purposes” because the company’s leadership are supporters of the political opposition.⁶⁸ Following almost two years of inaction, the judge ordered a suspension of the investigation into the corruption in June 2021, sparking protests and condemnation across civil society.⁶⁹

- d. The August 2020 assassination of Monferrier Dorval, president of the Port-au-Prince Bar Association, constitutional scholar, and a prominent critic of the Moïse administration,⁷⁰ has drawn particular attention. The crime is widely seen as a political assassination,⁷¹ including because the killing occurred just outside Dorval's home close to the presidential residence. Notably, just hours before his death, Dorval had denounced government mismanagement, a series of decrees, the constitutional reform project, and the subordination of elections thereto in a radio interview.⁷² Dorval had also previously joined a statement denouncing more than two dozen presidential decrees⁷³ and served as a lawyer for the defense on the political Sogener case.⁷⁴ His murder thus raises added concerns regarding threats to judicial independence through intimidation and violence,⁷⁵ in addition to broader concerns with impunity. Other aspects of the case suggest the same: evidence was stolen from the crime scene despite it being secured by the police and from the courthouse a month later;⁷⁶ the investigating judge has been continually threatened and attacked;⁷⁷ the investigation has been stopped due to failures to provide an armored car and the police's disarmament of the judge's security;⁷⁸ and many witnesses have refused to appear, naming concerns of gang activity near the courthouse.⁷⁹ As of June 2021, four individuals, one with apparent ties to the Moïse administration, have been arrested.⁸⁰ The prosecutor on the case refused to enforce judicial orders that eight witnesses, including the wife of Moïse, appear before the court and one witness has been heard.⁸¹ This has been the sole extent of progress towards accountability in the year since the assassination, in spite of persistent pressure from local civil society and international community alike.⁸²

B. Lack of Competent, Independent, and Effective Tribunals

7. Since the last UPR review, Haiti's chronic lack of judicial independence, politicization, and dysfunction have become more pronounced. Haiti has also failed to implement several recommendations from the last UPR cycle that it supported.⁸³ Examples follow.

a. Interference with Judicial Independence

8. Haiti's constitution designates an independent body, the Superior Council on Judicial Power (CSPJ),⁸⁴ to govern the administration and discipline of judges for the purpose of protecting judicial independence and integrity.⁸⁵ However, even with the CSPJ, the judicial sector in Haiti both structurally and functionally lacks independence.⁸⁶ The presidency has exercised its power over judicial appointments and renewals⁸⁷ to select sympathetic candidates and exert pressure on sitting judges in politically sensitive cases.⁸⁸ For example, Moïse recently ignored CSPJ recommendations for mandate renewals of three sitting judges involved in cases regarded as politically sensitive for his administration, as they relate to the La Saline massacre⁸⁹ and the PetroCaribe corruption scandal.⁹⁰ The Professional Association of Magistrates⁹¹ criticized Moïse's act as interfering with the judiciary.⁹² The resulting judicial vacancies mean that no progress is being made in seeking accountability for the significant underlying crimes.⁹³

9. Similarly, in a decision widely regarded as political, Moïse unilaterally removed three justices of Haiti's *Cour de cassation* (supreme court) in February 2021,⁹⁴ in spite of constitutional provisions rendering justices irremovable absent a determination of abuse of authority by the Senate.⁹⁵ The administration then appointed new justices outside of established constitutional rules.⁹⁶ The supreme court refused to swear in the replacements.⁹⁷ The Office of

the High Commissioner for Human Rights (OHCHR) described Moïse’s actions as “attacks against judicial independence” that “have further eroded the separation of powers in Haiti.”⁹⁸

10. The political replacements took place alongside the administration’s arrest of 18 individuals, including supreme court justice Yvickel Dabrésil, on allegations of plotting a coup.⁹⁹ The arrests are widely considered arbitrary¹⁰⁰ and were later deemed improper by a Haitian court.¹⁰¹ The administration also fired judicial clerk Christophe Lespérance for participating in the *habeas corpus* hearing for justice Dabrésil.¹⁰² He was later reinstated following widespread protests.¹⁰³

11. Further, executive manipulation of judicial appointments has been resulting in vacancies that hamper effective judicial function. The Moïse administration has failed to renew the mandates of CSPJ-endorsed judges; the vacancies – which currently stand at 60 – impair courts’ ability to function.¹⁰⁴ More mandates are due to expire in the coming months which will render vacant a total of 60 percent of all judicial seats.¹⁰⁵ Haiti’s supreme court currently lacks quorum to hear certain types of cases, including on constitutionality.¹⁰⁶ The court was similarly impaired between 2015 and 2019.¹⁰⁷ Three more mandates are due to expire in 2022, which would render the court non-functional if positions are not filled constitutionally.¹⁰⁸ Both the supreme court and the CSPJ lacked leadership at the time of writing, due to the death of their president.¹⁰⁹ And, on July 3, the CSPJ lost the quorum to function.¹¹⁰

12. Other conduct by the Executive has further undermined judicial independence and the judiciary’s ability to function as an effective agent of accountability. For example, the Moïse administration restricted the authorities of the Superior Court of Accounts and Administrative Disputes¹¹¹ (CSCCA) by decree in November 2020.¹¹² The CSCCA, whose functions include government procurement oversight, had implicated multiple current and former government officials in the corrupt use of PetroCaribe funds.¹¹³ The changes weaken the CSCCA’s ability to serve as a check on executive action.¹¹⁴ According to its president, they also violate constitutional provisions regarding CSCCA’s authorities.¹¹⁵

13. The administration has also shown a general disregard for judicial findings where the latter exercised its authorities to act as a check on executive power. With respect to the judicial replacements described above, the administration has to date ignored the rigorous demands from members of Haiti’s judiciary, OHCHR, and Human Rights Watch that the justices unlawfully removed be reinstated.¹¹⁶ Similarly, when the Moïse administration installed a provisional electoral council outside of the prescribed process, Haiti’s supreme court refused to swear them in.¹¹⁷ The administration has nevertheless persisted with its council, all over rigorous objections.¹¹⁸

b. Threats Against Judicial Actors

14. Judicial independence and function are being acutely eroded in Haiti by threats, violence, and harassment directed at judicial actors – including by Haitian state officials.¹¹⁹ Acts of intimidation and corresponding fears of retaliation interfere with the ability of judges to make impartial decisions and with the ability of counsel to advocate in sensitive cases.¹²⁰ Witnesses have also faced threats.¹²¹ Examples include the assassination of Monferrier Dorval;¹²² death threats¹²³ issued against former justice Wendelle Coq Thélot, founding member of the National Association of Haitian Magistrates and one of the justices unlawfully replaced by Moïse in

February 2021, after she declined to swear in the provisional electoral council unlawfully installed by the administration;¹²⁴ and the flight of Judge Dieunel Lumerant from Haiti after gunshots were fired into his home and vehicle in November 2018, while he was presiding over an arms-trafficking case implicating several former and current high ranking officials.¹²⁵ Haiti's Minister of Public Works appears to have attempted to intimidate¹²⁶ the CSCCA in September 2020,¹²⁷ shortly after the CSCCA released its final report on the PetroCaribe scandal¹²⁸ and vetoed a government contract for failing to comply with applicable rules.¹²⁹

15. At minimum, the government is failing to adequately protect judicial actors and spaces, especially in light of the catastrophic insecurity currently gripping Haiti.¹³⁰ Insufficient security measures have forced court closures¹³¹ and leave lawyers, judges, and other courthouse staff at risk or unable to advance their cases,¹³² especially in Port-au-Prince, where gangs operate in areas near courthouses.¹³³ Staff and witnesses have been unable or unwilling to go to the courts, further impeding judicial function.¹³⁴ Examples of killing, kidnapping, and other harms abound.¹³⁵ The Port-au-Prince Court of Appeal insisted on relocating due to insecurity, but became paralyzed for several months because the Ministry of Justice prohibited prosecutors from trying cases in the new location, an inexcusable example of executive interference in the judiciary that prevented 40 cases from advancing. The trial court remains in a dangerous area in spite of staff pleas to move.¹³⁶

c. Indications of Political Targeting by the Judiciary

16. Especially in light of the above, there are serious concerns regarding whether Haiti's judiciary acts in the service of improper motives. In addition to the impunity of political actors for serious wrongdoing and human rights violations, there are also examples of the judiciary affirmatively using its powers for political ends by prosecuting or deciding cases based on political motives. The February 7, 2021 arrests,¹³⁷ the controversial suspension of the PetroCaribe corruption investigation,¹³⁸ and the related political prosecution of the Sogener Company¹³⁹ described above are salient examples.¹⁴⁰

17. There are also reports that politically sensitive cases or ones that implicate individuals close to power were assigned to judges with political ties.¹⁴¹ Similarly, certain cases were prioritized and proceeded quickly, while other cases were frozen or not properly investigated.¹⁴²

d. Under-Resourcing Impedes Effective Judicial Function

18. Judicial function in Haiti is significantly impaired by inadequate resources. In addition to its audit and disciplinary roles, the CSPJ is responsible for judicial salaries and resources (such as vehicles necessary for investigations). In spite of these responsibilities, at the time of writing, the CSPJ's funding was only 1.3 percent of the national budget.¹⁴³ The Director of Judicial Inspection at the CSPJ has opined that "[t]he budget allocated . . . does not allow [the CSPJ] to cover its operating costs, ensure the maintenance of the courts and tribunals of the Republic and provide the Judicial Inspectorate with human and material resources enabling it to support the CSPJ in its mission to cleanse the justice system."¹⁴⁴ He went on to explain that the limited budget drives the widespread corruption of judges.¹⁴⁵ It is also linked to the security deficiencies described above.¹⁴⁶

19. Budgetary issues, including failures to pay the salaries of judges, clerks, and other judicial workers, have provoked frequent and extended strikes that cause long-term closures of courts.¹⁴⁷ Most recently, strikes have also served to protest unconstitutional actions by the Moïse administration and to demand better COVID-19 measures.¹⁴⁸ Judges, clerks, prosecutors, or bar associations have been on strike for at least 28 out of the 56 months since Haiti's last UPR.¹⁴⁹ There were more than seven months of strikes in 2020¹⁵⁰ and over three months of strikes in 2021 to date, with the judiciary largely at a standstill both years.¹⁵¹ Strikes and other judicial conflict with the Executive often leave both civil and criminal hearings largely suspended, sometimes even after a specific strike has ended, and impedes progress in investigating and otherwise processing victim complaints and other matters.¹⁵² They also exacerbate the shockingly high levels of pretrial detentions.¹⁵³

20. Buildings of courthouses across the country have insufficient or inadequate facilities or are damaged, leading to additional court closures and impeded or delayed proceedings.¹⁵⁴ The judiciary has only about 200 vehicles, many of which are more than ten years old and require maintenance.¹⁵⁵ In the south of the country, even when warrants are issued, there are no cars to execute them.¹⁵⁶

21. The insufficient resourcing of the judiciary contributes its susceptibility to corruption through bribery and political influence.¹⁵⁷ Police commonly request bribes to investigate reports or to make arrests, and judges and clerks arbitrarily charge fees to begin proceedings, behaviors driven and enabled by low salaries and widespread impunity for corruption.¹⁵⁸ Attorneys and defendants pay bribes to expedite their cases.¹⁵⁹ Defendants who cannot afford bribes languish given large backlogs.¹⁶⁰

e. Weak Training and Limited Capacity Among Judicial Actors

22. Some of the weaknesses and capacity gaps in judicial functions in Haiti are driven by insufficient resources, political interference, and other issues described above. In addition, poor training, weak administration, and inadequate procedures are an independent and compounding violation of Haiti's human rights obligations¹⁶¹ that seriously impede the delivery of justice. Investigations and proceedings are often hindered by the failures of prosecutors and law enforcement to execute the orders of judges, including arrest warrants.¹⁶² Prosecutors claim to lose track of paperwork and files.¹⁶³ There is a dearth of forensic and investigative skills (as well as corresponding storage facilities).¹⁶⁴ Evidentiary theft is common,¹⁶⁵ including in high profile cases like the Dorval assassination.¹⁶⁶ Security personnel rarely maintained order during judicial proceedings, and oftentimes court reporters were not present.¹⁶⁷

23. There are also systematic failures to investigate and prosecute certain types of allegations, like excessive use of force by law enforcement officials¹⁶⁸ and gender-based violence.¹⁶⁹ BINUH reported that in one jurisdiction, only 36 percent of complaints of gender-based violence in 2020 had been assigned to an investigating judge and none had gone to trial.¹⁷⁰ Similar dynamics could be found across the country¹⁷¹ and for other marginalized groups.¹⁷² This suggests that there are persistent biases against supporting certain types of victims or pursuing investigations against particular types of actors.

24. Better training and implementation protocols are needed to ensure fair and effective delivery of justice for all Haitians.¹⁷³ Related recommendations from Haiti's last UPR appear not

to have been met.¹⁷⁴

f. Failure of Haiti's Judiciary to Orient Itself Towards Serving Haiti's Poor and Marginalized Communities

25. Haiti's judicial system both structurally and practically denies access to justice to the majority of Haitians, and especially to those who are poor or reside in rural areas.¹⁷⁵ Widespread corruption is just one cause.¹⁷⁶ Rules and fees are also often structured in a way that impedes meaningful recourse. For example, Haitian law requires victims of crimes who are awarded damages to pay an advance fee to the courts in order to attempt to collect their awarded restitution from the defendants. This can act to preclude victims without means from receiving their just remedy.

26. Most Haitians cannot afford an attorney or court fees,¹⁷⁷ and are further excluded by the common practice of bribes.¹⁷⁸ Legal aid offices were established with UN support to provide free legal assistance to those in pre-trial detention,¹⁷⁹ but they have done little to meet the immense needs. In 2018, a law mandating legal assistance was enacted,¹⁸⁰ but the slow establishment of the National Legal Assistance Council delayed execution. The Council was finally formed in May 2021¹⁸¹ and two legal aid offices under the 2018 law opened in June.¹⁸² In practice, however, access to legal aid remains highly limited and few indigent individuals receive assistance.¹⁸³

27. Almost half of all Haitians live in rural areas that are far from courts, and thus face additional challenges to accessing justice.¹⁸⁴ Courts of first instance and appellate courts are generally only located in major cities¹⁸⁵ and public officials fail to invest in rural communities.¹⁸⁶ Although justices of the peace are located in each municipality, they can only hear limited types of cases and tend to be especially under-resourced.¹⁸⁷ The lack of safe and affordable transportation prevents rural Haitians from travelling to major cities to reach courthouses, further exacerbating accessibility challenges.¹⁸⁸ Insecurity, which the government has failed to control, acts as a further barrier.

28. Finally, information about human rights is poorly disseminated to the Haitian public.¹⁸⁹ French is the language of judicial proceedings and formal documents, even though most Haitians do not speak it, raising the possibility of discriminatory intent. There is a general failure to accommodate illiterate or Creole-speaking Haitians, further hindering their ability to know and advocate for their rights.¹⁹⁰ Further, even when individuals know of their rights, the above-described challenges and patterns of mistreatment by the justice system discourage victims from pursuing justice.¹⁹¹

C. Escalating Pretrial Detention and Poor Prison Conditions

29. Haiti's prison conditions remain inhumane and deadly, and its pretrial prisoner population has continued to balloon as Haiti fails to timely process accused individuals, including due to some of the dysfunction and corruption described above. These are blatant violations of Haiti's obligations to ensure speedy proceedings and minimum prison standards,¹⁹² which persist in spite of convening dozens of costly meetings and commissions.

30. Haiti remains noncompliant with the 2008 Inter-American Court of Human Rights (IACtHR) judgment in *Yvon Neptune v. Haiti*, which required Haiti to bring its prisons into compliance with international minimum standards by 2010.¹⁹³ Haiti's Constitution and laws further mandate an initial hearing within 48 hours of a detainee's arrest and establishes the right to free counsel throughout prosecution for indigent persons.¹⁹⁴ Despite these provisions and the IACtHR's judgment, Haiti's pretrial detention scheme is still cited as one of the worst in the world and is fundamentally fueling its prison system failure.¹⁹⁵

31. As described in Section III.B, Haiti's justice system is dysfunctional and has particularly deteriorated with respect to processing pretrial cases in a timely manner, if at all. As of May 2021, Haiti's prison population was approximately 11,580. Only 2,071 of the prisoners had been sentenced; the pretrial detention rate is thus a shocking 82.12 percent.¹⁹⁶ Judicial closures and dysfunction described above are partly responsible, as the likelihood of judicial hearings is low. The government is taking no meaningful action to remedy the situation. Indeed, Haiti's Office for the Protection of Citizens (OPC)¹⁹⁷ whose mandate is to protect individuals against abuses by the government¹⁹⁸ has acknowledged the government's fault to the Human Rights Council,¹⁹⁹ concluding that excessive pretrial detention "is largely the result of laxity and nonchalance on the part of the magistrates, added to the phenomenon of an institutionalized system of corruption, not to mention the lack of a real mechanism of control and judicial oversight." Exacerbating the overcrowding and judicial backlog, police often round up large numbers of people and dump them in the National Penitentiary or leave them to languish in makeshift, unofficial detention centers.²⁰⁰ In some cases, detainees are never formally processed and remain in limbo, often with their families not informed of their whereabouts. As of May 31, 2021, Haiti's prisons had reached an occupancy rate of 339 percent.²⁰¹ Given the deadly conditions in Haiti's prisons and detention centers described below, Haiti's failures to respect its human rights obligations towards detained persons²⁰² are particularly egregious.

32. The OPC has acknowledged that "[t]he conditions of detention are alarming and do not respect the UN minimum rules for the treatment of detainees. These conditions are treated as cruel, inhuman and degrading treatment, leading in some prisoners to blindness, paralysis and psychiatric or psychic disorders."²⁰³ This 2018 statement followed a year in which approximately 100 prisoners in Haiti died from malnutrition-related ailments, followed by a tuberculosis epidemic in the National Penitentiary.²⁰⁴ In May 2021, health care workers at the Penitentiary once again observed many emaciated prisoners and a rising mortality rate.²⁰⁵

33. In addition to food, prisoners are also denied basic medical care. Doctors employed by the prison authority are often absent from work and lack necessary medications, including for long-term serious conditions like diabetes. Doctors thus prescribe medications that must be filled at outside pharmacies, which most detainees cannot afford or do not have family nearby to help fill. Detainees who are seriously ill often cannot be transferred to hospitals because the latter will not accept them or the detention facility lacks available vehicles.

