



# **Killing with Impunity:** **State-Sanctioned Massacres in Haiti**

Harvard Law School International Human Rights Clinic  
Observatoire Haïtien des crimes contre l'humanité



INTERNATIONAL HUMAN RIGHTS CLINIC  
HUMAN RIGHTS PROGRAM AT HARVARD LAW SCHOOL



Cover Illustration

© David Duverseau, Nègès Mawon

Design

Tutaev Design

Copyright © 2021 President and Fellows of Harvard College. All rights reserved.

**Killing with Impunity:**  
State-Sanctioned Massacres in Haiti

Harvard Law School International Human Rights Clinic  
Observatoire Haïtien des crimes contre l'humanité

April 2021

# Table of Contents

---

<b>Acknowledgments</b>	<b>2</b>
<b>Executive Summary</b>	<b>3</b>
A Pattern of Sustained Attacks	3
Legal Framework	4
Findings	5
<b>I. Political Context of the Attacks</b>	<b>6</b>
President Moise’s Consolidation of Power	6
Anti-Government Protests	7
Repression of Government Opposition and Violence Against Civil Society	7
The Expanding Role of Gangs and Their Relationship to State Actors	8
<b>II. Emblematic Attacks Against Civilians</b>	<b>9</b>
The Attack on La Saline, November 13-14, 2018	9
• Leadup to the Attack	9
• The Attack	10
• State Response	11
Attack on Bel-Air, November 4-6, 2019	11
• Leadup to the Attack	11
• The Attack	12
• State Response	13
Attack on Cité Soleil, May-July 2020	13
• Leadup to the Attack	13
• The Attack	14
• State Response	15
<b>III. Legal Analysis: There Is a Reasonable Basis to Conclude That the Attacks Amount to Crimes Against Humanity</b>	<b>16</b>
Crimes Against Humanity Under International Law	16
The Attacks Involved Qualifying Acts of Violence	16
• Murder	17
• Rape	17
• Torture	17
• Persecution Against an Identifiable Group or Collectivity on Political Grounds	18
• The Underlying Crimes Are a Part of the Attacks	19
The Attacks Were Directed Against a Civilian Population	19
• The Assaults on La Saline, Bel-Air and Cité Soleil Constitute Attacks	19
• The Attacks Were Directed Against a Civilian Population	20
The Attacks Were Widespread and Systematic in Nature	20
• The Attacks Were Widespread	20
• The Attacks Were Systematic	20
The Attacks Furthered a State or Organizational Policy	21
• The Attacks Furthered a State Policy	22
• The Attacks Furthered a Separate Gang Policy to Attack	23

<b>IV. The Available Evidence Points to Several State Actors Who May Be Liable for Crimes Against Humanity</b>	<b>24</b>
Direct Commission	25
Aiding and Abetting	25
• Haitian National Police	26
• Moïse Administration Officials	27
Ordering, Soliciting, or Inducing the Crimes	27
Common Enterprise	28
• Moïse Administration Officials	28
• Haitian National Police	28
President Moïse May Be Responsible for Crimes Against Humanity Under the Doctrine of Command Responsibility	28
<b>V. Ensuring Accountability for Perpetrators of Crimes Against Humanity</b>	<b>30</b>
The Crimes Have Been Carried Out with Impunity	30
Implications for Accountability	30
<b>Recommendations</b>	<b>32</b>
<b>Conclusion</b>	<b>34</b>
<b>Annex I</b>	<b>35</b>
<b>Endnotes</b>	<b>37</b>



## Acknowledgements

---

This is a report of the International Human Rights Clinic (IHRC) at Harvard Law School and the *Observatoire Haïtien des crimes contre l'humanité* (OHCCH).

**The International Human Rights Clinic (IHRC) at Harvard Law School** seeks to protect and promote human rights and international humanitarian law through documentation; legal, factual, and strategic analysis; litigation before national, regional, and international bodies; treaty negotiations; and policy and advocacy initiatives. IHRC also engages in innovative clinical education to develop advanced practice techniques and approaches to human rights advocacy. IHRC has significant experience documenting and seeking accountability for international crimes around the world, including in Bolivia, Myanmar, and South Africa. IHRC Clinical Instructor Beatrice Lindstrom has worked on human rights issues in Haiti since 2010. For more information, please visit IHRC's website: <https://hrp.law.harvard.edu/clinic/>.

