

## **Human Rights Watch 32nd Annual Report 2022 Haiti event 2021**

### **Political Crisis**

Haiti's Superior Council of the Judiciary ruled on February 6, 2021, that Moïse's presidency would end the next day, but Moïse argued his term would end on February 7, 2022, five years after he took office. He had been ruling by decree since January 2020, due to the inexistence of a seated parliament given postponed legislative elections.

On February 7, 2021, police detained Supreme Court Justice Yvickel Dieujuste Dabrésil, whom the political opposition was allegedly poised to nominate as provisional president. The following day, Moïse decreed Dabrésil's retirement, along with those of Justices Joseph Mécènes Jean-Louis, whom the opposition appointed as provisional president after Dabrésil's arrest, and Wendelle Coq Thélot, who had opposed Moïse's appointment by decree of all members of the Provisional Electoral Council (CEP) in September 2020.

Moïse charged the CEP with carrying out presidential and legislative elections and a constitutional referendum in 2021, despite a constitutional prohibition on modifying the constitution through a referendum.

Demonstrators who opposed the referendum and planning for elections demanded that the president step down and that a transitional government be put in place.

On July 7, a group of armed people burst into President Moïse's private residence in Port-au-Prince, killed him, and injured his wife. On July 20, Ariel Henry, whom Moïse had appointed prime minister days before the assassination, was installed as head of a new government. Some civil society organizations said his installment as head of state was unconstitutional.

In September, an Independent Advisory Committee created by Moïse in 2020 presented the draft of a new constitution to Ariel Henry, who signed a political agreement with the opposition to carry out general elections in 2022.

### **Investigation of President Moïse's Assassination**

A day after the assassination, Haitian police engaged in a shootout with suspected assassins, killing several and taking others into custody.

In late July, two judges and two clerks of the Court of Peace who conducted judicial proceedings regarding the murder of President Moïse were threatened.

On August 9, Justice Mathieu Chanlatte was appointed to lead the judicial investigation into President Moïse's killing. In circumstances still under investigation, his clerk died on August 11. Two days later, the judge withdrew from the case, citing personal reasons. On August 22, Justice Garry Orélien was designated to replace him.

As of August, the Haitian National Police (HNP) and the National Human Rights Defense Network (RNDDH) reported 3 people killed and 44 arrested—including former Colombian military officers—in connection with President Moïse's assassination. Officials of the Colombian Ombudsman's Office who visited the Colombian ex-military detainees in Port-au-Prince reported that they had not been presented to a judicial authority, had not had access to legal assistance, and were being held incommunicado in a six-by-two-meter cell without sunlight, handcuffed, and sleeping on the floor. Some of the detainees claimed they had been tortured by police.

### **Violence and Displacement**

Violence is escalating. The United Nations Integrated Office in Haiti (BINUH) reported 1,074 intentional homicides and 328 kidnappings from January to August 2021.

Intentional homicides increased by 14 per cent, compared with 944 cases in the same period of 2020, and kidnappings continued to rise, compared with 234 for all of 2020. According to the Bureau des Avocats Internationaux (BAI) and the Institute for Justice & Democracy in Haiti (IJDH) gender-based violence is chronically under-reported.

Some 95 gangs are fighting over territory in Port-au-Prince, where approximately 1.5 million people live, displacing 19,100. Haitian civil society groups say insecurity is exacerbated by alleged complicity between politicians and gangs.

Under Moïse, since 2018, the IJDH, the RNDDH, and the Fondasyon Je Klere (FJKL), three nongovernmental organizations, documented 18 massacres in Port-au-Prince. In 2021, in Martissant, according to the UN Office for the Coordination of Humanitarian Affairs, gang members killed 4 people and injured 2 more; in Cité Soleil, gang clashes killed a minor and 10 gang members; and in Delmas 32 and other neighborhoods armed individuals killed 19 people. At time of writing, no one had been charged or convicted for these massacres. Former policeman Jimmy Chérizier, who leads the "G9" gangs federation, is allegedly implicated in most cases and remains free.

## **Human Rights Defenders**

BINUH documented 32 cases of attacks, threats, and intimidation against judges, human rights defenders and journalists, from February to August 2021.