34. Haitians deported to Haiti from the U.S. due to criminal convictions face particular health-related lapses in human rights protections. Approximately one-fourth have chronic medical or mental health conditions and are deported with a limited supply of medicines provided by the U.S. Haiti routinely withholds deportees' medical files it receives from the U.S. and recently, while quarantining arriving deportees for COVID-19, withheld medications

provided for two persons with serious pre-existing conditions who were also recovering from COVID-19.²⁰⁶

35. Haiti also fails to keep detainees safe. From a series of gun battles inside Haiti's prisons over the last few years, it is clear that prisoners often have weapons, as well as assistance from gangs and correction officers. Prisons often suffer shortages of correction officers on duty or at their post.²⁰⁷ These elements put both prisoners and other staff in danger as there is already very limited surveillance of the prisons and their surroundings.²⁰⁸ Women are detained near men without adequate security; at least nine women and a 15-year-old girl, most in pretrial detention, were gang-raped during a prison mutiny in November of 2019.²⁰⁹

36. In addition to the above-described poor conditions there are reports of serious abuse directed at detainees, including allegations of cruel, inhuman, and degrading treatment in prisons and makeshift detention centers.²¹⁰ Correction officers use excessive and sometimes deadly force in responding to attempted prison escapes,²¹¹ maintaining order, and silencing complaints.²¹²

37. Unsurprisingly, complaints are few, and impunity is pervasive. The UN's June 2021 report on Haiti's prisons²¹³ found that prisoners cannot meaningfully exercise their right to file complaints, including because of fear of reprisals and skepticism that doing so will bring change. As a result, detainees have few means of challenging life-threatening conditions or mistreatment, some of which may amount to torture or cruel, inhuman or degrading treatment or punishment.²¹⁴ Related government policies contribute to reinforcing the *de facto* impunity for any violations suffered. Indeed, the UN report found that, "the majority of the existing internal and external oversight mechanisms are only partially functional."²¹⁵

III. Recommendations

The Government of Haiti should:

- 1) Take necessary measures, including by allocating resources and holding trainings, to enable the judicial system to timely pursue accountability and confront impunity. This must include accountability for past and ongoing human rights abuses, including corruption and other matters where the government itself is alleged to be complicit.
- 2) Rigorously and urgently investigate and prosecute human rights violations, including recent civilian massacres, which may rise to the level of crimes against humanity, as well as the PetroCaribe corruption scandal and the assassinations of President Moïse and Monferrier Dorval. Take appropriate measures to protect civilians from ongoing insecurity.
- 3) Implement rigorous measures, including training of law enforcement and members of the judiciary, to ensure the investigation and prosecution of all matters brought before the judiciary, paying particular attention to matters brought by vulnerable or marginalized individuals; allegations of state misconduct or excessive use of force by police; and violence directed against human rights defenders.
- 4) Review and revise judicial rules and practices with a view to making judicial proceedings more accessible to all Haitians, including by removing or waiving fees,

- simplifying rules, and ensuring that all judicial proceedings and documents are accessible in Creole.
- 5) Increase access to justice in rural communities, including by opening additional local courthouses, providing transportation, and exploring innovative mechanisms like mobile courts and community paralegals.
 - 6) Ensure that all individuals who cannot afford a lawyer are provided free legal assistance.
 - 7) Comply with all judgements issued against Haiti by international courts.
 - 8) Ratify the Rome Statute.
 - 9) Ensure that the CSPJ is equipped to fulfil its mandate of protecting the independence of the judiciary by appointing its next council without delay and otherwise strengthening its mandate and independence.
 - 10) Ensure the independence of judges and magistrates from the Executive; promptly investigate and address, prosecuting where appropriate, allegations of political pressure on judicial actors at all levels.
 - 11) Rescind the November 6, 2020 decree restricting CSCCA powers.²¹⁶
 - 12) Condemn and investigate all acts of intimidation and violence directed at members of the judiciary and the legal profession, especially where they are linked to public officials. Prosecute those responsible.
 - 13) Ensure that judicial vacancies are promptly filled and mandates are renewed in conformity with legal requirements and corresponding CSPJ assessments. Reinstate the three supreme court justices illegally removed in February 2021.
 - 14) Promptly investigate and prosecute allegations of judicial corruption, including improper fees and bribes, or inappropriate political targeting by the judiciary. Address any resource constraints that drive the imposition of unlawful fees.
 - 15) Ensure judicial actors are adequately paid, resourced, and kept secure by increasing judicial budgets, including that of the CSPJ.
 - 16) Improve the public dissemination of rights and improve public trust in the judiciary by promptly addressing instances of mistreatment by the justice sector.
 - 17) Urgently address the large number of Haitians being held in pretrial detention without a hearing by holding expedited proceedings and reducing unnecessary incarcerations.
 - 18) Detain women and children prisoners in separate areas at a sufficient distance from male prisoners and implement meaningful other safeguards. Women prisoners should be overseen by women correction officers.

- 19) Create a safe and effective process for prisoners to make human rights complaints.
- 20) Ensure that all detainees, regardless of detention facility, are provided with two meals per day that meet UN standards on nutrition.
- 21) Train all correction officers and prison staff on compliance with human rights standards and provide accompanying resources. Meet the benchmarks set by the UN Mission for Justice Support in Haiti (MINUJUSTH)²¹⁷ and implement the recommendations of the UN's June 2021 report on Haitian prison conditions.²¹⁸

¹ International Covenant on Civil and Political Rights (CCPR), arts. 2(1, 3), 14, 26 (Dec. 16, 1966) (acceded to by Haiti on Feb. 6, 1991). *See also* Human Rights Committee, General Comment No. 31, The Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), ¶¶ 6-7, 10 (noting that the CCPR requires states to both refrain from violating rights recognized by the Covenant and adopt appropriate measures to ensure the enjoyment of these rights by all individuals under their jurisdiction); *id.* ¶ 18 (“As with failure to investigate, failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of the Covenant.”); *id.* ¶ 19; Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, U.N. Doc. CCPR/C/GC/32 (2004), ¶ 9 [hereinafter “**Human Rights Committee, General Comment No. 32**”] (“A situation in which an individual’s attempts to access the competent courts or tribunals are systematically frustrated de jure or de facto runs counter to the guarantee of article 14, paragraph 1, first sentence.”)

² Universal Declaration of Human Rights (UDHR), arts. 2, 7-8, 10 (Dec. 10, 1948).

³ American Convention on Human Rights (ACHR), arts. 1, 8, 24, 25 (Nov. 22, 1969) (acceded to by Haiti on Sept. 27, 1977).

⁴ *See* La Constitution De La Republique D’Haïti, art. 276-2 (1987), *unofficial English translation available at* https://www.constituteproject.org/constitution/Haiti_2012.pdf?lang=en [hereinafter “**Haiti Constitution (1987)**”].

⁵ *See, e.g.*, IJDH, Human Rights and Rule of Law in Haiti: Key Recent Developments November 2020 to May 2021 (June 2021), <http://www.ijdh.org/wp-content/uploads/2021/06/June-2021-Human-Rights-Update-IJDH.pdf> [hereinafter “**IJDH, June 2021 Human Rights Update**”] (Annex 2); IJDH, Human Rights and Rule of Law in Haiti: Key Recent Developments March to October 2020 (Nov. 2020), http://www.ijdh.org/wp-content/uploads/2020/11/Update-on-Human-Rights-and-Rule-of-Law-Situation_Mar-Oct-2020-FINAL.pdf [hereinafter “**IJDH, Nov. 2020 Human Rights Update**”] (Annex 3); IJDH, Human Rights and Rule of Law in Haiti: Key Recent Developments February 2020 (Feb. 2020), http://www.ijdh.org/wp-content/uploads/2020/02/Update-on-Human-Rights-and-Rule-of-Law-Situation_Feb-19-2020.pdf [hereinafter “**IJDH, Feb. 2020 Human Rights Update**”] (Annex 4); IJDH, Haiti at a Crossroads: An Analysis of the Drivers Behind Haiti’s Political Crisis (May 2019), <http://www.ijdh.org/wp-content/uploads/2019/05/IJDH-Report-Haiti-at-a-Crossroads-May-2019.pdf> (Annex 5).

⁶ *See* U.N. Secretary-General, United Nations Integrated Office in Haiti (BINUH), U.N. Doc. S/2020/944 (Sept. 25, 2020), ¶¶ 4-6 [hereinafter “**BINUH Sept. 2020 Report**”] (reporting on the failure to hold elections to replace the fiftieth legislature and all 140 municipal officers before the end of their terms); U.N. Secretary-General, United Nations Stabilisation Mission in Haiti, U.N. Doc. S/2017/223 (Mar. 16, 2017), ¶¶ 4-6 (reporting on the last elections in 2016-2017); IJDH, Feb. 2020 Human Rights Update, p. 1 (Annex 4).

⁷ BINUH Sept. 2020 Report ¶ 4; Jacqueline Charles, *Slew of presidential decrees have some wondering if Haiti is on the road to dictatorship*, Miami Herald (Dec. 21, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article247954080.html>.

⁸ Johnny Diaz, *Assassination in Haiti: What we Know, and Don’t Know*, The New York Times (July 8, 2021), <https://www.nytimes.com/2021/07/08/world/americas/haiti-president-killed.html>.

⁹ *See, e.g.*, Conseil Supérieur eu Pouvoir Judiciaire (CSPJ), *Resolution du Conseil Supérieur du Pouvoir Judiciaire (CSPJ) sur la question de l’echance du mandat constitutionnel du President de la Republique, Son Excellence Monsieur Jovenal MOISE* (Feb. 6, 2021), <https://www.haitiwatch.org/home/cspj6feb2021en>; Haitian Bar Federation (FBH), *Resolution 2021-01 Haitian Bar Federation: On the institutional crisis and the end of the presidential term* (Jan. 30, 2021), <https://bdhhaiti.org/archives/754>; NYU School of Law Global Justice Clinic et. al, *Joint Statement from U.S. Human Rights Clinics on the Constitutional and Human Rights Crisis in Haiti* (Feb. 13, 2021), <http://hrp.law.harvard.edu/wp-content/uploads/2021/02/210213-Final-Human-Rights-Clinics-Statement-re-Haiti->

[NYU-HLS-YLS.pdf](#) [hereinafter “U.S. Human Rights Clinics, *Joint Statement on the Constitutional and Human Rights Crisis in Haiti*”]; IJDH, June 2021 Human Rights Update (**Annex 2**); Jacqueline Charles, ‘On the verge of explosion’: Violence, constitutional crisis push Haiti to the brink, *Miami Herald* (Feb. 2, 2021), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article248917529.html>.

¹⁰ See IJDH, Nov. 2020 Human Rights Update, p. 1 (**Annex 3**); IJDH, June 2021 Human Rights Update, pp. 1-2 (**Annex 2**); U.S. Human Rights Clinics, *Joint Statement on the Constitutional and Human Rights Crisis in Haiti*; Jacqueline Charles, *Slew of presidential decrees have some wondering if Haiti is on the road to dictatorship*, *Miami Herald* (Dec. 21, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article247954080.html>; see also, e.g., Press Release, National Human Rights Defense Network (RNDDH), *State of siege and systematic violation of the civil and political rights of the population: RNDDH demands compliance with the Haitian Constitution* (Feb. 9, 2021), <https://web.rnddh.org/wp-content/uploads/2021/02/4-CP-Etat-de-si%C3%A8ge-9Fev2021-ENG.pdf>.

¹¹ See Monique Clesca, *Haiti’s Critical Weeks Ahead*, *Americas Quarterly* (May 20, 2021), <https://www.americasquarterly.org/article/haitis-critical-weeks-ahead/>; see also Jacqueline Charles, *Haiti civic leaders and former US diplomat to House Foreign Affairs: ‘Haiti is a mess’*, *Miami Herald* (Mar. 12, 2021), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article249877598.html>; The Miami Herald Editorial Board, *Stop pushing for elections in Haiti, President Biden. They will only make things worse | Editorial*, *Miami Herald* (May 29, 2021), <https://www.miamiherald.com/opinion/editorials/article251751853.html>; *Poukisa Jovenel Moïse vle chanje konstitisyon an, epi fè eleksyon?*, *AyiboPost* (May 29, 2021), <https://www.youtube.com/watch?v=Elur-B27hdY> (describing how the lack of three functioning branches of government, controversies over the national identification cards, and widespread insecurity make it impossible to organize free, fair, and credible elections under the current administration).

¹² See, e.g., Jessica Obert, *Haitian president’s killing fuels escalating fears, uncertainty*, *Aljazeera* (July 11, 2021), <https://www.aljazeera.com/news/2021/7/11/haitian-president-killing-fuels-escalating-fears-uncertainty>; *To Save Haiti’s Democracy, Don’t Hold Elections*, *Just Security* (July 9, 2021), <https://www.justsecurity.org/77379/to-save-haitis-democracy-dont-hold-elections/>; Mamyrah Dougé-Prosper and Mark Schuller, *After Moïse Assassination, Popular Sectors Must Lead the Way*, *North American Congress on Latin America* (July 8, 2021), <https://nacla.org/haiti-jovenel-moise-assassination-social-movements>; Constant Méheut and Elian Peltier, *Haiti is divided over how to hold its next presidential election, Haiti News: President Moïse’s Killing Fuels Political Crisis as Rivals Vie for Power*, *The New York Times* (July 10, 2021), <https://www.nytimes.com/live/2021/07/10/world/jovenel-moise-assassinated#haiti-elections>.

¹³ See Haiti Constitution (1987), art. 284-3 (1987) (“General elections to amend the Constitution by referendum are strictly forbidden”); see also U.S. Human Rights Clinics, *Joint Statement on the Constitutional and Human Rights Crisis in Haiti*, p. 3; Press Release, Fondasyon Je Klere (FJKL), *Report sine die du réferendum: La FJKL demande d’utiliser les fonds initialement prévus pour cet acte de folie au renforcement de la capacité sanitaire et sécuritaire du pays* (June 8, 2021), [https://www.fjkl.org.ht/images/doc/7%20FJKL7-Report%20sine%20die%20du%20r%C3%A9f%C3%A9rendum%20\(1\).pdf](https://www.fjkl.org.ht/images/doc/7%20FJKL7-Report%20sine%20die%20du%20r%C3%A9f%C3%A9rendum%20(1).pdf); Nou Pap Dòmi, *Position Officielle De Noupapdòmi sur le Projet de Référendum Inconstitutionnel du Gouvernement de Jovenel Moïse* (June 10, 2021), https://aa8daa9e-9ecc-447e-819b-c81c17fac56b.filesusr.com/ugd/e35c6a_3eeab48ffec246738df3b31c72fa3c17.pdf.

¹⁴ See, e.g., Press Release, U.N. Security Council, *Security Council Press Statement on Haiti* (July 1, 2021), <https://binuh.unmissions.org/en/security-council-press-statement-haiti-0>; U.N. Office for the Coordination of Humanitarian Affairs (OCHA), *Haiti: Displacements due to gang violence in Port-au-Prince: Situation Report No. 4* (July 1, 2021), <https://reliefweb.int/sites/reliefweb.int/files/resources/Haiti%20-%20Situation%20Report%20Nr.%204%20-%20Displacements%20Port-au-Prince%20-%20final%20-%20ENG.pdf> [hereinafter “OCHA, *Situation Report No. 4*”]; U.N. Secretary-General, BINUH, U.N. Doc. S/2021/559 (June 11, 2021), ¶20-21 [hereinafter “BINUH June 2021 Report”].

¹⁵ See, e.g., Dánica Coto and Joshua Goodman, ‘We need help’: Haiti’s interim leader requests US troops, *Miami Herald* (July 12, 2021), <https://www.miamiherald.com/news/business/article252695983.html>; Press Release, Nou Pap Dòmi, *NOUPAPDÒMI is shocked by the news of the assassination of former President Jovenel Moïse on the night of July 6-7, 2021* (July 7, 2021), <https://www.facebook.com/noupapdomiht/posts/1016144952504487>; Harold Issac, *In rarefied Pétionville, a journalist recalls, the veneer of security was shattered by gunfire, Haiti News: President Moïse’s Killing Fuels Political Crisis as Rivals Vie for Power*, *The New York Times* (July 10, 2021), <https://www.nytimes.com/live/2021/07/10/world/jovenel-moise-assassinated/in-rarefied-petionville-a-journalist-recalls-the-veneer-of-security-was-shattered-by-gunfire>.

¹⁶ See OCHA, *Haiti: Displacements due to gang violence in Port-au-Prince: Situation Report No. 3* (June 23, 2021), <https://reliefweb.int/sites/reliefweb.int/files/resources/Haiti%20-%20Situation%20Report%20Nr.%203%20-%20>

[%20Displacements%20Port-au-Prince%20-%20final%20-%20ENG.pdf](#) (reporting that 1.5 million people have been affected by the ongoing crisis since June 1, 2021). *See further infra* notes 33-34 (calculating that there have been at least 18 massacres in Haiti since November 2018); U.N. Secretary-General, BINUH, U.N. Doc. S/2020/537, ¶ 24 (June 15, 2020), [hereinafter “**BINUH June 2020 Report**”] (reporting that 2 massacres occurred in 2017).

¹⁷ *See infra* notes 35-41, 50.

¹⁸ *See, e.g.*, U.N. Secretary-General, United Nations Mission for Justice Support in Haiti (MINUJUSTH), U.N. Doc. S/2018/1059 (Nov. 28, 2018), ¶¶ 2-6 [hereinafter “**MINUJUSTH Nov. 2018 Report**”]; IJDH, June 2021 Human Rights Update, p. 1 (**Annex 2**); Amy Wilentz, *After a Decade of Misrule, the People of Haiti Have Had Enough*, The Nation (Mar. 1, 2021), <https://www.thenation.com/article/world/haiti-moise-corruption-protest/>; Arvind Dilawar, *Haiti’s Massive Protests Are a Repudiation of Authoritarianism and US Intervention: an interview with Kim Ives*, Jacobin (Mar. 5, 2021), <https://www.jacobinmag.com/2021/03/haiti-protests-us-intervention-jovenel-moise>.