**The *Observatoire Haïtien des crimes contre l'humanité*** is a consortium of Haitian civil society organizations and prominent leaders that came together in October 2020 with a mission of monitoring human rights violations in Haiti that may amount to crimes against humanity. Members include the Bureau des Avocats Internationaux (BAI), the Réseau National de Défense des Droits Humains (RNDDH), and individual civil society leaders and prominent lawyers. OHCCH's members have a long history of documenting human rights violations in Haiti, accompanying victims in legal proceedings to seek accountability, and advocating for justice and respect for human rights on the national and international stage.

This report was written by Harvard Law School students Joey Bui, JD '21, and Nathalie Gunasekera, JD '21, together with Clinical Instructor and Lecturer on Law Beatrice Lindstrom. Ellie Abramov, an LLM student in the Fall of 2020, contributed legal research. Members of OHCCH conducted critical investigations into the attacks in La Saline, Bel-Air, and Cité Soleil that form the basis for the report. The primary investigations relied on in this report are contained in Annex I. OHCCH also provided vital analysis and review of this report.

The authors are grateful for additional input and feedback on drafts from Nixon Boumba, Brian Concannon, Sasha Filippova, and Susan Farbstein. The authors further wish to thank the survivors of the attacks and Haitian civil society who have provided crucial testimony and information about the attacks, and who continue to courageously call for justice.



# Executive Summary

---

## A Pattern of Sustained Attacks

Over the course of President Jovenel Moïse's presidency, Haitian civil society has raised alarm that armed gangs are carrying out heinous, state-sanctioned attacks against civilians in impoverished neighborhoods in Port-au-Prince. The scale, pattern, and context of the attacks indicate that they may amount to crimes against humanity.

The attacks have taken place in the context of an escalating political crisis. President Moïse's rule has become increasingly authoritarian and has turned to repression to quell dissent. Since 2018, massive public protests calling for government accountability and Moïse's resignation have periodically shut down the country.<sup>1</sup> The government has responded to the protests with aggressive measures, including criminalizing common non-violent protest tactics and increasing illegal surveillance of opponents.<sup>2</sup> Targeted assassinations and threats against government critics have been carried out with impunity.<sup>3</sup>

During the four years of Moïse's presidency, human rights observers have documented at least ten brutal attacks in impoverished parts of the capital where opposition against his administration runs strong.<sup>4</sup> Three attacks—in La Saline, Bel-Air, and Cité Soleil—are particularly well-documented and severe.<sup>5</sup> These three attacks offer insights into the means and methods used to carry out the assaults, and the ways in which state actors have supported the orchestration and execution of the attacks. When viewed together, they reveal a pattern of state-sanctioned violence, human rights abuses, and refusal to hold perpetrators accountable that likely amounts to crimes against humanity.

**La Saline:** In November 2018, the worst massacre in decades was carried out in La Saline, a neighborhood that was playing a leading role in organizing protests against the President.<sup>6</sup> In the weeks before the attack, two senior officials from Moïse's administration, Pierre Richard Duplan and Fednel Monchéry, met with then-police officer and gang leader Jimmy Chérizier *alias* Barbecue to plan and provide resources for the attack.<sup>7</sup> On November 13-14, 2018, armed gangs led by Chérizier carried out a vicious attack on the community. Over the course of fourteen hours, the assailants systematically extracted victims, including children, from their homes and executed them at gunpoint and with machetes.<sup>8</sup> Bodies were burned, dismembered, and disposed of in trash piles.<sup>9</sup> At least 71 people were killed, 11 women were raped, and 150 homes were looted and destroyed.<sup>10</sup> Despite widespread outrage in Haiti and internationally, President Moïse has failed to condemn his subordinates' role in the massacre or support their prosecutions.<sup>11</sup>

**Bel-Air:** In September 2019, as popular protests escalated into a nationwide shutdown, demonstrators placed flaming barricades on the main roads of Bel-Air, another opposition stronghold.<sup>12</sup> After several failed attempts to remove the barriers, an official from the Moïse administration reportedly hired Chérizier to secure the removal of the barriers and prevent further protests in Bel-Air.<sup>13</sup> Over the course of three days from November 4-6, 2019, Chérizier and allied gang leaders carried out an armed attack on Bel-Air. The assailants shot civilians and set fire to homes, killing at least 24 people.<sup>14</sup> Eyewitnesses identified three police officers in civilian clothes among the attackers.<sup>15</sup> Although the attack took place in an area surrounded by police stations, the police failed to intervene to protect residents despite repeated pleas for help broadcasted over the radio and social media.<sup>16</sup>