RNDDH Director Pierre Espérance received a death threat from the “G9” in June. Diego Charles, an anticorruption activist and reporter, and Antoinette Duclaire, a feminist, political activist, and journalist, were both killed on June 29 by armed individuals at the Christ-Roi neighborhood.

At time of writing, eight people had been detained in connection with the August 2020 killing of Monferrier Dorval, head of the Port-au-Prince bar association, but no one had been charged.

In 2019, Charlot Jeudy, the President of Kouraj, an organization advocating for the rights of lesbian, gay, bisexual, and transgender (LGBT) people, was found dead in his home. Circumstances surrounding his death and the results of an autopsy remained publicly unknown at the time of writing.

## **Criminal Justice System**

Haiti’s prisons remain severely overcrowded, with many detainees living in inhumane conditions. Overcrowding is largely attributable to pretrial detentions, BINUH and OHCHR reported in 2021.

As of September, prisons housed nearly 11,000 detainees, 82 percent of whom were awaiting trial. New criminal and criminal procedure codes set to enter into force in June 2022 provide alternative measures to pretrial detention and establish detention of children as a measure of last resort.

## **Abuses by Security Forces**

Protests against the government continued to be repressed with excessive use of force. The RNDDH, in January 2021, reported at least 8 journalists injured, 10 demonstrators and 13 political activists arbitrarily arrested, and 2 students beaten by police during several protests. In February, the Inter-American Commission on Human Rights (IACHR) reported two cases of journalists injured with rubber bullets.

On February 25, a prison breakout at the Croix-des-Bouquets penitentiary left the prison director and 29 prisoners dead. BINUH reported law enforcement agents arbitrarily killed 25.

From February to May, BINUH reported 238 cases of human rights violations by police, including 42 killings and indiscriminate use of tear gas.

### **Accountability for Past Abuses**

In 2014, a court of appeal ordered investigations re-opened into arbitrary detentions, torture, disappearances, summary executions, and forced exile during Jean Claude Duvalier's presidency (1971-1986). As of September 2021, investigations remained pending.

In 2020, former Haitian death squad leader Emmanuel "Toto" Constant was deported from the US. In 2000, he had been convicted in absentia for involvement in a 1994 massacre in Gonaïves. He remained in detention at time of writing.

### **Rights to Health, Water, and Food**

The country's most vulnerable communities face dramatic floods and soil erosion caused by deforestation that has nearly eliminated forest cover in the country, leading to reduced agricultural productivity.

Over a third of the population lacks access to clean water and two-thirds have limited or no sanitation service. More than a third of Haitians—4.4 million—live with food insecurity, international agencies report, and 217,000 children suffer moderate to severe malnutrition.

Without appropriate adaptation, decreased rainfall and rising temperatures driven by climate change will increasingly negatively impact agriculture and access to water.

After the 2021 earthquake, water and sanitation infrastructure suffered extensive damage. Of 159 health facilities, 88 had been reportedly affected. Displaced people are exposed to a heightened risk of infectious diseases and the virus that causes Covid-19.

### **Inequality and Barriers to Education**

Just under half of Haitians aged 15 and older are illiterate. The country's education system is highly unequal. The quality of public education is generally very poor, and 85 percent of schools are private, charging fees that exclude most children from low-income families.

Over 3 million children had been unable to attend school for months at a time during the past two years, for security reasons, as well as Covid-19 related restrictions.

The 2021 earthquake destroyed or heavily damaged 308 schools, affecting 100,000 children. Schools were set to open on September 21, but the opening delayed until October 4 in the affected area. Before the earthquake, UNICEF estimated that 500,000 children were at risk of dropping out.

### **Women's and Girls' Rights**

Gender-based violence is common. Rape was only explicitly criminalized in 2005, by ministerial decree. Gender-based violence was already one of the highest risks for girls and women in the southern province even before the earthquake, with sexual exploitation prevalent in some areas; these risks were expected to rise in the wake of the 2021 earthquake.

A new penal code set to enter into force in June 2022 lists sexual harassment and gender-based violence as punishable offenses. The code will legalize abortion in all circumstances until the twelfth week of pregnancy, in cases of rape or incest, or if the mental or physical health of the woman is in danger. It will lower the legal age for consensual sex to 15.