¹⁹ *See* Inter-American Commission for Human Rights (IACHR), *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community* (2005), ¶¶ 4, 144, 177-179, <http://www.cidh.oas.org/countryrep/HAITI%20english7X10%20FINAL.pdf> [hereinafter “**IACHR, Haiti: Failed Justice or the Rule of Law? (2005)**”]; Comisión Interamericana de Derechos Humanos, *Acceso a la justicia e independencia judicial en Haití* (video), Youtube (Dec. 10, 2020), https://www.youtube.com/watch?v=FUgzRzOl-BU&ab_channel=Comisi%C3%B3nInteramericanadeDerechosHumanos (recording Commissioner Antonia Urrejola Noguera pointing out that Haiti has not addressed the challenges and human rights failures documented in the 2005 report); *see also* IACHR *Public Hearing on Impunity for Human Rights Violations and Lack of Judicial Independence in Haiti*, IJDH & BAI (Dec. 20, 2020), <http://www.ijdh.org/iachr-public-hearing-on-impunity-for-human-rights-violations-and-judicial-independence-in-haiti/>.

²⁰ *See, e.g.*, BINUH June 2021 Report ¶¶ 36, 40-42 (noting “a systematic lack of accountability” persisting for human rights violations by law enforcement officials, massacres, for sexual and gender based violence, among other human rights abuses); U.N. Secretary-General, BINUH, U.N. Doc. S/2020/123, ¶ 60 (Feb. 13, 2020), [hereinafter “**BINUH Feb. 2020 Report**”] (“The scant progress made in pursuing accountability for recent human rights violations and corruption scandals starkly reveals the magnitude of the work that remains to be done to effectively combat impunity in Haiti.”); IJDH & BAI, *Written Submission by the Institute for Justice & Democracy in Haiti and the Bureau des Avocats Internationaux for the December 10, 2020 Thematic Hearing Before the Inter-American Commission for Human Rights on the Subject of Impunity for Serious Human Rights Violations and the Lack of Judicial Independence in Haiti* (2020), pp. 2-5, http://www.ijdh.org/wp-content/uploads/2020/12/Written-Submission-for-IACHR-Thematic-Hearing-178PS-FINAL_web.pdf [hereinafter “**IJDH & BAI, IACHR Hearing Submission**”] (**Annex 7**).

²¹ *See* CCPR, art. 2(3); ACHR, art. 25; *see also* Human Rights Committee, General Comment No. 31, *The Nature of the General Legal Obligation on States Parties to the Covenant*, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), ¶¶ 18-19.

²² *See* Human Rights Council (HRC), *Report of the Working Group on the Universal Periodic Review* (2016), U.N. Doc. A/HRC/34/14 [hereinafter “**HRC, 2016 UPR Report**”], recommendation 115.123 (“Take the necessary measures to allow the judicial system to effectively fight against impunity, including through judicial processes that are carried out within reasonable deadlines (Switzerland)”) (supported by Haiti); *id.* 115.125 (“Ensure accountability for human rights abuses, to strengthen the rule of law and break the pervasive cycle of impunity that hinders reconciliation and limits Haiti’s economic development (United States of America)”) (supported by Haiti); *id.* 115.126 (“Continue its national efforts to combat corruption and impunity (Egypt)”) (supported by Haiti); *id.* 115.127 (“Strengthen institutional capacities to investigate and prosecute all allegations of corruption and mismanagement of funds (Maldives)”) (supported by Haiti).

²³ BINUH June 2021 Report ¶ 36.

²⁴ *See infra* note 50.

²⁵ *See* BINUH June 2021 Report ¶ 40; U.N. Secretary-General, BINUH, U.N. Doc. S/2021/133, ¶ 34 (Feb. 11, 2021), [hereinafter “**BINUH Feb. 2021 Report**”]; BINUH Sept. 2020 Report ¶ 34; BINUH June 2020 Report ¶ 25; BINUH & Office of the High Commissioner for Human Rights (OHCHR), *Manifestations en Haïti : Leurs impacts sur les droits humains et l’obligation de l’État de protéger tous les citoyens* (2021), pp. 3, 12-13, https://binuh.unmissions.org/sites/default/files/2021.01.15_rapport_manifestations_2018-2019.pdf [hereinafter “**BINUH & OHCHR, Manifestations en Haïti**”].

²⁶ BINUH June 2021 Report ¶ 40; BINUH Feb. 2021 Report ¶ 34; BINUH & OHCHR, *Manifestations en Haïti*, p. 3. Further emblematic of Haiti’s broad pattern of impunity is the government’s failure to comply with two judgments rendered against it by the Inter-American Court of Human Rights (IACtHR). *See* IACtHR, *Annual Report 2020*

(2021), p. 84, <https://www.corteidh.or.cr/docs/informe2020/ingles.pdf> (identifying that Haiti has not complied with two cases decided by the Court against it); Cases at the Monitoring Compliance with Judgement Stage, IACtHR, https://www.corteidh.or.cr/casos_en_supervision_por_pais.cfm?lang=en (listing *Fleury y otros* under “Cases at Monitoring Compliance Stage” and *Yvon Neptune Vs. Haiti* under “Cases under Monitoring with Application of Art. 65 ACHR”); *Yvon Neptune v. Haiti*, Judgement, Inter-Am. Ct. H.R. (May 6, 2008), https://www.corteidh.or.cr/docs/casos/articulos/seriec_180_ing.pdf; *Fleury et al. v. Haiti*, Judgement, Inter-Am. Ct. H.R. (Nov. 23, 2011), https://www.corteidh.or.cr/docs/casos/articulos/seriec_236_ing.pdf; *infra* note 193.

²⁷ BINUH June 2021 report ¶ 63; BINUH Feb. 2021 Report ¶60; BINUH Sept. 2020 Report ¶ 32 (“The involvement in recent gang attacks... by known individuals, such as Jimmy “Barbecue” Cherizier, who are the subjects of national police arrest warrants for their alleged implication in emblematic armed attacks... further underscores how impunity and a manifest lack of accountability fuel recurrent cycles of violence.”); BINUH June 2020 Report ¶ 56 (Impunity “den[ies] justice and reparation to victims and creat[es] an enabling environment for further violence”); *see also* Press Release, L’office de la Protection du Citoyen (OPC), *L’OPC condamne les violences à Martissant et exprime son inquiétude face à la gangstérisation de plus en plus menaçante du pays* (June 6, 2021), <https://www.opchaiti.com/publication/actualite/232> (commenting in response to high levels of recent violence in the capital that “[e]verything is happening under the eyes and silence of the authorities and institutions responsible for providing security of lives and property. The population is left to its own devices”); OCHA, Situation Report No. 4.

²⁸ BINUH Feb. 2021 Report ¶ 60 (“[I]mpunity and the lack of accountability for [serious] crimes constitute a fundamental driver of instability in the country and perpetuate public distrust of State institutions.”); *see, e.g.*, BINUH Sept. 2020 Report ¶ 56 (“The fact that those responsible for the killings of Grand Ravine, La Saline, or Bel Air have yet to be brought to justice has perpetuated impunity and fed allegations of collusion between gangs and political stakeholders.”); Jacqueline Charles, *Haiti has finally come up with a date for elections. But there are concerns*, Miami Herald (Jan. 7, 2021), <https://www.miamiherald.com/article248344290.html>; *supra* note 11.

²⁹ *See* Sections III.B.b & d.

³⁰ *See, e.g.*, Fédération internationale pour les droits humains (FIDH), RNDDH & Centre œcuménique des droits de l’Homme (CEDH), *Affaire Jean-Claude Duvalier et consorts : « En Haïti, on poursuit l’enquête, pas les criminels »* (2018), <https://www.fidh.org/fr/regions/ameriques/haiti/les-complices-de-jean-claude-duvalier-doivent-enfin-repondre-de-leurs>.

³¹ *See id.* at p. 4; *Landmark Ruling, Haitian Court Opens Investigation into Jean-Claude Duvalier for Crimes Against Humanity*, International Justice Resource Center (Feb. 25, 2014), <https://ijrcenter.org/2014/02/25/landmark-ruling-haitian-court-opens-investigation-into-jean-claude-duvalier-for-crimes-against-humanity/>.

³² *See* FIDH, RNDDH & CEDH, *Affaire Jean-Claude Duvalier et consorts : « En Haïti, on poursuit l’enquête, pas les criminels »* (2018), pp. 27-28, <https://www.fidh.org/fr/regions/ameriques/haiti/les-complices-de-jean-claude-duvalier-doivent-enfin-repondre-de-leurs>; IJDH & BAI, Request for a thematic hearing on impunity for serious human rights violations and the lack of judicial independence in Haiti (2020), p. 8, http://www.ijdh.org/wp-content/uploads/2020/12/Thematic-Hearing-Request-178th-Period-of-Sessions_EN.pdf (Annex 6).

³³ These massacres include eight massacres in La Saline (2018-2020), two massacres in Nan Tokyo (2019), three massacres in Bel Air (2019-2021), one massacre in Martissant (2020), two massacres in Cité Soleil (2020-2021), Delmas 32 (2021), and an ongoing massacre in the Martissant/Bas-Demalas/Cité Soleil/Croix-des Bouquets areas (2021). *See* BINUH June 2020 Report ¶ 24; RNDDH, *Attack on deprived neighborhoods: The RNDDH demands the end of the protection of armed gangs by the authorities in power* (2020), ¶¶ 17, 25, <https://web.rnddh.org/wp-content/uploads/2020/06/7-Rap-Attaque-Quartiers-Defavorise-Version-Anglaise-23Jun2020-2.pdf> [hereinafter “**RNDDH, Attack on deprived neighborhoods**”]; RNDDH, *Assassinations, Ambushes, Hostage-taking, Rape, Fires, Raids: The authorities in power have installed terror in Cité Soleil* (2020), <https://web.rnddh.org/wp-content/uploads/2020/08/Version-Anglaise-Rap-Cit%C3%A9-Soleil-082020.pdf> [hereinafter “**RNDDH, Terror in Cité Soleil**”]; RNDDH, *Massacres à Bel-Air et à Cité Soleil sous le regard indifférent des autorités étatiques*, pp. 10, 21 (2021), <https://web.rnddh.org/wp-content/uploads/2021/05/2-Rap-Bel-Air-Cite-Soleil-2020.2021-20-Mai-2021-FR.pdf> [hereinafter “**RNDDH, Massacres à Bel-Air et à Cité Soleil**”]; Press Release, RNDDH, *Nuit Sombre à Port-au-Prince et Delmas: Le RNDDH en appelle à la mobilisation populaire* (July 1, 2021), <https://web.rnddh.org/wp-content/uploads/2021/07/8-CP-Nuit-sombre-a-Port-au-Prince-et-a-Delmas.29.30Jun2021-01Juil2021-ENG.pdf>; OCHA, Situation Report No. 4. There have been at least 13 massacres with at least seven confirmed deaths. *See* Rosy Auguste Ducena, *Opinion: How the U.S. can choose to be on the right side of history on Haiti*, The Washington Post (July 9, 2021), <https://www.washingtonpost.com/opinions/2021/07/09/haiti-violence-united-states-policy-jovenel-moise/>.

³⁴ *See* RNDDH, *Attack on deprived neighborhoods* ¶¶ 18 - 30 (recording 170 deaths in a series of attacks in La Saline and Nan Tokyo between 2018 and 2020); RNDDH, *Massacre in Bel-Air: Banalization of the right to life by*

state authorities (2020), ¶ 31, <https://web.rnddh.org/wp-content/uploads/2020/01/6-Rap-Bel-Air-17Dec2019-Version-Anglaise.pdf> [hereinafter “**RNDDH, Massacre in Bel-Air**”] (reporting that at least 24 people were killed during the Bel-Air massacre in 2019); BINUH June 2020 Report ¶ 24 (documenting 8 deaths in the Martissant massacre of 2020 and 3 deaths in the La Saline massacre of 2020); RNDDH, Terror in Cité Soleil ¶ 59 (recording at least 111 deaths in the 2020 Cité Soleil massacre); RNDDH, Massacres à Bel-Air et à Cité Soleil, pp. 10, 21 (reporting 81 killings in Bel-Air in attacks between August 2020 and May 2021 and 44 killings in Cité Soleil between January to May 2021); Press Release, RNDDH, *Nuit Sombre à Port-au-Prince et Delmas: Le RNDDH en appelle à la mobilisation populaire* (July 1, 2021), <https://web.rnddh.org/wp-content/uploads/2021/07/8-CP-Nuit-sombre-a-Port-au-Prince-et-a-Delmas.29.30Jun2021-01Juil2021-ENG.pdf> (reporting that at least 19 people were killed in Delmas 32 on June 29, 2021); OCHA, Haiti: Displacements due to gang violence in Port-au-Prince: Situation Report No. 2 (June 14, 2021), <https://reliefweb.int/sites/reliefweb.int/files/resources/Haiti%20-%20Situation%20Report%20Nr.%204%20-%20Displacements%20Port-au-Prince%20-%20final%20-%20ENG.pdf> (noting casualties of 50 people in the violence in the neighborhoods of Bas-Delmas, Martissant, and Cité Soleil); OCHA, Situation Report No. 4 (noting at least 5 casualties in the week of June 22-29 and over 1.5 million people displaced or in conflict zones); see also Seth Donnelly & Judith Mirkinson, *The Lasalin Massacre and the Human Rights Crisis in Haiti* (2019), <https://www.nlg.org/wp-content/uploads/2019/07/The-Lasalin-Massacre-ONLINE-7-11-19-Nat-NLG.pdf> (noting that the reported casualties of the La Saline massacre is “deplorably low” given that it does not include the number of bodies buried or taken away).

³⁵ See *supra* note 37; BINUH June 2021 Report ¶ 37; see also, e.g., RNDDH, Terror in Cité Soleil ¶ 58.

³⁶ See Harvard Law School International Human Rights Clinic and Observatoire Haïtien des crimes contre l’humanité, *Killing with Impunity: State-Sanctioned Massacres in Haiti* (2021), pp. 16-23, http://hrp.law.harvard.edu/wp-content/uploads/2021/04/Killing_With_Impunity-1.pdf [hereinafter “**Harvard and Observatoire, Killing with Impunity**”] (**Annex 1**); *infra* notes 39-41, 50; RNDDH, Attack on deprived neighborhoods ¶¶ 46, 52, 66-67.

³⁷ See MINUJUSTH, *La Saline : Justice pour les victimes. L’Etat a l’obligation de protéger tous les citoyens* (2019), ¶ 23, https://minujsth.unmissions.org/sites/default/files/minujsth_hcdh_rapport_la_saline_1.pdf [hereinafter “**MINUJUSTH, La Saline rapport**”]; RNDDH, *The Events in La Saline: from Power Struggle Between Armed Gangs to State-Sanctioned Massacre* (2018), ¶ 32, <https://web.rnddh.org/wp-content/uploads/2018/12/10-Rap-La-Saline-1Dec2018-Angl.pdf> [hereinafter “**RNDDH, The Events in La Saline**”].

³⁸ See, e.g., Harvard and Observatoire, *Killing with Impunity*, pp. 9-10, 18 (**Annex 1**); RNDDH, *The Events in La Saline* ¶¶ 25-29; BAI & IJDH, *Precautionary measures request for Petitioners of La Saline, in the name of their community to the IACHR* (2019), ¶¶ 14-15, available at <http://www.ijdh.org/wp-content/uploads/2019/08/IACHR-Precautionary-Measures-Request-Haiti-La-Saline-August-9-2019.pdf> [hereinafter “**BAI & IJDH, Precautionary measures request**”].

³⁹ See, e.g., MINUJUSTH, *La Saline rapport* ¶¶ 21-22; Press Release, U.S. Treasury Department, *Treasury Sanctions Serious Human Rights Abusers on International Human Rights Day* (Dec. 10, 2020), <https://home.treasury.gov/news/press-releases/sm1208>; RNDDH, *The Events in La Saline* ¶¶ 54-55; Harvard and Observatoire, *Killing with Impunity*, p. 10 (**Annex 1**).

⁴⁰ Press Release, U.S. Treasury Department, *Treasury Sanctions Serious Human Rights Abusers on International Human Rights Day* (Dec. 10, 2020), <https://home.treasury.gov/news/press-releases/sm1208>.

⁴¹ MINUJUSTH, *La Saline rapport* ¶¶ 21-22; BINUH & OHCHR, *Rapport sur les allégations de violations et abus des droits de l’homme lors des attaques dans le quartier de Bel-Air, à Port-au-Prince, du 4 au 6 novembre 2019* (2020), ¶ 33, https://www.ohchr.org/Documents/Countries/HT/Haiti_Rapport_Bel_Air.pdf [hereinafter “**BINUH & OHCHR, Bel-Air rapport**”].

⁴² See Press Release, IACHR, *A une année du massacre de La Saline, la CIDH réitère sa préoccupation devant la crise politique et institutionnelle que fait face Haïti*, OAS P.R. No. 305/19 (Nov. 22, 2019), <https://www.oas.org/fr/cidh/prensa/comunicados/2019/305.asp>; Caleb Lefèvre, *Massacre de La Saline : pourquoi le parquet n’a-t-il pas suivi les recommandations de la DCPJ?*, *Le Nouvelliste* (Aug. 1, 2019), <https://lenouvelliste.com/article/205317/massacre-de-la-saline-pourquoi-le-parquet-na-t-il-pas-suivi-les-recommandations-de-la-dcpj>.

⁴³ See BAI & IJDH, *Precautionary measures request* ¶ 30; Ricardo Lambert, *La Saline, Carrefour-Feuille: les résultats du parquet de Port-au-Prince se font attendre*, *Le Nouvelliste* (July 19, 2019), <https://lenouvelliste.com/article/204771/la-saline-carrefour-feuille-les-resultats-du-parquet-de-port-au-prince-se-font-attendre>; see also IJDH & BAI, *IACHR Hearing Submission*, p. 4 (**Annex 7**).