**Cité Soleil:** Between May and July 2020, Chérizier and allied gang leaders—now operating under the newly formed G9 alliance<sup>17</sup>—coordinated simultaneous attacks across several neighborhoods in Cité Soleil. They killed at least 145 civilians, raped multiple women, and burnt homes in efforts to claim areas held by rivals with ties to Moïse’s political opponents.<sup>18</sup> Police resources were reportedly utilized at numerous points in the attacks.<sup>19</sup> Like La Saline and Bel-Air, Cité Soleil is known as an opposition stronghold.<sup>20</sup> The area is also strategically important for electoral purposes, with many polling stations located there.<sup>21</sup> Residents believe they were targeted for their political affiliations, in an effort to secure electoral support for the president and his party.<sup>22</sup>

To date, the Haitian government has failed to hold perpetrators accountable, allowing them to act with near complete impunity. Known perpetrators such as Chérizier, who is implicated as a principal actor in repeated attacks, remain free.<sup>23</sup> Moreover, the government has failed to reckon with the criminal responsibility of officials and police officers within its ranks.<sup>24</sup> Duplan and Monchéry remained in office for almost a year after the 2018 La Saline attack,<sup>25</sup> and prosecutions have failed to progress.<sup>26</sup> Police officers implicated in the attacks have not been brought to justice.<sup>27</sup> Despite indications that Moïse himself has sanctioned the attacks,<sup>28</sup> his role remains unscrutinized by any official investigation. This lack of justice has allowed a culture of impunity to grow, emboldening criminals and leaving civilians vulnerable to politically-motivated violence.<sup>29</sup>

In the absence of an official response, Haitian human rights organizations have been at the forefront of responding to the attacks, including being the first to investigate the attacks in their aftermath and publishing detailed reports of their findings.<sup>30</sup> Significant facts surrounding the attacks are now well-documented. This report builds on that critical work to analyze the attacks under international criminal law.

## Legal Framework

Relying on publicly available information, this report synthesizes what is currently known about the attacks in La Saline, Bel-Air, and Cité Soleil and applies international criminal law to analyze whether they amount to crimes against humanity. The three attacks were selected for analysis because of a combination of their severity and the existence of detailed documentation of facts surrounding the attacks.

The report uses the definition of crimes against humanity as contained in the Rome Statute, the international treaty that established the International Criminal Court (ICC), as well as related international jurisprudence from the ICC and other international criminal tribunals. The Rome Statute contains the most recent and widely accepted definition of the crime under international law.<sup>31</sup>

Under Article 7 of the Rome Statute, certain crimes may constitute crimes against humanity when they are committed as part of a widespread or systematic attack against a civilian population and are carried out pursuant to a state or organizational policy.<sup>32</sup> Using this framework, the report assesses whether there is a reasonable basis to conclude that the attacks amount to crimes against humanity.

Determining whether an attack constitutes crimes against humanity entails analyzing the violent acts to assess the scale, pattern, and context in which they took place. It also allows for a broader examination of individual criminal responsibility. Under international criminal law, liability for crimes against humanity is not limited to the persons who carried out the criminal acts, but also includes those who solicited, oversaw, and aided and abetted the crimes, as well as those who failed in their duties to punish the crimes after the fact. Given the compelling evidence that state actors—including



President Moïse himself and others in his administration—are implicated in the attacks, such an inquiry provides a fuller picture of the actors who may be held responsible for the attacks and who have allowed the attacks to be carried out with impunity.

## Findings

This report finds that there is a reasonable basis to conclude that both state and non-state actors may have committed crimes against humanity in Haiti. The attacks analyzed here involve murder, rape, torture, and persecution of a group based on their political identity—the types of underlying crimes that form a foundation for crimes against humanity.<sup>33</sup> The scale, pattern, and intensity of violence indicate that the acts were neither isolated nor random, but rather constitute both widespread and systematic attacks targeted at civilians. Furthermore, evidence suggests that the attacks were pre-planned and furthered both an organizational policy of the gangs and an implicit state policy to repress political opposition. This state policy can be gleaned from the consistent targeting of opposition neighborhoods and the repeated involvement of government officials, police officers, and police resources in the attacks. Moreover, state actors allowed the attacks to be carried out without police intervention and have since failed to punish those responsible.

Under Article 7 of the Rome Statute, qualifying underlying crimes may constitute crimes against humanity when they are committed as part of a widespread or systematic attack against a civilian population that is carried out pursuant to a state or organizational policy.