### **Disability Rights**

Around 15 percent of the Haitian population lives with a disability, the World Health Organization reports.

Although Haiti ratified the Convention on the Rights of Persons with Disabilities, its legislative framework has not been harmonized and includes offensive and discriminatory provisions against people with disabilities. People with disabilities continue experiencing discrimination in access to public services such as health, education, and justice and are at higher risk of suffering violence due to the significant social stigma and exclusion they face. Civil legislation restricts legal capacity for people with certain types of disabilities.

The new penal code includes provisions prohibiting violence or incitement against people with disabilities.

### **Sexual Orientation and Gender Identity**

LGBT people continue to suffer high levels of discrimination in Haiti, and no comprehensive legal framework forbids it.

The new penal code, not yet in force, will make any crime motivated by its target's real or perceived sexual orientation an aggravated offense. The code punishes any murder motivated by a victim's sexual orientation with up to life imprisonment.

In 2017, the Senate passed two anti-LGBT bills, which remained pending in the Chamber of Deputies at time of writing. One bans same-sex marriage and public support or advocacy for LGBT rights. The other establishes homosexuality as a one of the possible reasons for denial of a Certificat de Bonne Vie et Mœurs (a certificate of good standing required as proof that a person has not committed a felony).

## **Migration**

In September 2020, the Dominican Republic restarted deportations of undocumented Haitians, ending a pandemic moratorium. In January 2021, Dominican Republic President Luis Abinader and Jovenel Moïse agreed to address irregular migration and improve border security. The precarious status of Dominicans of Haitian descent and Haitian migrants in the Dominican Republic remains a serious concern.

In February 2021, Abinader announced construction of a wall on the border. In August, the Dominican Ministry of Defense reported more than 178,000 Haitians forcibly repatriated. On September 28, the Dominican Republic's National Migration Council adopted a policy that prevents any foreign person who "would result in an unreasonable burden on public finances" from entering the country, including women who are at least six months pregnant.

In May 2021, the US extended a Temporary Protected Status 18-month designation for Haitians in the US for another 18 months. However, the US has continued to carry out expulsions of arriving Haitian migrants and asylum seekers to Haiti throughout the pandemic and, in September, it deployed border agents on horseback against Haitians seeking to enter the US through the US-Mexico border. Between taking office on January 20, 2021, and late November, the Biden administration expelled approximately 12,000 Haitians, a dramatic increase from 2020, when 895 Haitians were expelled from the country.

## **Mining and Access to Information**

Haiti is one of the most densely populated countries in the Western Hemisphere, and environmental degradation is a concern. In the past decade, foreign investors have pursued the development of the mining sector. Resistance is widespread, as communities fear the industry will destroy their farmland and further contaminate their water.

A 2017 draft mining law is silent on the rights of those displaced by mining activities, the Global Justice Clinic of New York University School of Law reports, and it grants insufficient time for review of the environmental impacts of new mining projects. It contains provisions that could render company documents, including environmental and social impacts, confidential for 10 years, preventing meaningful consultation with

communities. The draft remained under consideration as of September 2021.

### **Key International Actors**

In November 2020, the International Federation of Football Association (FIFA) Ethics Committee sanctioned Haitian Football Federation (FHF) President Yves Jean-Bart with a lifetime ban, following its investigation into evidence of systematic sexual abuse of female players. As of July 2021, FIFA had suspended four additional senior FHF officials in connection with the abuses and banned another one from the sport for life.

After the August 2021 earthquake, the UN appealed for US\$187.3 million to provide relief including shelter, water and sanitation, emergency healthcare, food, protection, and early recovery. In August, the US Agency for International Development announced \$32 million in humanitarian assistance in response to the earthquake.

The US government and the Organization of American States supported Ariel Henry and his aim to hold elections in 2022, though activists warned that conditions were not conducive to free and fair elections.

Haiti's political and humanitarian situation continue being discussed at the UN Security Council. UN Secretary-General António Guterres called on all member states to support Haiti in overcoming the humanitarian crisis. BINUH's mandate was extended to July 15, 2022.