⁴⁴ See BINUH June 2021 Report ¶ 36; BINUH Sept. 2020 Report ¶ 32; Christmas Worlgenson, *Deux ans après le massacre à la Saline, toujours pas de justice pour les victimes...*, *Le Nouvelliste* (Nov. 12, 2020),

<https://lenouvelliste.com/article/223112/deux-ans-apres-le-massacre-a-la-saline-toujours-pas-de-justice-pour-les-victimes> (noting that the officials implicated in the La Saline massacre have never been held to account); Robenson Geffrard, *Indexé dans le cadre du massacre de La Saline, Fednel Monchéry arrêté puis libéré par la police*, Le Nouvelliste (Feb. 18, 2021), <https://lenouvelliste.com/article/226377/indexe-dans-le-cadre-du-massacre-de-la-saline-fednel-monchery-arrete-puis-libere-par-la-police> (reporting that Monchéry was briefly arrested for driving with illegal license plates and quickly released); see also IJDH & BAI, IACHR Hearing Submission, p. 4 (**Annex 7**); BAI & IJDH, Precautionary measures request ¶¶ 28-31 (detailing the lack of state action taken to hold perpetrators of the La Saline massacre accountable)

⁴⁵ See BINUH June 2021 Report ¶ 36; BINUH Sept. 2020 Report ¶ 32; Christmas Worlgenson, *Deux ans après le massacre à la Saline, toujours pas de justice pour les victimes...*, Le Nouvelliste (Nov. 12, 2020), <https://lenouvelliste.com/article/223112/deux-ans-apres-le-massacre-a-la-saline-toujours-pas-de-justice-pour-les-victimes>; Robenson Geffrard, *Indexé dans le cadre du massacre de La Saline, Fednel Monchéry arrêté puis libéré par la police*, Le Nouvelliste (Feb. 18, 2021), <https://lenouvelliste.com/article/226377/indexe-dans-le-cadre-du-massacre-de-la-saline-fednel-monchery-arrete-puis-libere-par-la-police>; see also IJDH & BAI, IACHR Hearing Submission, p. 4 (**Annex 7**); BAI & IJDH, Precautionary measures request ¶¶ 28-31.

⁴⁶ See BINUH & OHCHR, Bel-Air rapport ¶ 33; Snyder Pierre Louis, *Qui sont ces officiels de l'administration de Jovenel Moïse accusés dans les massacres de la Saline?*, AyiboPost (Dec. 23, 2019), <https://ayibopost.com/qui-sont-ces-officiels-de-ladministration-de-jovenel-moise-accuses-dans-les-massacres-de-la-saline/>; see also IJDH, Feb. 2020 Human Rights Update, p. 4 (**Annex 4**) (noting advocacy done by victims of the La Saline massacre to seek justice); *Massacre de La Saline : deux ans après les lignes n'ont pas bougé*, Haïti Info Pro (Nov. 14, 2020), https://haitiinfospro.com/massacre-de-la-saline-deux-ans-apres-les-lignes-nont-pas-bouge/?fbclid=IwAR32ASlS9PM5lh7vVilp--NuJZpnVu1mltQuRGE-YJulpJzmNRJGOdyo_4.

⁴⁷ See BINUH & OHCHR, Bel-Air rapport ¶ 33; Caleb Lefèvre, *Procès La Saline: où en sommes-nous ?*, Le Nouvelliste (Nov. 14, 2019), <https://lenouvelliste.com/article/209107/proces-la-saline-ou-en-sommes-nous>; see also IJDH & BAI, IACHR Hearing Submission, p. 4 (**Annex 7**).

⁴⁸ See BINUH June 2021 Report ¶ 41; Samuel Celiné, *Jovenel Moïse écarte 3 juges. Depuis, les dossiers impliquant ses proches sont à l'arrêt*, Ayibo Post (May 11, 2021), <https://ayibopost.com/jovenel-moise-ecarte-3-juges-depuis-les-dossiers-impliquant-ses-proches-sont-a-larret/>.

⁴⁹ *Observatoire Haïtien des crimes contre l'humanité*.

⁵⁰ Harvard and Observatoire, *Killing with Impunity*, pp. 16-23 (**Annex 1**).

⁵¹ See CCPR, art. 2(3); ACHR, art. 25.

⁵² See BINUH June 2021 Report ¶ 36 (“Since my previous report, no effective action has been taken to ensure accountability in the growing list of emblematic cases, in particular the Grand Ravine (2017), La Saline (2018) and Bel-Air (2019) killings and the murder of Monferrier Dorval in August 2020”); BINUH Feb. 2020 Report ¶ 60; U.S. State Department, *Haiti 2020 Human Rights Report* (2021), p. 3, <https://www.state.gov/wp-content/uploads/2021/03/HAITI-2020-HUMAN-RIGHTS-REPORT.pdf> [hereinafter “**U.S. DOS, Haiti Human Rights Report 2020**”]; *supra* notes 44-48; see also IJDH & BAI, IACHR Hearing Submission, p. 4 (**Annex 7**); IJDH & BAI, Request for a thematic hearing on impunity for serious human rights violations and the lack of judicial independence in Haiti (2020), pp. 6-8, http://www.ijdh.org/wp-content/uploads/2020/12/Thematic-Hearing-Request-178th-Period-of-Sessions_EN.pdf (**Annex 6**); Harvard and Observatoire, *Killing with Impunity*, p. 30 (**Annex 1**).

⁵³ See *supra* note 27; see also BINUH Feb. 2021 Report ¶ 33 (“The 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’ Cherizier, fueled the recurring cycle of violence.”).

⁵⁴ See, e.g., RNDDH, *Massacre in Bel-Air* ¶ 50; RNDDH, *Attack on deprived neighborhoods* ¶¶ 41-43; RNDDH, *Massacres à Bel-Air et à Cité Soleil* ¶¶ 20-26.

⁵⁵ See IJDH & BAI, *Reversing Post-Raboteau Massacre Trial Impunity: Briefing Paper on Twenty Years of Eroding Commitments to Justice and the Opportunity to Return to Accountability in Haiti* (2020), pp. 7-9, <http://www.ijdh.org/wp-content/uploads/2020/07/IJDH-Briefing-Raboteau-in-2020-FINAL-EN.pdf> (**Annex 9**).

⁵⁶ See, e.g., Press Release, BAI, *The BAI Denounces the Appointment of an Ex-Torturer of the Bloody Coup d’Etat of 30 September 1991 to the So-Called High Command of the Haitian Armed Forces* (Mar. 19, 2018), http://www.ijdh.org/wp-content/uploads/2018/03/BAI_IDJH_Press_Release_ENG-Version.pdf; Jake Johnston, *Meet the New Haitian Military*, Haïti Liberté (Mar. 21, 2018), <https://haitiliberte.com/meet-the-new-haitian-military/>; see also IJDH & BAI, *Reversing Post-Raboteau Massacre Trial Impunity: Briefing Paper on Twenty Years of Eroding Commitments to Justice and the Opportunity to Return to Accountability in Haiti* (2020), p. 11,

<http://www.ijdh.org/wp-content/uploads/2020/07/IJDH-Briefing-Raboteau-in-2020-FINAL-EN.pdf> (Annex 9).

⁵⁷ Human Rights Committee, Second periodic report submitted by Haiti under article 40 of the Covenant, due in 2018, U.N. Doc. CCPR/C/HT1/2 (2019), ¶ 135.

⁵⁸ See Jacqueline Charles, *Emmanuel 'Toto' Constant must not be allowed to escape justice, U.N. tells Haiti*, Miami Herald (30 Jul. 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article244571707.html>; Wesley Gedeon, *Victims du Massacre de Raboteau (Sit-in 28 Jul. 2020)*, Youtube (2 Aug. 2020), <https://www.youtube.com/watch?v=0TuzrbNt67o> (documenting a demonstration by victims of the massacre demanding for justice); see also BAI & RNDDH, *Joint Open Letter of BAI and RNDDH to the Haitian Ministry of Justice and Public Security* (May 16, 2020), available at <http://www.ijdh.org/wp-content/uploads/2020/05/Letter-of-BAI-and-RNDDH-to-the-MoJ-05.16.20.pdf>.

⁵⁹ Cf. HRC, 2016 UPR Report, recommendation 115.126 (“Continue its national efforts to combat corruption and impunity (Egypt)”) (supported by Haiti); *id.* 115.127 (“Strengthen institutional capacities to investigate and prosecute all allegations of corruption and mismanagement of funds (Maldives)”) (supported by Haiti); HRC, Resolution 41/9: The negative impact of corruption on the enjoyment of human rights (July 18, 2019), ¶ 2; see also HRC Resolution 35/25 (June 23, 2017); HRC Resolution 29/11 (July 2, 2015); HRC Resolution 26/115 (July 10, 2014); HRC Resolution 23/9 (June 13, 2013); HRC Resolution 21/13 (Sept. 27, 2012); HRC, Final report of the Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights (2015), U.N. Doc. A/HRC/28/73.

⁶⁰ See *Corruption Perceptions Index 2020*, Transparency International, <https://www.transparency.org/en/cpi/2020/index/ht>; see also Patrick Saint-Pré, *Lutte contre la corruption: Haiti continue de perdre des places*, Le Nouvelliste (Feb. 3, 2021), <https://lenouvelliste.com/article/225911/lutte-contre-la-corruption-haiti-continue-de-perdre-des-places>.

⁶¹ See, e.g., U.S. DOS, *Haiti Human Rights Report 2020*, p. 15; MINUJUSTH Nov. 2018 Report ¶ 2-6; see U.N. Secretary-General, MINUJUSTH, U.N. Doc. S/2019/198 (Mar. 1, 2019) ¶ 5 [hereinafter “**MINUJUSTH Mar. 2019 Report**”]; BINUH Sept. 2020 Report ¶ 10.

⁶² See U.N. Secretary-General, MINUJUSTH, U.N. Doc. S/2019/563 (July 9, 2019), ¶¶ 10-11 [hereinafter “**MINUJUSTH July 2019 Report**”]; U.S. State Department, *Haiti 2019 Human Rights Report - Revised* (2020), pp. 16-17, <https://www.state.gov/wp-content/uploads/2020/03/HAITI-2019-HUMAN-RIGHTS-REPORT-REVISED-3.13.2020.pdf> [hereinafter “**U.S. DOS, Haiti Human Rights Report Revised 2019**”]; see FJKL, *Dossier PetroCaribe, Le rapport final d’audit de la Cour Supérieure des Comptes et du Contentieux Administratif (CSCCA) au regard du droit positif haïtien en matière de lutte contre la corruption : la FJKL juge le rapport pertinent et ouvre la voie à l’organisation des procès que le peuple haïtien attend* (2020), pp. 8-9, <https://www.fjkl.org.ht/images/doc/FJKL5-CSCCA-PetroCaribe-Rapport-final-27-aout-2020.pdf>; see also IJDH, *Haiti at a Crossroads: An Analysis of the Drivers Behind Haiti’s Political Crisis* (2019), pp. 3-4, <http://www.ijdh.org/wp-content/uploads/2019/05/IJDH-Report-Haiti-at-a-Crossroads-May-2019.pdf> (Annex 5).

⁶³ See, e.g., U.S. DOS, *Haiti Human Rights Report Revised 2019*, pp. 16-17; Jacqueline Charles, *Haiti corruption scandal: Billions wasted in Venezuelan PetroCaribe aid, new report shows*, Miami Herald (Aug. 19, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245045015.html>; Samuel Celiné, *Jovenel Moïse écarte 3 juges. Depuis, les dossiers impliquant ses proches sont à l’arrêt*, Ayibo Post (May 11, 2021), <https://ayibopost.com/jovenel-moise-ecarte-3-juges-depuis-les-dossiers-impliquant-ses-proches-sont-a-larret/>.

⁶⁴ See U.S. DOS, *Haiti Human Rights Report Revised 2019*, pp. 16-17; Hervé Noel, *Le juge instructeur Ramoncite Accimé dans le viseur des plaignants Petro Caribe*, Rezo Nodwes (July 9, 2019), <https://rezonodwes.com/2019/07/09/le-juge-instructeur-ramoncite-accime-dans-le-viseur-des-plaignants-petro-caribe/>; Roberson Alphonse, *Petrocaribe : Le Juge D’instruction Lance des Convocations*, Le Nouvelliste (Jun. 7, 2019), <https://lenouvelliste.com/article/204632/petrocaribe-le-juge-dinstruction-lance-des-convocations>; Jésula Simon, *PetroCaribe : Un 3ème Ministre de Martelly Auditionné*, LoopHaiti (Aug. 20, 2019), <http://www.loophaiti.com/content/petrocaribe-un-3eme-ministre-de-martelly-auditionne>; *PetroCaribe : Laleau auditionné par le juge récusé, Ramoncite Accimé*, Rezonodwes (Jan. 20, 2020), <https://rezonodwes.com/2020/01/20/petrocaribe-wilson-laleau-auditionne-par-le-juge-recuse-ramoncite-accime/>.

⁶⁵ See U.S. DOS, *Haiti Human Rights Report Revised 2019*, pp. 16-17; Hervé Noel, *Le juge instructeur Ramoncite Accimé dans le viseur des plaignants Petro Caribe*, Rezo Nodwes (July 9, 2019), <https://rezonodwes.com/2019/07/09/le-juge-instructeur-ramoncite-accime-dans-le-viseur-des-plaignants-petro-caribe/>; Roberson Alphonse, *Petrocaribe : Le Juge D’instruction Lance des Convocations*, Le Nouvelliste (Jun. 7, 2019), <https://lenouvelliste.com/article/204632/petrocaribe-le-juge-dinstruction-lance-des-convocations>; Jésula Simon, *PetroCaribe : Un 3ème Ministre de Martelly Auditionné*, LoopHaiti (Aug. 20, 2019),

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⁶⁶ See Roberson Alphonse, *Paul Eronce Villard a refusé de « mater la rue »...*, *Le Nouvelliste* (Oct. 1, 2019), <https://lenouvelliste.com/article/207375/paul-eronce-villard-a-refuse-de-mater-la-rue>.

⁶⁷ See Laika Mezil, *PetroCaribe: Me Ramoncite Accimé decides*, *Haiti24.net* (Feb. 6, 2020), <http://haiti24.net/petrocaribe-letat-haitien-seule-partie-civile-me-andre-michel-sinsurge/>.

⁶⁸ See BINUH Feb. 2020 Report ¶ 10; see also BINUH Sept. 2020 Report ¶ 9 (“[T]he Government’s pursuit of its anti-corruption agenda in the energy sector was contested by the opposition for being politically motivated and partisan. Critics pointed in particular to the proceedings initiated against the private electricity provider SOGENER[.]”); Jacqueline Charles, *Haiti wanted to reform its energy sector. So police showed up to arrest power providers*, *Miami Herald* (Dec. 15, 2019), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article238406248.html>; *SOGENER dénonce des persécutions politiques*, *Le Nouvelliste* (Aug. 10, 2020), <https://lenouvelliste.com/article/219526/sogener-denonce-des-persecutions-politiques>.

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⁷¹ See U.N. Special Rapporteur on the Independence of Judges and Lawyers, *Informations reçues concernant le meurtre de M. Monferrier Dorval, qui aurait été commis à cause des positions qu’il avait adopté en sa qualité d’avocat*, U.N. Doc. HTI 3/20 (Nov. 20, 2020), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25700> [hereinafter “U.N. Special Rapporteur on the Independence of Judges and Lawyers, *Letter on the murder of Monferrier Dorval*”]; Marie Rosy Kesner Auguste Ducena, RNDDH, *Cérémonie d’Hommage au Professeur Me Monferrier DORVAL* (Sept. 25, 2020), <https://web.rnddh.org/wp-content/uploads/2020/09/Intervention-25-septembre-2020-Hommage-%C3%A0-Me-Dorval-28Sept2020-1.pdf>; Jacqueline Charles, *Haitian lawyer, constitutional expert gunned down hours after controversial radio interview*, *Miami Herald* (Aug. 29, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245352670.html>; Samuel Celiné, *Réactions après l’assassinat de Monferrier Dorval*, *AyiboPost* (Sept. 3, 2020), <https://ayibopost.com/reactions-apres-lassassinat-de-monferrier-dorval/>; Francklyn B Geffrard, *Pierre Espérance exhorte le CSPJ à mettre des moyens adéquats à la disposition du juge instruisant le dossier de l’affaire Monferrier Dorval*, *RHI News* (May 24, 2021), <https://www.rhinews.com/justice/pierre-esperance-exhorte-le-cspj-a-mettre-des-moyens-adequats-a-la-disposition-du-juge-instruisant-le-dossier-de-laffaire-monferrier-dorval/>.

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⁷⁴ See Caleb Lefèvre, *Les avocats de la Sogener ont exercé une action en habeas corpus* (Nov. 28, 2019), <https://lenouvelliste.com/article/209641/les-avocats-de-la-sogener-ont-exerce-une-action-en-habeas-corpus>.

⁷⁵ See further Section III.B.b.

⁷⁶ BINUH Feb. 2021 Report ¶ 35; U.N. Special Rapporteur on the Independence of Judges and Lawyers, *Letter on the murder of Monferrier Dorval*; RNDDH, RNDDH report on the functioning of the Haitian judicial system during the year 2019-2020 (2020), p. 12, https://web.rnddh.org/wp-content/uploads/2020/10/9-Rap-Justice-2019-2020-7Oct2020.ENG_.pdf [hereinafter “RNDDH, Report on Haitian judicial system 2019-2020”]

(Annex 8); RNDDH, Theft of the corpus delicti and exhibits at the courthouse of Port-au-Prince: The RNDDH requires a thorough investigation and conviction of the culprits (2020), ¶¶ 4, 68-69, <https://web.rnddh.org/wp-content/uploads/2020/11/11-Rap-Vols-TPI-PAP-VS-19Nov2020-1.pdf> [hereinafter “RNDDH, Theft at the courthouse of Port-au-Prince”].

⁷⁷ BINUH Feb. 2021 Report ¶ 35; U.N. Special Rapporteur on the Independence of Judges and Lawyers, *Letter on the murder of Monferrier Dorval*, p. 3; Roberson Geffrard, *Attaque contre le véhicule du juge qui enquête sur l’assassinat de Me Dorval*, Le Nouvelliste (Nov. 16, 2020), <https://lenouvelliste.com/article/223189/attaque-contre-le-vehicule-du-juge-qui-enquete-sur-lassassinat-de-me-dorval>.

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⁷⁹ Roberson Geffrard, *L’insécurité au Bicentenaire entrave l’avancement de l’enquête sur l’assassinat de Me Monferrier Dorval*, Le Nouvelliste (Dec. 21, 2020), <https://lenouvelliste.com/article/224487/linsecurite-au-bicentenaire-entrave-lavancement-de-lenquete-sur-lassassinat-de-me-monferrier-dorval>.

⁸⁰ RNDDH, Report on Haitian judicial system 2019-2020, pp. 12-13 (Annex 8); Roberson Alphonse, *Assassinat de Me Dorval : la première dame Martine Moïse invitée par le juge d’instruction*, Le Nouvelliste (May 26, 2021), <https://lenouvelliste.com/article/229291/assassinat-de-me-dorval-la-premiere-dame-martine-moise-invitee-par-le-juge-dinstruction>; see also Francklyn B Geffrard, *Pierre Espérance exhorte le CSPJ à mettre des moyens adéquats à la disposition du juge instruisant le dossier de l’affaire Monferrier Dorval*, RHI News (May 24, 2021), <https://www.rhinews.com/justice/pierre-esperance-exhorte-le-cspj-a-mettre-des-moyens-adequats-a-la-disposition-du-juge-instruisant-le-dossier-de-laffaire-monferrier-dorval/>.