Based on what is currently known about the attacks, it is likely that further investigations could establish individual criminal responsibility for gang members and leaders, as well as government officials, including police officers and high-level Moïse administration officials who were involved in the attacks. As much of the international attention on the attacks has focused on the role of gangs,<sup>34</sup> this report instead focuses on the lesser-examined role of state actors who either actively provided material support to perpetrators or supported the perpetrators passively by failing in duties to prevent or punish them. The report identifies key legal theories under which state actors may be responsible for crimes against humanity: direct commission; aiding and abetting; ordering, soliciting, or inducing the crimes; and common enterprise. Under the doctrine of command responsibility, President Moïse himself may also be liable for the crimes committed by his subordinates, particularly with respect to the attack in La Saline.

The findings that crimes against humanity have likely taken place in Haiti, and that state actors may be liable for the crimes, have important ramifications for accountability. Haiti is a party to the American Convention on Human Rights, which under Haiti's Constitution becomes part of domestic law.<sup>35</sup> Haiti has also accepted the binding jurisdiction of the Inter-American Court of Human Rights, tasked with interpreting the American Convention. The Court has not only endorsed universal application of crimes against humanity,<sup>36</sup> but has also held that no statute of limitations applies to such crimes.<sup>37</sup> The Haitian government therefore has a duty to investigate and punish those who are responsible for crimes against humanity.<sup>38</sup> A finding of crimes against humanity also opens the door for other countries to prosecute perpetrators found outside of Haiti on the basis of universal jurisdiction.<sup>39</sup> Finally, although Haiti is not a party to the ICC, the situation could be referred to the ICC by the UN Security Council.<sup>40</sup>

It is crucial that the Haitian government and others fulfill their duty to hold perpetrators responsible for these crimes, in line with the recommendations set forth at the end of this report. Accountability is critical to supporting rule of law, but also to ensuring an end to the grave human rights abuses that have placed Haitian communities in a state of terror.



# I. Political Context of the Attacks

---

## President Moïse's Consolidation of Power

President Moïse was elected in 2016, after an extended process marked by fraud and low voter turnout.<sup>41</sup> Throughout his term, Moïse has systematically consolidated power by weakening branches of government and agencies meant to serve as a check on the presidency.

At the time of this report, Moïse is one of only 11 elected officials in the entire country.<sup>42</sup> In January 2020, the terms of most members of Parliament expired without elections being held for their replacements.<sup>43</sup> Defying calls to limit the use of executive decrees to the scheduling of legislative elections,<sup>44</sup> Moïse has instead used them to undertake significant legislative action, including creating a domestic intelligence agency with extensive policing and surveillance powers that is only subjected to limited judicial review,<sup>45</sup> and ordering an unlawful constitutional referendum.<sup>46</sup> When the mandates of mayors in all 141 of Haiti's municipalities expired in July 2020, Moïse used a decree to give himself the power to appoint municipal commissions.<sup>47</sup> In March 2021, Moïse used a decree to expand the law on states of emergency, granting him the power to suspend fundamental rights and enabling security forces, including the remobilized army, to take "necessary measures" to respond to threats to public security as defined by the executive.<sup>48</sup>

President Moïse has also undermined autonomous government oversight bodies that have implicated him, along with a large swath of government officials across administrations, in the disappearance of \$3.8 billion in public funds made available through the PetroCaribe loan program.<sup>49</sup> Moïse has denied the allegations, and there has been no meaningful judicial accountability for the misspending, aside from the prosecution of a political rival of Moïse's administration.<sup>50</sup> The scandal has sparked widespread and persistent protests across Haiti.

Moïse's approach to overdue elections raises further concerns about his consolidation of power. Moïse's term as president was widely interpreted to end on February 7, 2021, but he has refused to step down, citing an alternative interpretation of the Constitution that he contends allows him to stay in office until at least February 2022.<sup>51</sup> Haitian civil society and opposition parties have called for a transition government to be put in place to credibly and independently organize elections.<sup>52</sup> In September 2020, Moïse instead appointed a controversial provisional electoral council, mandating it to organize elections and hold a constitutional referendum.<sup>53</sup> Constitutional amendments by referendum are prohibited under the constitution, after it was used by Haiti's former dictator Jean-Claude Duvalier to make him "president-for-life."<sup>54</sup> Moïse's proposed amendments would fundamentally restructure government and concentrate power with the presidency at the expense of other branches,<sup>55</sup> and grant him indefinite immunity for acts related to his official functions as President.<sup>56</sup>

On February 7, 2021, the day many argued Moïse's term was set to end, the police arrested 18 individuals, including Supreme Court Justice Yvickel Dabrésil, for allegedly planning a coup.<sup>57</sup> The next day, Moïse issued a decree illegally "retiring" three Supreme Court justices appointed by the opposition,<sup>58</sup> and replaced them with new judges appointed by decree.<sup>59</sup> The police also seized control of the Supreme Court.<sup>60</sup> These actions have sparked widespread condemnation as attacks on judicial independence.<sup>61</sup>



## Anti-Government Protests

Civil society has strongly objected to President Moïse's seizure of power and the lack of accountability for corruption and other human rights violations. Protests calling for his resignation have repeatedly gripped the nation. These protests form an important backdrop to the brutal attacks carried out against civilians in neighborhoods that have been particularly active in opposing the government during Moïse's term.

In August 2018, a robust national movement erupted in response to the PetroCaribe corruption scandal, sparking a series of mass protests that have continued into 2021.<sup>62</sup> On October 17, 2018, an estimated 10,000 to 15,000 Haitians marched across the country, constituting one of the largest public demonstrations in Haiti's recent history.<sup>63</sup> The protests culminated in multiple operations '*peyi lok*,' during which businesses, schools, and public transportation were shut down across Haiti as a result of widespread demonstrations.<sup>64</sup> During a three-month *peyi lok* beginning in September 2019, large demonstrations took place almost every day.<sup>65</sup>

As living conditions deteriorated and impunity reigned, Haiti saw a sharp rise in violence and kidnappings in 2020.<sup>66</sup> These worsening conditions also underlie the continued protests and calls for Moïse's resignation.<sup>67</sup> In February 2021, protests again erupted over Moïse's refusal to step down.<sup>68</sup> Demonstrators accused Moïse of reinstating a dictatorship and called for his ouster.<sup>69</sup>

## Repression of Government Opposition and Violence Against Civil Society

The government has responded to demonstrations and growing opposition with increasingly aggressive tactics. As analyzed below, government officials have sought to suppress anti-government organizing through bribery, and when that has failed, have enlisted gangs to carry out targeted attacks against anti-government strongholds active in the protests.<sup>70</sup> The events in La Saline, Bel-Air, and Cité Soleil provide vivid examples of such attacks, but are far from the only instances.<sup>71</sup>

The Haitian National Police (PNH) has repeatedly used excessive force—including shooting live rounds and teargas—to shut down peaceful sit-ins and other demonstrations.<sup>72</sup> In November 2020, as violence and kidnappings were surging with impunity, Moïse targeted those protesting impunity by issuing a decree that criminalizes popular forms of non-violent protest as 'terrorist acts.'<sup>73</sup> The decree also subjects PNH officers to harsh prison sentences for failing to quell demonstrations, which observers fear will encourage even more aggressive use of force.<sup>74</sup>

Targeting and surveillance of government critics has also increased during Moïse's presidency. In August 2020, for example, Monferrier Dorval, the head of the Port-au-Prince Bar Association, was assassinated outside his home.<sup>75</sup> Hours before his death, Dorval gave a radio interview in which he criticized the government for dysfunction and called for "another kind of country."<sup>76</sup> Dorval had previously also joined a statement denouncing more than two dozen presidential decrees signed by Moïse.<sup>77</sup> Although Dorval's case was transferred to an investigative judge, crime-scene evidence disappeared from the court the following month, and the investigation has stalled.<sup>78</sup> One of the four individuals who were eventually arrested in connection with the killing allegedly has ties to the Moïse administration.<sup>79</sup>

The Moïse administration has also threatened human rights organizations and activists that have documented abuses and called for accountability. In 2019, human rights groups raised alarm about an alleged plan between the Minister of the Interior and gang leader Jimmy 'Barbecue' Chérizier to assassinate Pierre Esperance, the head of RNDDH.<sup>80</sup> Following a hearing before the Inter-American



Commission on Human Rights (IACHR) in December 2020, where lawyers from the *Bureau des Avocats Internationaux* (BAI) and the Institute for Justice & Democracy in Haiti (IJDH) testified about the rise in impunity for human rights violations, the Minister of Justice publicly denounced the BAI, IJDH, and RNDDH as “tools of instability” and accused them of enabling violence and insecurity in the country.<sup>81</sup> Around the same time, the government announced that the newly-instituted national intelligence agency has begun to monitor opposition activity,<sup>82</sup> leading to further concern that a crackdown on political dissent and civil liberties will follow.<sup>83</sup>