⁸¹ RNDDH, Instruction du dossier relatif à l’assassinat de Maître Monferrier DORVAL; Roberson Alphonse, *Assassinat de Me Dorval : la première dame Martine Moïse invitée par le juge d’instruction*, Le Nouvelliste (May 26, 2021), <https://lenouvelliste.com/article/229291/assassinat-de-me-dorval-la-premiere-dame-martine-moise-invitee-par-le-juge-dinstruction>; Roberson Geffrard, *Affaire Me Dorval: les agents de sécurité du juge d’instruction désarmés, le commissaire du gouvernement refuse d’exécuter ses ordonnances*, Le Nouvelliste (June 18, 2021), <https://lenouvelliste.com/article/229916/affaire-me-dorval-les-agents-de-securite-du-juge-dinstruction-desarmes-le-commissaire-du-gouvernement-refuse-dexecuter-ses-ordonnances>; *Assassinat de Me Dorval, le commissaire du gouvernement « refuse d’exécuter les ordonnances »*, Le Nouvelliste (June 23, 2021), <https://lenouvelliste.com/alaminate/18900/assassinat-de-me-dorval-le-commissaire-du-gouvernement-refuse-dexecuter-les-ordonnances>.

⁸² See, e.g., BINUH June 2021 Report ¶¶ 36, 41; BINUH Feb. 2021 Report ¶ 61; U.N. Special Rapporteur on the Independence of Judges and Lawyers, *Letter on the murder of Monferrier Dorval*; RNDDH, Instruction du dossier relatif à l’assassinat de Maître Monferrier DORVAL (documenting the lack of progress made on the case).

⁸³ See HRC, 2016 UPR Report, recommendation 115.116 (“Ensure that the Judiciary, including the Supreme Council of the Judiciary, has adequate resources and can function without political interferences (Uruguay)”) (supported by Haiti); *id.* 115.117 (“Ensure sufficient human resources in the judicial system, including the Supreme Court of the Judiciary, to enable it to operate independently, to decrease the number of persons in preventive custody and to guarantee the right to a fair trial (Germany)”) (supported by Haiti); *id.* 115.118 (“Ensure the judiciary, including the Supreme Council of the Judiciary (CSPJ) is provided with adequate resources and able to operate free from political interference (Australia)”) (supported by Haiti); *id.* 115.119 (“Strengthen the independence and professionalism of the judiciary and adopt a system of transparent appointment and removal of judges (Czechia)”) (supported by Haiti); *id.* 115.21 (“Ensure the rule of law, in particular through proper management of judicial structures and systems (Japan)”) (supported by Haiti); *id.* 115.123 (“Take the necessary measures to allow the judicial system to effectively fight against impunity, including through judicial processes that

are carried out within reasonable deadlines (Switzerland)”) (supported by Haiti); *id.* 115.124 (“Increase the number of magistrates to alleviate court proceedings, and take measures regarding their election to ensure their independence (Costa Rica)”) (supported by Haiti); *id.* 115.39 (“Strengthen its work to promote a human rights culture throughout the country and ensure rule of law and equal treatment before the law (Norway)”) (supported by Haiti).

⁸⁴ *Conseil supérieur du pouvoir judiciaire.*

⁸⁵ See Haiti Constitution (1987), art. 184-2; see also Loi créant le conseil supérieur du pouvoir, preamble, Le Moniteur (Dec. 20, 2007), available at http://www.oas.org/juridico/PDFs/mesicic4_hti_conseil.pdf (“Considering that it is appropriate to set up within the Judicial Branch a body able to ensure its independence”); *id.* at art. 1.

⁸⁶ See U.S. DOS, Haiti Human Rights Report 2020, p. 8; *Haiti: Attacks on Judicial Independence: UN Security Council Should Call for Restoring Supreme Court at Upcoming Meeting*, Human Rights Watch (HRW) (Feb. 22, 2021), <https://www.hrw.org/news/2021/02/22/haiti-attacks-judicial-independence> [hereinafter “HRW, *Haiti: Attacks on Judicial Independence*”]; IJDH & BAI, IACHR Hearing Submission, pp. 5-6 (Annex 7); see generally Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti: The Need for Discipline and Civil Society Participation*, Hastings International and Comparative Law Review (2016), https://repository.uchastings.edu/cgi/viewcontent.cgi?article=1809&context=hastings_international_comparative_law_review [hereinafter “Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*”] (Annex 10); IACHR, *The Right of Women in Haiti to be Free from Violence and Discrimination* (2009), ¶¶ 107-128, <https://cidh.oas.org/countryrep/haitimujer2009eng/haitiwomen09.toc.htm> [hereinafter “IACHR, *Report on The Right of Women in Haiti to be Free from Violence and Discrimination*”]; Jean Pharès Jérôme, *L’infantilisation du pouvoir judiciaire*, Le Nouvelliste (Nov. 12, 2020), <https://lenouvelliste.com/article/223117/linfantilisation-du-pouvoir-judiciaire>; Samuel Celiné, *La Justice n’est pas indépendante, malgré l’existence du CSPJ*, AyiboPost (Nov. 19, 2020), <https://ayibopost.com/la-justice-nest-pas-independante-malgre-lexistence-du-cspj/> (updated Jan. 29, 2021).

⁸⁷ Haiti Constitution (1987), art. 175 (“Supreme Court justices are appointed by the President of the Republic from a list submitted by the Senate of three (3) persons per court seat. Judges of the Courts of Appeal and Courts of First Instance are appointed from a list submitted by the Departmental Assembly concerned; Justices of the Peace are appointed from a list drawn up by the Communal Assemblies.”); *id.* at art. 184-2; Loi créant le conseil supérieur du pouvoir (2007), art. 1; see Jean Pharès Jérôme, *L’infantilisation du pouvoir judiciaire*, Le Nouvelliste (Nov. 12, 2020), <https://lenouvelliste.com/article/223117/linfantilisation-du-pouvoir-judiciaire>.

⁸⁸ See Lionel Constant Bourgoïn, former prosecutor and former Director General of Haiti’s Anti-Corruption Unit, *Statement at the IACHR Public Hearing on Impunity for Human Rights Violations and Lack of Judicial Independence in Haiti: Rapport entre l’impunité généralisée et le manque d’indépendance du pouvoir judiciaire en Haïti* (Dec. 10, 2020), available at <http://www.ijdh.org/wp-content/uploads/2021/01/DE-L%C2%B9IMPUNIT%C3%89-EN-HA%C3%89TI-Bourgoïn-FINAL.pdf>; IJDH & BAI, IACHR Hearing Submission, pp. 5 (Annex 7); Jean Pharès Jérôme, *L’infantilisation du pouvoir judiciaire*, Le Nouvelliste (Nov. 12, 2020), <https://lenouvelliste.com/article/223117/linfantilisation-du-pouvoir-judiciaire>; Samuel Celiné, *La Justice n’est pas indépendante, malgré l’existence du CSPJ*, AyiboPost (Nov. 19, 2020), <https://ayibopost.com/la-justice-nest-pas-independante-malgre-lexistence-du-cspj/> (updated Jan. 29, 2021); see also Human Rights Committee, General Comment No. 32, ¶ 19 (“The requirement of independence refers [to]... the actual independence of the judiciary from political interference by the executive branch and legislature... A situation where... [the executive] is able to control or direct the [judiciary] is incompatible with the notion of an independent tribunal. It is necessary to protect judges against conflicts of interest and intimidation.”).

⁸⁹ See *supra* note 48.

⁹⁰ See Samuel Celiné, *Jovenel Moïse écarte 3 juges. Depuis, les dossiers impliquant ses proches sont à l’arrêt*, Ayibo Post (May 11, 2021), <https://ayibopost.com/jovenel-moise-ecarte-3-juges-depuis-les-dossiers-impliquant-ses-proches-sont-a-larret/> (reporting that out of the three judges whose mandates were not renewed, one judge was investigating the La Saline massacre implicating two former government officials of the Moïse administration, one judge was investigating fraud by a company implicated in the PetroCaribe scandal, and another judge was investigating the armed attack during a 2018 Senate debate on the embezzlement of PetroCaribe funds); *Haïti-Justice: L’Association professionnelle des Magistrats déplore le non renouvellement des mandats de certains juges*, Vant Bêf Info (Jan. 27, 2021), <https://vantbefinfo.com/2021/01/haiti-justice-lassociation-professionnelle-des-magistrats-deploire-le-non-renouvellement-des-mandats-de-certains-juges/>; Winnie Hugot Gabriel Duvil, *L’exécutif ne renouvelle pas le mandat de trois juges travaillant sur des dossiers impliquant des proches du pouvoir*, Le Nouvelliste (Jan. 28, 2021), <https://lenouvelliste.com/article/225766/lexecutif-ne-renouvelle-pas-le-mandat-de-trois-juges-travaillant-sur-des-dossiers-impliquant-des-proches-du-pouvoir>; see also *supra* note 63 (discussing the lack of

accountability for the fraudulent use of PetroCaribe funds).

⁹¹ *L'Association professionnelle des magistrats* (APM).

⁹² Winnie Hugot Gabriel Duval, *L'exécutif ne renouvelle pas le mandat de trois juges travaillant sur des dossiers impliquant des proches du pouvoir*, *Le Nouvelliste* (Jan. 28, 2021), <https://lenouvelliste.com/article/225766/lexecutif-ne-renouvelle-pas-le-mandat-de-trois-juges-travaillant-sur-des-dossiers-impliquant-des-proches-du-pouvoir>; *Haiti-Justice: L'Association professionnelle des Magistrats déplore le non renouvellement des mandats de certains juges*, *Vant Bèf Info* (Jan. 27, 2021), <https://vantbefinfo.com/2021/01/haiti-justice-lassociation-professionnelle-des-magistrats-deploire-le-non-renouvellement-des-mandats-de-certains-juges/>.

⁹³ See BINUH June 2021 Report ¶ 41 (noting that no appointment was made to replace Judge Etienne on the La Saline case); Samuel Celiné, *Jovenel Moïse écarte 3 juges. Depuis, les dossiers impliquant ses proches sont à l'arrêt*, *Ayibo Post* (May 11, 2021), <https://ayibopost.com/jovenel-moise-ecarte-3-juges-depuis-les-dossiers-impliquant-ses-proches-sont-a-larret/>; see further Section III.A.

⁹⁴ See, e.g., BINUH June 2021 Report ¶ 28; OHCHR, *Press briefing notes on Haiti* (Feb. 19, 2021), <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=26763&LangID=E> [hereinafter "**OHCHR, Feb. 2021 Press Briefing Notes**"]; HRW, *Haiti: Attacks on Judicial Independence*; U.S. Human Rights Clinics, *Joint Statement on the Constitutional and Human Rights Crisis in Haiti*; 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-presentis-pour-le-remplacer>.

⁹⁵ Haiti Constitution (1987), art. 177 (“Judges of the Supreme Court, the Courts of Appeal and the Courts of First Instance are appointed for life. They may be removed from office only because of a legally determined abuse of authority or be suspended following and indictment leveled against them. They may not be reassigned, without their consent, even in the case of a promotion. Their service may be terminated during their term of office only in the event of a duly determined permanent physical or mental incapacity.”); *id.*, art. 184-1 (stating that whether a supreme court justice abused their authority is determined by the High Court of Justice); *id.*, art. 185 (“The Senate may constitute itself as a High Court of Justice.”); *id.*, art. 186 (“The Chamber of Deputies, by a majority of two-thirds (2/3) of its members, shall indict... d. Supreme Court justices and officer of the Public Prosecutor’s Office before the Court for abuse of authority.”). See also CCPR, art. 14(1); ACHR, art. 8(1); Human Rights Committee, General Comment No. 32, ¶ 20 (“Judges may be dismissed only on serious grounds of misconduct or incompetence, in accordance with fair procedures ensuring objectivity and impartiality set out in the constitution or the law. The dismissal of judges by the executive, e.g. before the expiry of the term for which they have been appointed, without any specific reasons given to them and without effective judicial protection being available to contest the dismissal is incompatible with the independence of the judiciary.”).

⁹⁶ Haiti Constitution (1987), art. 175 (“Supreme Court justices are appointed by the President of the Republic from a list submitted by the Senate of three (3) persons per court seat.”); *Loi portant statut de la magistrature*, *Le Moniteur* (Dec. 20, 2007), art. 28, available at https://www.oas.org/juridico/PDFs/mesicic4_hti_loi_magis.pdf; see BINUH June 2021 Report ¶ 28; HRW, *Haiti: Attacks on Judicial Independence*.

⁹⁷ See Ricardo Lambert, *Grève : Après deux mois, les associations de magistrats annoncent une trêve*, *Le Nouvelliste* (April 20, 2021), <https://lenouvelliste.com/article/228480/greve-apres-deux-mois-les-associations-de-magistrats-annoncent-une-treve>; see further Robenson Geffrard, *Les juges entrent en grève illimitée pour forcer le président Moïse à respecter la Constitution*, *Le Nouvelliste* (Feb. 18, 2021), <https://lenouvelliste.com/article/226371/les-juges-entrent-en-greve-illimitee-pour-forcer-le-president-moise-a-respecter-la-constitution> (noting that the four judicial associations, National Association of Haitian Magistrates (ANAMAH), the Professional Association of Magistrates (APM), the Association of Haitian Justices of the Peace (AJUPHA) and the National Network of Haitian Magistrates (RENAMAH), went on strike in protest of the illegal replacement of the three justices).

⁹⁸ OHCHR, *Feb. 2021 Press briefing notes*; see HRW, *Haiti: Attacks on Judicial Independence*.

⁹⁹ See, e.g., BINUH June 2021 Report ¶¶ 6, 28. On the day of the arrests, the government closed down the supreme court and the School of Magistrates, where judges had planned to hold a press conference to denounce Dabrésil’s arrest, with heavily armed police acting to prevent access. See Jacqueline Charles, *As Haiti dives deeper into chaos, opposition tries forming parallel government*, *Miami Herald* (Feb. 9, 2021), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article249092640.html>; 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-presentis-pour-le-remplacer>; Francklyn B Geffrard, *Jovenel Moïse annonce la révocation des juges*

inamovibles de la Cour de Cassation, RHINEWS (Feb. 8, 2021), <https://www.rhinews.com/actualites/jovenel-moise-annonce-la-revocation-des-juges-inamovibles-de-la-cour-de-cassation/>; *Après la Cour de cassation, l'École de la magistrature est placée sous contrôle de la police*, Haiti Standard (Feb. 8, 2021), <https://haitistandard.com/apres-la-cour-de-cassation-lecole-de-la-magistrature-est-placee-sous-contrôle-de-la-police/>; Lillian Perlmutter, *Haiti Descends Into Chaos Amid Mounting Fears of Dictatorship*, Vice (Feb. 16, 2021), <https://www.vice.com/en/article/4ad8mw/haiti-descends-into-chaos-amid-mounting-fears-of-dictatorship>.

¹⁰⁰ See, e.g., OHCHR, *Feb. 2021 Press Briefing Notes*; HRW, *Haiti: Attacks on Judicial Independence*; U.S. Human Rights Clinics, *Joint Statement on the Constitutional and Human Rights Crisis in Haiti*; RNDDH, *State of siege and systematic violation of the civil and political rights of the population: RNDDH demands compliance with the Haitian Constitution* (Feb. 9, 2021), <https://web.rnddh.org/wp-content/uploads/2021/02/4-CP-Etat-de-si%C3%A8ge-9Fev2021-ENG.pdf>.

¹⁰¹ See Jacqueline Charles, *Appeals court orders release of alleged coup plotters in Haiti*, Miami Herald (Mar. 24, 2021), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article250178885.html>; Sandra Lemaire, *Haiti Civilian Court Orders Release of Supreme Court Justice Accused in Coup Plot*, VOA News (Feb. 11, 2021), <https://www.voanews.com/americas/haiti-civilian-court-orders-release-supreme-court-justice-accused-coup-plot>; Caleb Lefèvre, *Le juge Yvickel Dabrézil sort de prison*, Le Nouvelliste (Feb. 11, 2021), <https://lenouvelliste.com/article/226304/le-juge-yvickel-dabresil-sort-de-prison>.

¹⁰² See BINUH June 2021 Report ¶ 28; *Le syndicat des huissiers solidaire de L'Espérance Christophe*, Le Nouvelliste (Feb. 12, 2021), <https://lenouvelliste.com/article/226320/le-syndicat-des-huissiers-solidaire-de-lesperance-christophe>.

¹⁰³ See BINUH June 2021 Report ¶¶ 28-29; OHCHR, *Feb. 2021 Press briefing note*; Robenson Geffrard, *Les juges entrent en grève illimitée pour forcer le président Moïse à respecter la Constitution*, Le Nouvelliste (Feb. 18, 2021), <https://lenouvelliste.com/article/226371/les-juges-entrent-en-greve-illimitee-pour-forcer-le-president-moise-a-respecter-la-constitution>; *Haiti - Justice : 44th days of Magistrates' Strike, the OPC as negotiator*, Haiti Libre (Mar. 31, 2021), <https://www.haitilibre.com/en/news-33369-haiti-justice-44th-days-of-magistratesstrike-the-opc-as-negotiator.html>; Lillian Perlmutter, *Haiti Descends Into Chaos Amid Mounting Fears of Dictatorship*, Vice (Feb. 16, 2021), <https://www.vice.com/en/article/4ad8mw/haiti-descends-into-chaos-amid-mounting-fears-of-dictatorship>.

¹⁰⁴ See U.N. Secretary-General, MINUJUSTH, U.N. Doc. S/2018/527 (June 1, 2018), ¶ 39 [hereinafter “**MINUJUSTH June 2018 Report**”] (“[P]rotracted delays in completing the appointment or renewal of the term of judges... are hindering the normal functioning of the judicial system at all levels.”); U.S. DOS, *Haiti Human Rights Report 2020*, p. 8; U.S. DOS, *Haiti Human Rights Report Revised 2019*, pp. 9-10; RNDDH, *Fonctionnement de l'appareil judiciaire haïtien au cours de l'année judiciaire 2017-2018* (2018), p. 19, <https://web.rnddh.org/wp-content/uploads/2018/09/6-Rap-Justice-2017-2018-27Sept18.pdf>; Caleb, Lefèvre, « *D'ici trois mois, des tribunaux fonctionneront avec un seul juge* », Le Nouvelliste (June 2, 2021), <https://lenouvelliste.com/article/216832/dici-trois-mois-des-tribunaux-fonctionneront-avec-un-seul-juge>.