Moïse also reinstated the military (FAdH) in 2018, sparking concern that he will deploy the army to further curb dissent and opposition.<sup>84</sup> FAdH was notorious for mounting coups and perpetrating human rights abuses before its disbandment in 1995.<sup>85</sup> Moïse appointed former high-ranking army officers to the new FAdH, including Jean-Robert Gabriel, who was convicted *in absentia* for his role as a military commander in the 1994 Raboteau Massacre.<sup>86</sup>

## The Expanding Role of Gangs and Their Relationship to State Actors

In recent years, armed gangs have amassed significant power and control over impoverished neighborhoods.<sup>87</sup> Warring gangs with competing political affiliations rule neighborhoods like fiefdoms, using violence and terror to secure cooperation and extract bribes from the population.<sup>88</sup> They also wield significant socioeconomic power by taking on quasi-governmental functions and serving as conduits for government and financial assistance in the areas they control.<sup>89</sup>

Credible investigations have documented that many gangs receive financing, weapons, and ammunition from government sources in exchange for their political support.<sup>90</sup> This relationship serves an important political function; by controlling key segments of the population, gangs are able to deliver electoral support for politicians.<sup>91</sup> The UN has observed that gang violence has especially surged in impoverished neighborhoods with large polling stations, where gangs can use terror to influence electoral outcomes.<sup>92</sup>

In June 2020, a new gang alliance formed under the name ‘G9 Family and Allies,’ marking an alarming consolidation of power and raising concerns that state institutions will be further undermined.<sup>93</sup> The alliance is led by Chérizier, a former PNH officer and notorious gang leader implicated as the principal perpetrator in numerous brutal attacks against civilians, including the ones discussed here.<sup>94</sup> As of September 2020, the alliance included fifteen gangs and controlled vast swaths of territory in the Port-au-Prince metropolitan area.<sup>95</sup> G9 reportedly enjoys ties to both the Moïse administration and PNH.<sup>96</sup> The National Commission for Disarmament, Demobilization and Reintegration (CNDDR)—which was reinstated by President Moïse in 2019 with a stated goal of dismantling gangs—initially indicated that it encouraged G9’s formation to help facilitate negotiations, and stressed that it had a “good relationship with the G9 gang.”<sup>97</sup> The CNDDR later denied that it participated in the G9’s formation.<sup>98</sup>

The gangs also have a complicated relationship with PNH. Numerous police officers have personal ties to gangs.<sup>99</sup> Witnesses to violent gang attacks against civilians have reported seeing PNH officers participate directly in the attacks, and official PNH vehicles and uniforms have regularly been used in such attacks.<sup>100</sup> PNH has also systematically failed to provide protection to targeted neighborhoods, to intervene during the perpetration of crimes, or to arrest perpetrators with warrants issued against them.<sup>101</sup> PNH faces significant budgetary and other resource constraints that limits its ability to effectively tackle gang violence,<sup>102</sup> but the police’s failure to take any action during the course of vicious, lengthy attacks against civilians raises the specter of intentional complicity, especially when viewed in contrast to the strong showings of force against demonstrators.



## II. Emblematic Attacks Against Civilians

---

During Jovenel Moïse's presidency, gangs acting with the support of state actors have perpetrated numerous brutal attacks against communities in impoverished neighborhoods around the capital. This report focuses on three such attacks: the 2018 attack in La Saline, the 2019 attack in Bel-Air, and the 2020 attack in Cité Soleil. These attacks were selected for analysis based on their severity and on the availability of existing documentation collected through credible investigations by a diversity of actors.

Common elements present in each of the three attacks raise particular concern that they amount to crimes against humanity under international law. The attacks have had grave impacts on the affected communities; together, at least 240 people were killed,<sup>103</sup> at least 45 injured,<sup>104</sup> at least 25 were raped,<sup>105</sup> and hundreds of homes were destroyed leading to widespread displacement.<sup>106</sup> The attacks targeted civilians who reside in impoverished neighborhoods where opposition to the government runs strong and anti-government protests are common.<sup>107</sup> The attacks were carried out by prominent gang leaders, including Jimmy Chérizier, Serge Alectis *alias* Ti Junior, Iscar Andrice *alias* Isca, and Micanor Altès *alias* Roi Mikano, who in June 2020 formed the G9 gang alliance. The attacks each involve some degree of state involvement—ranging from high-level officials in Moïse's administration to individual PNH officers and resources—indicating that gang attacks are being systematically deployed as a tool of political repression.