¹⁰⁵ Caleb, Lefèvre, « *D'ici trois mois, des tribunaux fonctionneront avec un seul juge* », Le Nouvelliste (June 2, 2021), <https://lenouvelliste.com/article/216832/dici-trois-mois-des-tribunaux-fonctionneront-avec-un-seul-juge>.

¹⁰⁶ See Décret relatif à l'organisation judiciaire (Aug. 22, 1995), art. 132, available at https://web.oas.org/mla/en/Countries_Intro/Haiti_intro_text_fra_4.pdf (“In formal hearings of the combined sections, the court shall sit with all its members, unless legitimately prevented from doing so, provided that the number of magistrates is not less than seven. The same shall apply to the sessions of the General Assembly of Judges and the Superior Council of the Judiciary. Nevertheless, it may only rule upon the exception of unconstitutionality with a composition of at least nine (9) judges.”); *id.* at art. 141 (“Article 141.- The sections, meeting in formal session, shall consider: 1) Appeals in second instance. 2) Applications for review of criminal trials in the cases foreseen in the Code of Criminal Investigation. 3) Requests for unconstitutionality of laws”).

¹⁰⁷ See U.S. DOS, *Haiti Human Rights Report Revised 2019*, pp. 9-10; MINUJUSTH Mar. 2019 Report ¶ 24; see also Décret relatif à l'organisation judiciaire (1995), art. 132.

¹⁰⁸ See Emmanuel Moïse Yves, *Après la mort du juge René Sylvestre, la justice haïtienne risque le dysfonctionnement total*, AyiboPost (July 4, 2021), <https://ayibopost.com/apres-la-mort-du-juge-rene-sylvestre-la-justice-haitienne-risque-le-dysfonctionnement-total/>.

¹⁰⁹ *Id.*; *Loi créant le conseil supérieur du pouvoir* (2007), art. 4 (requiring that the president of the supreme court serve as the president of the CSPJ).

¹¹⁰ See Caleb Lefèvre, *Le CSPJ caduc, l'exécutif seul aux commandes*, Le Nouvelliste (July 5, 2021), <https://lenouvelliste.com/article/230219/le-cspj-caduc-lexecutif-seul-aux-commandes>; Emmanuel Moïse Yves, *Après la mort du juge René Sylvestre, la justice haïtienne risque le dysfonctionnement total*, AyiboPost (July 4, 2021), <https://ayibopost.com/apres-la-mort-du-juge-rene-sylvestre-la-justice-haitienne-risque-le-dysfonctionnement->

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¹¹¹ *Cour Supérieure des Comptes and du contentieux Administratif*.

¹¹² See Jake Johnston & Kira Paulemon, *At Odds with Presidency, a Government Watchdog is Weakened by Executive Decree*, Center for Economic and Policy Research (Nov. 12, 2020), <https://cepr.net/at-odds-with-presidency-a-government-watchdog-is-weakened-by-executive-decree/>; Robenson Geffrard, *Jovenel Moïse publie un décret qui enlève à la Cour supérieure des comptes une bonne partie de son pouvoir de contrôle*, Le Nouvelliste (Nov. 9, 2020), <https://lenouvelliste.com/article/222919/jovenel-moise-publie-un-decret-qui-enleve-a-la-cour-superieure-descomptes-son-autorite-de-controle>.

¹¹³ See FJKL, *Dossier PetroCaribe, Le rapport final d'audit de la Cour Supérieure des Comptes et du Contentieux Administratif (CSCCA) au regard du droit positif haïtien en matière de lutte contre la corruption : la FJKL juge le rapport pertinent et ouvre la voie à l'organisation des procès que le peuple haïtien attend* (Aug. 27, 2020), <https://www.fjkl.org.ht/images/doc/FJKL5-CSCCA-PetroCaribe-Rapport-final-27-aout-2020.pdf>; Jacqueline Charles, *Haiti president accused of embezzlement scheme in government audit of Venezuela aid money*, Miami Herald (June 4, 2019), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article231122978.html>; Jacqueline Charles, *Haiti corruption scandal: Billions wasted in Venezuelan PetroCaribe aid, new report shows*, Miami Herald (Aug. 19, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245045015.html>. See further Section III.A.

¹¹⁴ See Jake Johnston & Kira Paulemon, *At Odds with Presidency, a Government Watchdog is Weakened by Executive Decree*, Center for Economic and Policy Research (Nov. 12, 2020), <https://cepr.net/at-odds-with-presidency-a-government-watchdog-is-weakened-by-executive-decree/>; Robenson Geffrard, *Jovenel Moïse publie un décret qui enlève à la Cour supérieure des comptes une bonne partie de son pouvoir de contrôle*, Le Nouvelliste (Nov. 9, 2020), <https://lenouvelliste.com/article/222919/jovenel-moise-publie-un-decret-qui-enleve-a-la-cour-superieure-descomptes-son-autorite-de-controle>.

¹¹⁵ See Jake Johnston & Kira Paulemon, *At Odds with Presidency, a Government Watchdog is Weakened by Executive Decree*, Center for Economic and Policy Research (Nov. 12, 2020), <https://cepr.net/at-odds-with-presidency-a-government-watchdog-is-weakened-by-executive-decree/>; see also Haiti Constitution (1987), arts. 200 – 200-4.

¹¹⁶ See OHCHR, *Feb. 2021 Press Briefing Notes*; HRW, *Haiti: Attacks on Judicial Independence*; Robenson Geffrard, *Les juges entrent en grève illimitée pour forcer le président Moïse à respecter la Constitution*, Le Nouvelliste (Feb. 18, 2021), <https://lenouvelliste.com/article/226371/les-juges-entrent-en-greve-illimitee-pour-forcer-le-president-moise-a-respecter-la-constitution>.

¹¹⁷ See RNDDH, *Renouvellement de la requête s'opposant à la prestation de serment des membres du CEP nommés* (2020), <https://web.rnddh.org/wp-content/uploads/2020/10/2-Lettre-Cour-de-Cassation-2-Oct.-2020.pdf>; Jacqueline Charles, *Haiti's supreme court declines to swear in election council. Moïse installed them anyway*, Miami Herald (Sept. 22, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245930435.html>.

¹¹⁸ See, e.g., OAS, *Report of the OAS Good Offices Mission to Haiti pursuant to CP / RES. 1168 (2315/21) (2021)*, <http://scm.oas.org/pdfs/2021/CP44283EREPORTHAITI.pdf> (recommending the appointment of new members to the provisional electoral council to restore public confidence in the electoral process); House Foreign Affairs Committee, *Letter from the United States House of Representatives Committee on Foreign Affairs to Secretary of State Antony J. Blinken* (June 29, 2021), available at <https://twitter.com/HouseForeign/status/1410011663978356743?s=20>; Jacqueline Charles, *Haiti's supreme court declines to swear in election council. Moïse installed them anyway*, Miami Herald (Sept. 22, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245930435.html>; Jacqueline Charles, *Haiti's public works minister is accused of intimidating the country's watchdog agency*, Miami Herald (Sept. 2, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245959635.html>; Francklyn B Geffrard, *La Cour des Comptes doit invalider tout acte administratif lié aux projets d'élections et de constitution de Jovenel Moïse, selon le CADOA*, RHI News (Mar. 2, 2021), <https://www.rhinews.com/politique/la-cour-des-comptes-doit-invalider-tout-acte-administratif-lie-aux-projets-delections-et-de-constitution-de-jovenel-moise-selon-le-cadoa/>.

¹¹⁹ See, e.g., U.S. DOS, *Haiti Human Rights Report Revised 2019*, p. 9 (“[J]udges often feared ruling against powerful interests due to concerns for their personal security”); RNDDH, *Report on Haitian judicial system 2019-2020*, pp. 5-7 (**Annex 8**) (noting that members of the judiciary are often killed and listing several incidents of attacks on judicial staff in 2019-2020); *supra* notes 70-74 (discussing the assassination of lawyer and constitutional scholar Monferrier Dorval); *supra* notes 77-78 (describing how the investigation into Dorval's assassination has

been stopped due to continued attacks on the judge and insufficient security).

¹²⁰ See U.N. Special Rapporteur on the Independence of Judges and Lawyers, *Letter on the murder of Monferrier Dorval*; Robenson Geffrard, *L'ANAMAH denounce des menaces de mort contre Wendelle Coq, juge à la Cour de cassation*, Le Nouvelliste (Sept. 28, 2020), <https://lenouvelliste.com/article/221406/lanamah-denonce-des-menaces-de-mort-contre-wendelle-coq-juge-a-la-cour-de-cassation>; see also IACHR, Haiti: Failed Justice or the Rule of Law? (2005) ¶¶ 148-150, 158-159. The National Association of Haitian Magistrates condemned threats and attacks on members of the judiciary as attempts to prevent justice and accountability in Haiti. Robenson Geffrard, *L'ANAMAH denounce des menaces de mort contre Wendelle Coq, juge à la Cour de cassation*, Le Nouvelliste (Sept. 28, 2020), <https://lenouvelliste.com/article/221406/lanamah-denonce-des-menaces-de-mort-contre-wendelle-coq-juge-a-la-cour-de-cassation>.

¹²¹ See, e.g., *Haiti: Football Sex Abuse Case Witnesses Threatened*, Human Rights Watch (Aug. 14, 2020), <https://www.hrw.org/news/2020/08/14/haiti-football-sex-abuse-case-witnesses-threatened#>; see also Robenson Geffrard, *L'insécurité au Bicentenaire entrave l'avancement de l'enquête sur l'assassinat de Me Monferrier Dorval*, Le Nouvelliste (Dec. 21, 2020), <https://lenouvelliste.com/article/224487/insecurite-au-bicentenaire-entrave-lavancement-de-lenquete-sur-lassassinat-de-me-monferrier-dorval>.

¹²² See *supra* notes 70-74.

¹²³ See Robenson Geffrard, *L'ANAMAH denounce des menaces de mort contre Wendelle Coq, juge à la Cour de cassation*, Le Nouvelliste (Sept. 28, 2020), <https://lenouvelliste.com/article/221406/lanamah-denonce-des-menaces-de-mort-contre-wendelle-coq-juge-a-la-cour-de-cassation>.

¹²⁴ See *id.*; 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-presentis-pour-le-remplacer>.

¹²⁵ See U.S. DOS, *Haiti Human Rights Report Revised 2019*, p. 17; RNDDH, *Fonctionnement de l'appareil judiciaire haïtien au cours de l'année 2018-2019* (2019), pp. 4-5, <https://web.rnddh.org/wp-content/uploads/2019/10/4-Rap-Justice-15Oct2019.pdf>; Robenson Geffrard, *Objet d'un mandat d'amener, le coordonnateur de sécurité du palais national limogé*, Le Nouvelliste (Nov. 28, 2018), <https://lenouvelliste.com/article/195387/objet-dun-mandat-damener-le-coordonnateur-de-securite-du-palais-national-limoge>.

¹²⁶ The Minister arrived at the CSCCA in an unmarked car with armed, masked men; they stood guard while accompanying civilians took photos and videos of the CSCCA employees and documents involved in an ongoing corruption investigation. CSCCA's president called the armed visitation a threat against the court. See Jake Johnston & Kira Paulemon, *At Odds with Presidency, a Government Watchdog is Weakened by Executive Decree*, Center for Economic and Policy Research (Nov. 12, 2020), <https://cepr.net/at-odds-with-presidency-a-government-watchdog-is-weakened-by-executive-decree/>; Jacqueline Charles, *Haiti's public works minister is accused of intimidating the country's watchdog agency*, Miami Herald (Sept. 2, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245959635.html>.

¹²⁷ See Jake Johnston & Kira Paulemon, *At Odds with Presidency, a Government Watchdog is Weakened by Executive Decree*, Center for Economic and Policy Research (Nov. 12, 2020), <https://cepr.net/at-odds-with-presidency-a-government-watchdog-is-weakened-by-executive-decree/>; Jacqueline Charles, *Haiti's public works minister is accused of intimidating the country's watchdog agency*, Miami Herald (Sept. 2, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245959635.html>.

¹²⁸ See Jacqueline Charles, *Haiti corruption scandal: Billions wasted in Venezuelan PetroCaribe aid, new report shows*, Miami Herald (Aug. 19, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245045015.html>; see also *supra* notes 61-62.

¹²⁹ See Jake Johnston & Kira Paulemon, *At Odds with Presidency, a Government Watchdog is Weakened by Executive Decree*, Center for Economic and Policy Research (Nov. 12, 2020), <https://cepr.net/at-odds-with-presidency-a-government-watchdog-is-weakened-by-executive-decree/>; Jacqueline Charles, *Haiti's public works minister is accused of intimidating the country's watchdog agency*, Miami Herald (Sept. 2, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245959635.html>.

¹³⁰ See BINUH June 2021 Report ¶¶ 20 – 21; *supra* notes 14-16. In January 2020, armed actors forced all court officials to leave the courthouse and gangs often disrupt court proceedings with gunfire, causing judges and litigants to take cover; the police did nothing to intervene. See Robenson Geffrard, *La justice déguerpie par des bandits armés au Bicentenaire*, Le Nouvelliste (Jan. 22, 2020), <https://lenouvelliste.com/article/211456/la-justice-deguerpie-par-des-bandits-armes-au-bicentenaire>. In some cases, courthouses have been burned or ransacked during protests. See BINUH Feb. 2020 Report ¶ 20; RNDDH, *Report on Haitian judicial system 2019-2020*, p. 5 (**Annex 8**).

¹³¹ See RNDDH, Report on Haitian judicial system 2019-2020, p. 6-7, 20-21 (**Annex 8**); BINUH Feb. 2020 Report ¶ 20; *infra* note 136.

¹³² See, e.g., BINUH Feb. 2020 Report ¶ 20 (reporting that the National Association of Magistrates called upon its members to stop hearing cases due to security concerns); RNDDH Report on Haitian judicial system 2019-2020, p. 26 (**Annex 8**) (reporting that a judge has refused to continue the investigation of the 2019 murder of a journalist due to security concerns); *id.* at pp. 5-7 (discussing a number of attacks on members of the judiciary during the 2019-2020 judicial year); *supra* note 78 (discussing that the investigation into the assassination of Dorval has been stopped due to insufficient security for the judge).

¹³³ RNDDH, Report on Haitian judicial system 2019-2020, p. 5 (**Annex 8**); Evens Sanon and Dánica Coto, *Strikes, violence overwhelming Haiti's crumbling judiciary*, Associated Press (Jan. 28, 2021), <https://apnews.com/article/port-au-prince-prisons-judiciary-latin-america-united-nations-86043172b27e2fa42cd105a097ae3380>; Jacqueline Charles, *Haiti leader tells UN that constitutional referendum, elections are under way*, Miami Herald (June 18, 2021), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article252171283.html>.

¹³⁴ See, e.g., RNDDH, Report on Haitian judicial system 2019-2020, pp. 6-7 (**Annex 8**); Robenson Geffrard, *L'insécurité au Bicentenaire entrave l'avancement de l'enquête sur l'assassinat de Me Monferrier Dorval*, Le Nouvelliste (Dec. 21, 2020), <https://lenouvelliste.com/article/224487/linsecurite-au-bicentenaire-entrave-lavancement-de-lenquete-sur-lassassinat-de-me-monferrier-dorval>; see also *supra* notes 78-79.

¹³⁵ In June 2020 prosecutor Fritz Gérald Cerisier was murdered near the Court of First Instance after receiving death threats. Colleagues blamed his killing on government failure to protect prosecutors from assassination and for endorsing a culture of impunity. RNDDH, Report on Haitian judicial system 2019-2020, p. 6 (**Annex 8**); *Le substitut du commissaire du gouvernement, Farah Cadet, écrit au ministre Lucmane Délile*, Le Nouvelliste (July 2, 2020), <https://lenouvelliste.com/article/218121/le-substitut-du-commissaire-du-gouvernement-farah-cadet-ecrit-au-ministre-lucmane-delile>. Judge Antoine Lucius and bailiff Bob Dolciné were assassinated in 2020, the latter in front of the Port-au-Prince courthouse. RNDDH, Report on Haitian judicial system 2019-2020, pp. 5-6 (**Annex 8**); *Haiti-Insécurité : Après l'huissier Bob Dolciné, assassinat d'un juge de paix Antoine Luccius à Port-au-Prince*, AlterPresse (Jan. 8, 2020), <https://www.alterpresse.org/spip.php?article25128#.YL5xVZNKhhF>; Caleb Lefèvre, *Le juge de paix Antoine Luccius assassiné, le corps judiciaire indigné*, Le Nouvelliste (Jan. 7, 2020), <https://lenouvelliste.com/article/210891/le-juge-de-paix-antoine-luccius-assassine-le-corps-judiciaire-indigne>. Law professor and former prosecutor, Abdias Edumé, was kidnapped and released after eight days in February 2021. *Libération de Me Abdias Edumé après huit jours de sequestration*, Le Nouvelliste (Feb. 25, 2021), <https://lenouvelliste.com/article/226731/liberation-de-me-abdias-edume-apres-huit-jours-de-sequestration>; *Haiti-Insécurité : L'Université de Port-au-Prince exige la libération du professeur de droit Abdias Edumé, kidnappé par des bandits armés*, AlterPresse (Feb. 19, 2021), <https://www.alterpresse.org/spip.php?article26719#.YLfjRZNKhhF>. Judge Eno René Louis was kidnapped for several days, beaten, and later released after payment of the ransom in March 2021. *Libération du juge de paix Eno René Louis*, Le Nouvelliste (Apr. 2, 2021), <https://lenouvelliste.com/article/227926/liberation-du-juge-de-paix-eno-rene-louis>; *Haiti-Insécurité : Plusieurs associations de magistrats exigent la libération de Me. Eno René Louis, kidnappé le 27 mars 2021 à Croix-des-Bouquets*, AlterPresse (Mar. 29, 2021), <http://www.alterpresse.org/spip.php?article26861#.YL412pNKhhHI>; Jacqueline Charles (@Jacquiecharles), Twitter (Apr. 5, 2021, 9:00AM), <https://twitter.com/Jacquiecharles/status/1379056466934501377>.

¹³⁶ See BINUH June 2020 Report ¶19; RNDDH, Report on Haitian judicial system 2019-2020, pp. 6-7 (**Annex 8**); see Pierre Esperance, RNDDH, *Letter to the president of the CSPJ, Me René Sylvestre* (April 28, 2020), <https://web.rn-ddh.org/wp-content/uploads/2020/05/1-Letter-to-the-CSPJ-28Avril20.pdf>.

¹³⁷ See *supra* notes 99-101.

¹³⁸ See *supra* note 69.

¹³⁹ See *supra* note 68.

¹⁴⁰ The 18 month-long pretrial detention of former Delmas representative Arnel Bélizaire and his associates for alleged conspiracy against state security, which appears to be due to Bélizaire's status as a leader of the political opposition, is another example of how the judiciary is becoming a tool of political persecution. See Francklyn B Geffrard, *Haiti/Justice: Pierre Espérance souhaite que la Cour d'Appel libère Arnel Bélizaire et consorts*, RHI News (May 2, 2021), <https://www.rhinews.com/justice/haiti-justice-pierre-esperance-souhaite-que-la-cour-dappel-libere-arnel-belizaire-et-consorts/>; *Haiti-Justice: Le RNDDH réclame la libération de l'ex-député Arnel Bélizaire*, Haiti Press Network (May 2, 2021), <https://www.hpnhaiti.com/nouvelles/index.php/politique/36-space/9302-haiti-justice-le-rn-ddh-reclame-la-liberation-de-l-ex-depute-arnel-belizaire>; *Haiti-Justice: Arnel Belizaire rejects the*

charges against him, Haiti Libre (Dec. 5, 2019), <https://www.haitilibre.com/en/news-29436-haiti-justice-arnel-belizaire-rejects-the-charges-against-him.html>.

¹⁴¹ See U.S. DOS, Haiti Human Rights Report 2020, p. 8-9; U.S. DOS, Haiti Human Rights Report Revised 2019, p. 11; RNDDH, Report on Haitian judicial system 2019-2020, p. 27-28 (Annex 8).

¹⁴² RNDDH, Report on Haitian judicial system 2019-2020, p. 27 (Annex 8); see BINUH Feb. 2021 Report ¶61 (“The lack of progress in the investigation of the August 2020 assassination of Monferrier Dorval and the lack of accountability for individuals suspected of having directly participated in human rights violations and abuses, such as Jimmy Cherizier, are disconcerting.”); IACHR, Report on The Right of Women in Haiti to be Free from Violence and Discrimination ¶¶ 110 - 120 (noting that most cases of violence against women are not properly investigated and prosecuted).

¹⁴³ Budget général de l'exercice 2020-2021, Le Moniteur (Oct. 5, 2020), p. 14, <http://www.mef.gouv.ht/docs/budget-2020-2021.pdf>. Some reports the allocated budget to CSPJ as 1.5 percent of the national budget. BINUH Feb. 2021 Report ¶ 28.

¹⁴⁴ Sonel Jean-Francois, *Statement at the IACHR Public Hearing on Impunity for Human Rights Violations and Lack of Judicial Independence in Haiti: Dysfonctionnement et corruption du système judiciaire* (Dec. 10, 2020), available at <http://www.ijdh.org/wp-content/uploads/2021/01/Dysfonctionnement-et-corruption-du-systeme-judiciaire-CIDH-Jean-Francois-FINAL.pdf>.

¹⁴⁵ See *id.*

¹⁴⁶ See Section III.B.b; see also Samuel Celiné, *La Justice n'est pas indépendante, malgré l'existence du CSPJ*, AyiboPost (Nov. 19, 2020), <https://ayibopost.com/la-justice-nest-pas-independante-malgre-l'existence-du-cspj/> (updated Jan. 29, 2021).

¹⁴⁷ See BINUH Feb. 2021 Report ¶ 28; BINUH Sept. 2020 Report ¶ 24; RNDDH, Report on Haitian judicial system 2019-2020, p. 7-8 (Annex 8); Caleb Lefrèvre, *La justice haïtienne de crise en crise*, Le Nouvelliste (Jan. 4, 2021), <https://lenouvelliste.com/article/224832/la-justice-haitienne-de-crise-en-crise>; see generally Evens Sanon and Dánica Coto, *Strikes, violence overwhelming Haiti's crumbling judiciary*, Associated Press (Jan. 28, 2021), <https://apnews.com/article/port-au-prince-prisons-judiciary-latin-america-united-nations-86043172b27e2fa42cd105a097ae3380>; Sonel Jean-Francois, *Statement at the IACHR Public Hearing on Impunity for Human Rights Violations and Lack of Judicial Independence in Haiti: Dysfonctionnement et corruption du système judiciaire* (Dec. 10, 2020), <http://www.ijdh.org/wp-content/uploads/2021/01/Dysfonctionnement-et-corruption-du-systeme-judiciaire-CIDH-Jean-Francois-FINAL.pdf>. Strikes are typically used to advocate for, *inter alia*, better working conditions, payment of overdue salaries, increasing budgets, ensuring sufficient protections from violence, respect for judicial independence, and ensuring the prompt and apolitical filling of judicial mandates. See BINUH Sept. 2020 Report ¶ 24; BINUH Feb. 2020 Report ¶ 20 (The National Association of Magistrates instructed its members to stop work due to security concerns); Robenson Geffrard, *Les juges entrent en grève illimitée pour forcer le président Moïse à respecter la Constitution*, Le Nouvelliste (Feb. 18, 2021), <https://lenouvelliste.com/article/226371/les-juges-entrent-en-greve-illimitee-pour-forcer-le-president-moise-a-respecter-la-constitution> (reporting a recent strike to demand for the Executive's respect for judicial independence); Danio Darius, *Les juges de paix sont en grève depuis lundi*, Le Nouvelliste (June 3, 2020), <https://lenouvelliste.com/article/216934/les-juges-de-paix-sont-en-greve-depuis-lundi>.

¹⁴⁸ See Robenson Geffrard, *Les juges entrent en grève illimitée pour forcer le président Moïse à respecter la Constitution*, Le Nouvelliste (Feb. 18, 2021), <https://lenouvelliste.com/article/226371/les-juges-entrent-en-greve-illimitee-pour-forcer-le-president-moise-a-respecter-la-constitution>; Danio Darius, *Les juges de paix sont en grève depuis lundi*, Le Nouvelliste (June 3, 2020), <https://lenouvelliste.com/article/216934/les-juges-de-paix-sont-en-greve-depuis-lundi>.

¹⁴⁹ See RNDDH, *Rapport sur le fonctionnement de l'appareil judiciaire haïtien au cours de l'année judiciaire 2016-2017* (2017), pp. 8-9, <https://web.rnddh.org/wp-content/uploads/2017/10/6-Rapport-Justice-16Oct2017.pdf> (reporting strikes by judicial staff from January to March 2017 and the beginning of strikes in July 2017); U.N. Secretary-General, MINUJUSTH, U.N. Doc. S/2018/241 (Mar. 20, 2018), ¶ 25 (reporting that the strikes which started in July ended in November 2017 and began again in January 2018); RNDDH, *Fonctionnement de l'appareil judiciaire haïtien au cours de l'année 2018-2019* (2019), pp. 18-19, <https://web.rnddh.org/wp-content/uploads/2019/10/4-Rap-Justice-15Oct2019.pdf> (recording the start of a strike on October 2018, strikes in May and June 2019 and during the fall of 2019); MINUJUSTH Mar. 2019 Report ¶ 25 (reporting that the October 2018 strike ended in December 2018); see also *infra* notes 150-151.

¹⁵⁰ The judiciary was on strike in March 2020 and from June to December 2020. See BINUH Feb. 2021 Report ¶ 28; BINUH Sept. 2020 Report ¶ 24; U.S. DOS, Haiti Human Rights Report 2020, p. 8; RNDDH, Report on Haitian

judicial system 2019-2020, p. 8 (**Annex 8**); Evens Sanon and Dánica Coto, *Strikes, violence overwhelming Haiti's crumbling judiciary*, Associated Press (Jan. 28, 2021), <https://apnews.com/article/port-au-prince-prisons-judiciary-latin-america-united-nations-86043172b27e2fa42cd105a097ae3380>; Robenson Geffrard, *L'appareil judiciaire paralysé en Haïti depuis plus de deux mois avec la grève des greffiers*, Le Nouvelliste (Sept. 17, 2020), <https://lenouvelliste.com/article/221073/lappareil-judiciaireparalyse-en-haiti-depuis-plus-de-deux-mois-avec-la-greve-des-greffiers>; Evens Carrière, *Grève des greffiers : l'ANAGH observe une trêve jusqu' à 14 décembre prochain*, Constant Haiti (Oct. 14, 2020), <https://www.constanthaiti.info/2020/10/14/greve-des-greffiers-anagh-observe-une-treve-jusqu-a-14-decembre-prochain/>; Winnie Hugot Gabriel Duval, *Les parquetiers haïtiens observent un arrêt de travail*, Le Nouvelliste (Nov. 26, 2020), <https://lenouvelliste.com/article/223583/les-parquetiers-haitiens-observent-un-arret-de-travail>.

¹⁵¹ In January of 2021 clerks reinitiated their strike because the Ministry of Justice had failed to implement the agreement underlying the end of their previous strike in October 2020. See Caleb Lefrèvre, *La justice haïtienne de crise en crise*, Le Nouvelliste (Jan. 4, 2021), <https://lenouvelliste.com/article/224832/la-justice-haitienne-de-crise-en-crise>. Four of Haiti's judicial associations were on strike between February to April 2019 in protest of the arrest of Supreme Court Judge Yvickel Dabrézil for allegedly planning a coup, as well as President Moïse's unilateral retirement of three judges and appointment of three other judges in violation of the Constitution, and the firing of court clerk Christophe Lespérance following his attendance of Dabrézil's hearing. See BINUH June 2021 Report ¶¶ 28-29; OHCHR, *Feb. 2021 Press briefing notes*; Robenson Geffrard, *Les juges entrent en grève illimitée pour forcer le président Moïse à respecter la Constitution*, Le Nouvelliste (Feb. 18, 2021), <https://lenouvelliste.com/article/226371/les-juges-entrent-en-greve-illimitee-pour-forcer-le-president-moise-a-respecter-la-constitution>; see also *supra* note 103.

¹⁵² See U.N. Secretary-General, MINUJUSTH, U.N. Doc. S/2018/241 (Mar. 20, 2018) ¶ 26 (“The handling of incoming case files by the prosecutor of the Port-au-Prince tribunal, through the use of a real-time case file management system, dropped from 60 per cent in the previous reporting period to 48 per cent owing to intermittent strikes by justice sector workers”); RNDDH, *Rapport sur le fonctionnement de l'appareil judiciaire haïtien au cours de l'année judiciaire 2016-2017* (2017), pp. 8-9, <https://web.rnddh.org/wp-content/uploads/2017/10/6-Rapport-Justice-16Oct2017.pdf>; Caleb Lefrèvre, *La justice observe une pause*, Le Nouvelliste (May 27, 2021), <https://lenouvelliste.com/article/229308/la-justice-observe-une-pause> (noting that although the strike has ended, insecurity has restricted the access of judicial staff including judges, clerks, and public prosecutors to the courthouses. Courthouses are in poor condition. Judges and prosecutors are absent).

¹⁵³ See BINUH June 2021 Report ¶ 29. See further Section III.C.

¹⁵⁴ See RNDDH, Report on Haitian judicial system 2019-2020, pp. 19-21 (**Annex 8**); Marianne Tøraasen, *The long fight against impunity for gender-based violence in Haiti*, Chr. Michelsen Institute (2019), <https://www.cmi.no/publications/6875-the-long-fight-against-impunity-for-gender-based-violence-in-haiti>.

¹⁵⁵ See Samuel Celiné, *La Justice n'est pas indépendante, malgré l'existence du CSPJ*, AyiboPost (Nov. 19, 2020), <https://ayibopost.com/la-justice-nest-pas-independante-malgre-l'existence-du-cspj/> (updated Jan. 29, 2021).

¹⁵⁶ See RNDDH, Report on Haitian judicial system 2019-2020, p. 19 (**Annex 8**).

¹⁵⁷ See, e.g., U.S. DOS, Haiti Human Rights Report 2020, pp. 9-10; Sonel Jean-Francois, *Statement at the IACHR Public Hearing on Impunity for Human Rights Violations and Lack of Judicial Independence in Haiti: Dysfonctionnement et corruption du système judiciaire* (Dec. 10, 2020), available at <http://www.ijdh.org/wp-content/uploads/2021/01/Dysfonctionnement-et-corruption-du-systeme-judiciaire-CIDH-Jean-Francois-FINAL.pdf>; Marianne Tøraasen, *The long fight against impunity for gender-based violence in Haiti*, Chr. Michelsen Institute (2019), <https://www.cmi.no/publications/6875-the-long-fight-against-impunity-for-gender-based-violence-in-haiti>.

¹⁵⁸ See *id.*; Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, pp. 183, 187-188 (**Annex 10**); see also Human Rights Committee, General Comment No. 32, ¶ 11 (“[T]he imposition of fees on the parties to proceedings that would de facto prevent their access to justice might give rise to issues under article 14, paragraph 1.”).

¹⁵⁹ See, e.g., U.S. DOS, Haiti Human Rights Report 2020, p. 10; Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, p. 188 (**Annex 10**); Marianne Tøraasen, *The long fight against impunity for gender-based violence in Haiti*, Chr. Michelsen Institute (2019), <https://www.cmi.no/publications/6875-the-long-fight-against-impunity-for-gender-based-violence-in-haiti>.

¹⁶⁰ See, e.g., U.S. DOS, Haiti Human Rights Report 2020, pp. 7, 9-10; U.S. DOS, Haiti Human Rights Report Revised 2019, p. 11; Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, p. 197 (**Annex 10**).

¹⁶¹ See, e.g., CCPR, arts. 2(2), 3, 14(1); ACHR, arts. 2, 8, 25.

¹⁶² See, e.g. IACHR, *Haiti: Failed Justice or the Rule of Law?* (2005) ¶ 151; *Assassinat de Me Dorval, le commissaire du gouvernement « refuse d'exécuter les ordonnances »*, Le Nouvelliste (June 23, 2021), <https://lenouvelliste.com/alaminate/18900/assassinat-de-me-dorval-le-commissaire-du-gouvernement-refuse->

[dexecuter-les-ordonnances](#); BINUH Sept. 2020 Report ¶ 32; Jacqueline Charles, *Lawyer: Haiti judge detained in alleged coup plot remains jailed despite release order*, Miami Herald (Feb. 10, 2021), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article249170130.html>.

¹⁶³ See, e.g., Haiti Press Network, *Haiti-justice: Arnel Bélizaire maintenu en prison* (May 4, 2021), <https://www.hpnhaiti.com/nouvelles/index.php/politique/36-space/9308-haiti-justice-arnel-belizaire-maintenu-en-prison>; BINUH Sept. 2020 Report ¶ 33; see also BAI & RNDDH, *Joint Open Letter of BAI and RNDDH to the Haitian Ministry of Justice and Public Security* (May 16, 2020), available at <http://www.ijdh.org/wp-content/uploads/2020/05/Letter-of-BAI-and-RNDDH-to-the-MoJ-05.16.20.pdf>.

¹⁶⁴ See RNDDH, *Theft at the courthouse of Port-au-Prince*; Marianne Tøraasen, *The long fight against impunity for gender-based violence in Haiti*, Chr. Michelsen Institute (2019), <https://www.cmi.no/publications/6875-the-long-fight-against-impunity-for-gender-based-violence-in-haiti>; Jean Pharès Jérôme, *Viol: de petits progrès éclipsés par d'énormes défis*, Le Nouvelliste (June 25, 2018), <https://lenouvelliste.com/article/189181/viol-de-petits-progres-eclipses-par-denormes-defis>.

¹⁶⁵ See generally RNDDH, *Theft at the courthouse of Port-au-Prince*.

¹⁶⁶ See *supra* note 76 and associated text.

¹⁶⁷ See U.S. DOS, *Haiti Human Rights Report 2020*, p. 10; RNDDH, *Report on Haitian judicial system 2019-2020*, pp. 18-21 (**Annex 8**).

¹⁶⁸ See, e.g., BINUH Sept. 2020 Report ¶ 34; BINUH & OHCHR, *Manifestations en Haïti*, p. 3.

¹⁶⁹ See, e.g., IACHR, *Report on The Right of Women in Haiti to be Free from Violence and Discrimination* ¶¶ 110-120; Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, pp. 196-197 (**Annex 10**); Marianne Tøraasen, *The long fight against impunity for gender-based violence in Haiti*, Chr. Michelsen Institute (2019), <https://www.cmi.no/publications/6875-the-long-fight-against-impunity-for-gender-based-violence-in-haiti>; see also Samuel Celiné, *Le commissaire du gouvernement tout puissant de Jérémie*, Ayibopost (May 1, 2021), <https://ayibopost.com/le-commissaire-du-gouvernement-tout-puissant-de-jeremie/>.

¹⁷⁰ BINUH June 2021 Report ¶ 42.

¹⁷¹ See, e.g., *id.*; Samuel Celiné, *Le commissaire du gouvernement tout puissant de Jérémie*, Ayibopost (May 1, 2021), <https://ayibopost.com/le-commissaire-du-gouvernement-tout-puissant-de-jeremie/>; Hervia Dorsinville, *74 adolescentes enceintes dans huit écoles à Beaumont*, AyiboPost (Nov. 8, 2020), <https://ayibopost.com/74-adolescentes-enceintes-dans-huit-ecoles-a-beaumont/>.

¹⁷² See, e.g., Committee on the Rights of Persons with Disabilities (CRPD), *Concluding observations on the initial report of Haiti* (2018), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fHTI%2fCO%2f1&Lang=en; Coalition RANIPH SUD et al, *Rapport alternatif sur la mise en œuvre de la convention relative aux droits des personnes handicapées* (2017), pp. 11-12, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCRPD%2fCO%2fHTI%2f27387&Lang=en; Coalition haïtienne pour la surveillance des recommandations assorties des organes des traités de l'ONU (COHRATO), *Rapport alternatif de la société civile haïtienne sur le deuxième rapport périodique d'Haïti relatif à la mise en œuvre du (PIDCP)* (2021), p. 5, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HTI/INT_CCPR_CSS_HTI_44586_F.pdf. See also CCPR, arts. 2, 26 (requiring equal protection without discrimination under Haiti's laws)

¹⁷³ See, e.g., BINUH Sept. 2020 Report, ¶ 27; IACHR, *Haiti: Failed Justice or the Rule of Law?* (2005) ¶¶ 152-153; CRPD, *Concluding observations on the initial report of Haiti* (2018), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fHTI%2fCO%2f1&Lang=en; Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, p. 196 (**Annex 10**).