A number of independent state, non-governmental, and international actors have investigated the attacks, including the Haitian judicial police (DCPJ), prominent Haitian human rights organizations RNDDH and *Fondasyon Jè Klere* (FJKL), the United Nations through the UN Mission for Justice Support in Haiti (MINUJUSTH) and the UN Integrated Office in Haiti (BINUH), and the media.<sup>108</sup> These investigations have involved interviews with victims, witnesses, community leaders, suspected perpetrators, and state authorities.<sup>109</sup> The following section draws on the findings of these investigations to summarize the key facts of the attacks. Where material discrepancies exist between accounts, it is noted accordingly.

### The Attack on La Saline, November 13-14, 2018

#### Lead-up to the Attack

On November 13-14, 2018, armed gangs operating with government support carried out a brutal massacre of residents in La Saline, a neighborhood of Port-au-Prince that has long been the center of anti-government organizing and resistance.<sup>110</sup>

La Saline is a long-standing stronghold of *Fanmi Lavalas*, the political party of former President Jean-Bertrand Aristide and one of the key opposition parties to Moïse's PHTK.<sup>111</sup> The neighborhood is known to have “an exceptional ability to either mobilize or thwart street demonstrations,” as protests frequently begin in La Saline and then proceed around the capital.<sup>112</sup> La Saline's political significance has made it a highly contested area for gangs of different political affiliations.<sup>113</sup> Gangs also vie for control of La Saline's *Croix-des-Bossales* market, where they can extort businesses and charge fees for allocating space.<sup>114</sup>

The La Saline community has played an active role in organizing protests against the Moïse administration,<sup>115</sup> and government officials have repeatedly tried to suppress anti-government activity there. In 2017, First Lady Martine Moïse, two government ministers, and other state officials reportedly



met with gang leaders and community leaders in La Saline and offered to invest in community projects in exchange for a reduction in anti-government activities in the area.<sup>116</sup> The proposal was rejected as “bold and inappropriate.”<sup>117</sup> As the PetroCaribe movement intensified in 2018, organizers planned large protests for October 17, 2018, the national commemoration day for Haiti’s revolutionary leader Jean-Jacques Dessalines.<sup>118</sup> On October 15, 2018, political opposition leaders held a joint press conference in La Saline, rallying support for the movement and demanding Moïse’s resignation.<sup>119</sup> Two days later, one of the largest protest in Haiti’s recent history took place, with particularly large crowds gathering in and around Port-au-Prince, including in La Saline.<sup>120</sup> Protestors blocked President Moïse from entering La Saline to lay a ceremonial wreath at Dessalines’ monument in Pont Rouge, leading to clashes with the police and the police firing guns into the crowd.<sup>121</sup>

With the protest movement in full swing, activists planned another round of nationwide demonstrations for November 18, 2018. On November 6, two weeks before the scheduled protests, Joseph Pierre Richard Duplan, then President Moïse’s Delegate for the West Department,<sup>122</sup> and Fednel Monchéry, then Director General of the Ministry of the Interior, reportedly met with Jimmy Chérizier in Delmas 6 to plan an attack against the residents of La Saline.<sup>123</sup> At the time, Chérizier was still a PNH officer and the head of the Delmas 6 gang.<sup>124</sup> He had a reputation for violence and was widely known as a key perpetrator of an earlier massacre in the 2017 Grand Ravine neighborhood, in which nine civilians were killed.<sup>125</sup> According to witnesses, Duplan and Monchéry supplied Chérizier and his gang with weapons, police uniforms, and government vehicles to use in the attack.<sup>126</sup>

Events leading up to the La Saline attack	
<b>Oct. 2017</b>	First Lady Martine Moïse visits La Saline to ask gang leaders to reduce antigovernment activity in return for investments.
<b>Aug.-Oct. 2018</b>	PetroCaribe protest movement intensifies.
<b>Oct. 15, 2018</b>	Political opposition leaders hold joint press conference in La Saline to support antigovernment protests.
<b>Oct. 17, 2018</b>	Largest protest in Haiti’s recent history. Protesters block President Moïse from entering La Saline to lay a ceremonial wreath.
<b>Nov. 6, 2018</b>	Duplan and Monchéry meet gang leaders to plan an attack in La Saline and provide supplies.
<b>Nov. 13, 2018</b>	Gangs attack La Saline residents and kill at least 71.