¹⁷⁴ See HRC, 2016 UPR Report, recommendation 115.94 (“Ensure that the police and judiciary are trained to deal impartially with women reporting gender based violence, and that all such complaints are fully investigated and prosecuted (United Kingdom of Great Britain and Northern Ireland)”) (supported by Haiti); *id.* 115.61 (“Tackle negative attitudes related to gender and discrimination against women through human rights training of law enforcement and judicial bodies’ agents (Colombia)”) (supported by Haiti); *id.* 115.45 (“Strengthen the human rights education training program and expand it to other governmental departments (Morocco)”) (supported by Haiti).

¹⁷⁵ See Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, pp. 186-187 (**Annex 10**); see also Human Rights Committee, *General Comment No. 32* ¶ 9 (“A situation in which an individual’s attempts to access the competent courts or tribunals are systematically frustrated de jure or de facto runs counter to the guarantee of article 14, paragraph 1, first sentence.”).

¹⁷⁶ See Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, pp. 186-187 (**Annex 10**); see also *supra* notes

157-160.

¹⁷⁷ See, e.g., BINUH Feb. 2021 Report ¶ 45 (“4.4 million people were expected to require humanitarian assistance during the course of the year.”); U.S. DOS, *Haiti Human Rights Report 2020*, p. 7; Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, p. 187 (**Annex 10**); United Nations Development Programme, *Human Development Reports: Haiti* (2020), <http://hdr.undp.org/en/countries/profiles/HTI#>.

¹⁷⁸ See *supra* notes 157-160; Marianne Tøraasen, *The long fight against impunity for gender-based violence in Haiti*, Chr. Michelsen Institute (2019), <https://www.cmi.no/publications/6875-the-long-fight-against-impunity-for-gender-based-violence-in-haiti>; see also Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, pp. 187, 197 (**Annex 10**).

¹⁷⁹ See MINUJUSTH June 2018 Report ¶ 34; U.N. Secretary-General, MINUJUSTH, U.N. Doc. S/2018/795 (Sept. 6, 2018), ¶ 35.

¹⁸⁰ See MINUJUSTH Nov. 2018 Report, annex I, p. 16; *Haïti - Justice : Deux Bureaux d'Assistance Légale gratuite au Palais de Justice de PAP*, HaïtiLibre (May 17, 2018), <https://www.haitilibre.com/article-24407-haiti-justice-deux-bureaux-d-assistance-legale-gratuite-au-palais-de-justice-de-pap.html>.

¹⁸¹ See BINUH June 2021 Report ¶ 31; Germina Pierre Louis, *Le Nouvelliste*, *Le Conseil national d'assistance légale installé* (May 6, 2021), <https://lenouvelliste.com/article/228887/le-conseil-national-d-assistance-legale-installe>.

¹⁸² See *Statement of Special Representative Helen La Lime, Security Council Session on the United Nations Integrated Office in Haiti (BINUH)*, BINUH (June 17, 2021), <https://binuh.unmissions.org/en/statement-special-representative-helen-la-lime-security-council-session-united-nations-integrated>.

¹⁸³ U.S. DOS, *Haiti Human Rights Report Revised 2019*, p. 11; BINUH Feb. 2021 Report ¶ 29. See also CCPR, art. 14(3) (“In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:... (d) ... to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.”).

¹⁸⁴ See, e.g., The World Bank, *Haitian Cities: Actions for Today With an Eye on Tomorrow* (2017), p. 29, <http://documents1.worldbank.org/curated/en/709121516634280180/pdf/122880-V1-WP-P156561-OUO-9-FINAL-ENGLISH.pdf>; IACHR, *Report on The Right of Women in Haiti to be Free from Violence and Discrimination* ¶ 109; see also *Droits humains : Des organisations de la société civile souhaitent une amélioration dans le système judiciaire en Haïti*, *AlterPresse* (Aug. 5, 2020), <https://www.alterpresse.org/spip.php?article25980#.YMF7P5NKhhH>.

¹⁸⁵ See CSPJ, *Bottin des Cours et Tribunaux de la République d'Haïti* (2015), <http://www.cspj.ht/index.php/publications/bottins-des-cours-et-tribunaux>.

¹⁸⁶ See, e.g., Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, p. 207 (**Annex 10**).

¹⁸⁷ See, e.g., RNDDH, *Report on Haitian judicial system 2019-2020*, pp. 18-20 (**Annex 8**).

¹⁸⁸ See, e.g., The World Bank, *Haitian Cities: Actions for Today With an Eye on Tomorrow* (2017), pp. 11, 75, <http://documents1.worldbank.org/curated/en/709121516634280180/pdf/122880-V1-WP-P156561-OUO-9-FINAL-ENGLISH.pdf>; Caleb Lefèvre, *Insécurité : les stations des transports en commun se relocalisent*, *Le Nouvelliste* (June 24, 2021), <https://lenouvelliste.com/article/230037/insecurite-les-stations-des-transports-en-commun-se-relocalisent>; Hervia Dorsinville, *74 adolescentes enceintes dans huit écoles à Beaumont*, *AyiboPost* (Nov. 8, 2020), <https://ayibopost.com/74-adolescentes-enceintes-dans-huit-ecoles-a-beaumont/>.

¹⁸⁹ See, e.g., Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, p. 187 (**Annex 10**).

¹⁹⁰ See, e.g., *id.* p. 187; IACHR, *Report on The Right of Women in Haiti to be Free from Violence and Discrimination* ¶ 126.

¹⁹¹ See, e.g., BINUH June 2021 Report ¶ 42; Mario Joseph & Nicole Phillips, *Judicial Corruption in Haiti*, p. 197 (**Annex 10**) (“Victims already face potential social stigmatization and retribution for reporting the crime and can easily be convinced to drop complaints because they are led to believe that their complaint will not succeed without money to bribe the system”); IACHR, *Report on The Right of Women in Haiti to be Free from Violence and Discrimination* ¶¶ 108, 123-124 (“The Commission is particularly troubled by the fact that female victims of discrimination and violence are disinclined to turn to the justice system. Victims and their families are often mistreated when attempting to avail themselves of judicial remedies, and have no confidence in the ability of the justice system to right the wrongs committed.”).

¹⁹² See CCPR, arts. 9-10, 14; ACHR, arts. 5, 7-8; Convention on the Rights of the Child, arts. 37, 40 (Nov. 20, 1989) (ratified by Haiti on Jun. 8, 1995); UDHR, arts. 3, 9. See also U.N. General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, U.N. Doc. A/RES/70/175 (2016); U.N.

General Assembly, United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), U.N. Doc. A/RES/65/229 (2010); *Yvon Neptune v. Haiti*, Judgement, Inter-Am. Ct. H.R. (May 6, 2008), https://www.corteidh.or.cr/docs/casos/articulos/seriec_180_ing.pdf; Haiti Constitution (1987), arts. 24–26-2, 44–44-1; *Code Pénal* (1835), https://web.oas.org/mla/en/Countries/Intro/Haiti_intro_text_fra_2.pdf. Haiti also has not complied with corresponding recommendations which Haiti supported from the last UPR. See HRC, 2016 UPR Report, recommendation 115.72 (“Implement measures to combat prison overcrowding (Angola)”) (supported by Haiti); *id.* 115.73 (“Improve detention conditions of detainees, in particular minors (Algeria)”) (supported by Haiti); *id.* 115.74 (“Reduce significantly the periods of pre-trial detention and ensure that minors have separate spaces in the detention centres and prisons (Spain)”) (supported by Haiti); *id.* 115.75 (“Allocate additional resources to increase case processing and reduce the number of pre-trial detainees (United States of America)”) (supported by Haiti); *id.* 115.76 (“Effectively address the situation of persons who have been in prolonged pre-trial detention in full accordance with the principle of proportionality (Republic of Korea)”) (supported by Haiti); *id.* 115.78 (“Improve the incarceration conditions of prisoners, particularly by reducing overcrowding, malnutrition and the shortage of adequate medical care (Belgium)”) (supported by Haiti); *id.* 115.79 (“Redouble efforts to improve the conditions of persons deprived of their liberty, in particular by reducing periods of pre-trial detention, facilitating access to justice, and improving the facilities of detention centres (Mexico)”) (supported by Haiti); *id.* 115.80 (“Develop and put in place a strategy to improve, as soon as possible, detention conditions of minors separated from adults, and reduce the duration of police custody and pre-trial detention (Canada)”) (supported by Haiti); *id.* 115.81 (“Take urgent measures to counter overcrowding, in particular by focusing on alternative measures to detention, and to guarantee the access of prisoners to basic health care and an adequate diet (Switzerland)”) (supported by Haiti).

¹⁹³ See *Case of Yvon Neptune v. Haiti*, Merits, I/A Court H.R. Reparations and Costs, Series C No. 180 (Judgment of May 6, 2008).

¹⁹⁴ See Haiti Constitution (1987), art. 24-3 (“For such an order to be carried out, the following requirements must be met: . . . c) The accused must be notified of his right to be assisted by counsel at all phases of the investigation of the case up to the final judgment”); *id.* at art. 26 (“No one may be kept under arrest more than forty-eight (48) hours unless he has appeared before a judge asked to rule on the legality of the arrest and the judge has confirmed the arrest by a well-founded decision.”); *Loi sur l’assistance légale*, *Le Moniteur* (Oct. 26, 2018), <https://web.archive.org/web/20190828064516/http://www.sgc.m.gouv.ht:80/wp-content/uploads/2017/03/Moniteur-26-octobre-2018.pdf>.

¹⁹⁵ See, e.g., BINUH June 2021 Report ¶ 29. Haiti claims that the penal code it enacted by decree will enable positive change. See *Projet de loi portant nouveau code penal*, available at <https://www.haitilibre.com/docs/projet-de-loi-portant-code-de-procedure-penale.pdf>; see also Elco Saint Amand, *Billet de la rédaction – Le Décret du 24 juin 2020 sur le Code Pénal, une ineptie juridique et politique!*, *Rezo Nòdwès* (Jul. 9, 2020) <https://rezonodwes.com/2020/07/09/billet-de-la-redaction-le-decret-du-24-juin-2020-sur-le-code-penal-une-ineptie-juridique-et-politique/#o> (noting concerns about the balance of government powers, democratic integrity, and rule of law raised by revising the Penal Code via decree). However, it has yet to start restructuring the justice system or training its departments and staff for the proposed changes and new roles, which are to include alternatives to incarceration and other measures to reduce the pretrial prison population.

¹⁹⁶ Data collected during prison monitoring work by RNDDH.

¹⁹⁷ *Office de la Protection du Citoyen*

¹⁹⁸ See Haiti Constitution (1987), art. 207 (“An office known as the OFFICE OF CITIZEN PROTECTION is established to protect all individuals against any form of abuse by the government.”).

¹⁹⁹ See *Haiti - Justice: The Protector of the Citizen paints a dark portrait of Haiti in Geneva*, *Haiti Libre* (June 7, 2018), <https://www.haitilibre.com/en/news-24875-haiti-justice-the-protector-of-the-citizen-paints-a-dark-portrait-of-haiti-in-geneva.html>.

²⁰⁰ U.S. DOS, *Haiti Human Rights Report 2020*, pp. 4-7.

²⁰¹ BINUH June 2021 Report ¶ 29. As of May 31, 2021, the breakdown is as follows: 10,801 men (81% in pretrial detention), 436 women (92% in pretrial detention), 240 boys (94% in pretrial detention) and 23 girls (96% in pretrial detention). BINUH & OHCHR, “N ap mouri”: rapport sur les conditions de détention en Haïti (2021), https://binuh.unmissions.org/sites/default/files/2021.06.26_rapport_detention_final.pdf (The report is based on observations and interviews carried out by the BINUH Human Rights Service (HRS) during visits to 12 places of detention undertaken between January and March 2021).

²⁰² See *supra* note 192.

²⁰³ *Haiti - Justice: The Protector of the Citizen paints a dark portrait of Haiti in Geneva*, *Haiti Libre* (June 7, 2018), <https://www.haitilibre.com/en/news-24875-haiti-justice-the-protector-of-the-citizen-paints-a-dark-portrait-of-haiti->

[in-geneva.html](#).

²⁰⁴ David McFadden, *AP Exclusive" Malnutrition killing inmates in Haiti jails*, Associated Press (Feb. 20, 2017), https://apnews.com/a43ce17acfd0425cb2af90a1133a8418/Prosecutors-say-malnutrition-killing-inmates-in-Haiti-jails?utm_campaign=SocialFlow&utm_source=Twitter&utm_medium=AP (reporting on the large number of prisoners dying from malnutrition-related ailments when Haiti's prison authority stopped providing two meals per day); David Bryden, *How prison conditions fuel the tuberculosis epidemic*, Action Global Health Advocacy Project (May 24, 2018), <https://www.action.org/newsroom/blog/how-prison-conditions-fuel-the-tuberculosis-epidemic>.

²⁰⁵ Michelle Karshan, Executive Director, Alternative Chance, discussions with medical staff of Health through Walls, an NGO that provides infectious disease care in Haiti's National Penitentiary.

²⁰⁶ Each of the detainees at issue had COVID-19 while in immigration detention in the U.S. and was still recovering. One had chest pains. The other suffered from asthma and used two different asthma pumps. One had a history of suicidal ideation and auditory hallucinations. Despite demands by these men, the government of Haiti violated their human rights by withholding their medication during the quarantine and caused them pain and suffering for the two week period. Michelle Karshan, personal observations; Michelle Karshan, meetings with the government Haiti; Michelle Karshan, meetings with United States government about the transport of medical files and medications for persons being deported; Michelle Karshan, several telephone conversations with the two men described herein while in government of Haiti quarantine and after release.

²⁰⁷ FJKL, *Emeute-Evasion-Carnage : La FJKL questionne la responsabilité de l'État dans les événements sanglants de la prison civile de la Croix-des-Bouquets du 25 février 2021* (2021), <https://www.fjkl.org/ht/images/doc/FJKL-Carnage%20dans%20la%20prison%20%20civile%20de%20la%20Croix-des-Bouquets.pdf>.

²⁰⁸ *Id.*; RNDDH, *Mutinerie, évasion planifiée, traque et exécutions sommaires de détenus : le RNDDH exige la sanction des personnes impliquées dans les événements sanglants de la Croix-des-Bouquets* (2021), <https://web.rnddh.org/wp-content/uploads/2021/04/1-Rap-Prison-Croix-des-Bouquets-Evasion-1Avr2021-VS-FR.pdf>.

²⁰⁹ BINUH & OHCHR, "N ap mouri": rapport sur les conditions de détention en Haïti (2021), p. 19, https://binuh.unmissions.org/sites/default/files/2021.06.26_rapport_detention_final.pdf.

²¹⁰ *See id.* at pp. 4, 6, 8, 16-17, 24-25; *see* BINUH June 2021 Report ¶ 34.

²¹¹ *See, e.g.*, BINUH & OHCHR, "N ap mouri": rapport sur les conditions de détention en Haïti (2021), p. 22, https://binuh.unmissions.org/sites/default/files/2021.06.26_rapport_detention_final.pdf ("In addition, on February 25, 2021, more than 400 inmates escaped from Croix-des-Bouquets prison, an incident that claimed the lives of the prison director and 30 inmates. The SDH received allegations of excessive use of force that could amount to extrajudicial killings, as law enforcement officials opened fire on unarmed individuals trying to escape."); *see also* FJKL, *Emeute-Evasion-Carnage : La FJKL questionne la responsabilité de l'État dans les événements sanglants de la prison civile de la Croix-des-Bouquets du 25 février 2021* (2021), <https://www.fjkl.org/ht/images/doc/FJKL-Carnage%20dans%20la%20prison%20%20civile%20de%20la%20Croix-des-Bouquets.pdf>.

²¹² As recently as March 7 and 8 of 2021, five correction officers - including an inspector - beat 25 women prisoners, including two minors, at the prison in Jacmel when they started complaining about their prolonged detentions. Some of the women were injured and three started bleeding vaginally, but officers refused to obtain medical care for them, claiming their superiors forbade it. Laura Louis, *The prisons in Haiti are horrible. For women, it's hell*, AyiboPost (Apr. 29, 2021), <https://ayibopost.com/the-prisons-in-haiti-are-horrible-for-women-its-hell/>.

²¹³ BINUH & OHCHR, "N ap mouri": rapport sur les conditions de détention en Haïti (2021), p. 18, https://binuh.unmissions.org/sites/default/files/2021.06.26_rapport_detention_final.pdf.

²¹⁴ *Id.* at p. 16 ("The SDH documented that the use of cruel, inhuman and degrading treatment as disciplinary measures is a widespread phenomenon in all the prisons visited. Cases of torture have also been documented by the SDH. Indeed, 72.4% of persons deprived of their liberty with whom the SDH spoke testified to having been victims or witnesses of ill-treatment instigated by prison officers or by other detainees with the acquiescence of the officers. Although prohibited by national and international standards, the prohibition of ill-treatment as a disciplinary measure is part of the routine of the establishments visited. This ill-treatment mainly consists of punches, kicks or sticks. Punishments are generally imposed by the officers, but also by an inmate who has been delegated a disciplinary role within the cell (the majors). Mandela Rule 40 provides that prisoners should never be delegated disciplinary duties.").

²¹⁵ BINUH & OHCHR, Executive Summary, "N ap mouri": Report on Conditions of Detention in Haiti (2021), https://binuh.unmissions.org/sites/default/files/2021.06.25_executive_summary-2.pdf.

²¹⁶ *See supra* note 112 and associated text.

²¹⁷ See U.N. Secretary-General, MINUJUSTH, U.N. Doc. S/2019/805 (Oct. 9, 2019), annex I, p. 17; *see also* *Haïti -*

Justice: Deux Bureaux d'Assistance Légale gratuite au Palais de Justice de PAP, *HaïtiLibre* (May 17, 2018), <https://www.haitilibre.com/article-24407-haiti-justice-deux-bureaux-d-assistance-legale-gratuite-au-palais-de-justice-de-pap.html>.

²¹⁸ BINUH & OHCHR, “N ap mouri”: rapport sur les conditions de détention en Haïti (2021), pp. 26-27, https://binuh.unmissions.org/sites/default/files/2021.06.26_rapport_detention_final.pdf.