## The Attack

The details of the massacre that took place seven days later are well-documented.<sup>127</sup> On November 13, heavily armed gangs led by Alectis, Chérizier and other allied gang leaders arrived in La Saline in several vehicles, including an armored vehicle from the Departmental Intervention Unit (BOID), a unit of PNH.<sup>128</sup> The perpetrators began firing automatic weapons around 4pm, and over the course of fourteen hours, killed at least 71 residents, including children and a ten-month-old infant.<sup>129</sup> Some of the perpetrators wore BOID uniforms and lured residents out of their homes under the guise of a PNH operation, then executed them in the streets.<sup>130</sup> Many of the residents were shot and some were beheaded with machetes.<sup>131</sup> At least eleven women were raped, including two gang rapes carried out



inside the victims' homes.<sup>132</sup> The assailants looted at least 150 homes, destroying many of them.<sup>133</sup> An estimated 300 people were forced to flee their homes and sought shelter in the nearby neighborhood of Wharf Jérémie.<sup>134</sup>

The perpetrators removed some corpses to unknown locations and threw others in garbage piles where pigs fed on them.<sup>135</sup> In the morning of November 14, photos and videos of bodies began circulating on social media, allowing online commentators to identify some victims.<sup>136</sup> That evening, the perpetrators dismembered and burned remaining bodies, and transported some of the remains by tractor to another destination.<sup>137</sup> Other remains that could no longer be identified were only retrieved days later when a pastor was able to negotiate safe passage with gang leaders.<sup>138</sup>

The attacks were spearheaded by Chérizier, Alectis, Chrisla, and Andrice, leaders of allied gangs who went on to form the G9 alliance.<sup>139</sup> Eyewitnesses also reported that Duplan, President Moïse's Delegate, was personally present during the attack, talking to Chérizier and other gang leaders.<sup>140</sup> The UN has documented that in addition to Chérizier, at least two other PNH officers participated in the attack.<sup>141</sup>

## State Response

During the course of the 14-hour attack, PNH never intervened to protect the community.<sup>142</sup> PNH has several outposts within a kilometer of the site of the attack, and several police patrol cars were seen near La Saline during the attack.<sup>143</sup> The La Saline police station reportedly informed the Departmental West Directorate of the attack as soon as it began,<sup>144</sup> and by 5pm, at least five PNH units were on notice that the attack was taking place.<sup>145</sup> Citing inadequate resources, no part of PNH made an attempt to intervene.<sup>146</sup>

Even as photos and videos of the gruesome massacre spread across social media, President Moïse did not publicly condemn the violence or pay respects to the community.<sup>147</sup> The government has not offered any assistance or reparations to the survivors or those who are still displaced as a result of the massacre.<sup>148</sup>

Following public outcry, DCPJ conducted an investigation into the attack and reportedly identified 70 individuals responsible for carrying out the massacre, including Duplan, Monchéry, and Chérizier.<sup>149</sup> Prosecutions have been slow to progress, however, and none of the orchestrators of the attack have been arrested.<sup>150</sup> Both Duplan and Monchéry remained in their government roles until September 2019—nearly a full year after the perpetration of the attack—when they were replaced amidst intensifying protests.<sup>151</sup> While PNH fired Chérizier in December 2018, he remains at large despite an outstanding arrest warrant for his role in a massacre in Grand Ravine the year prior.<sup>152</sup> He has gone on to carry out several other massacres since, including the attacks in Bel-Air and Cité Soleil, described below.

## Attack on Bel-Air, November 4-6, 2019

### Leadup to the Attack

Like La Saline, Bel-Air is a key stronghold for government opposition.<sup>153</sup> The neighborhood has traditionally supported *Fanmi Lavalas*, dating back to Jean-Bertrand Aristide's ascent to the presidency.<sup>154</sup> Since Bel-Air is generally a locus for popular protest, gangs in control of the area are well-positioned to prevent demonstrations and hold off political opposition in exchange for payment.<sup>155</sup> The area is also a key access point to several large markets.<sup>156</sup>



In September 2019, anti-corruption protests escalated into a three-month *peyi lok*, in which businesses, schools, and public transportation were closed, and demonstrations against the government took place almost daily.<sup>157</sup> Protestors placed flaming barricades on Bel-Air’s main roads, shutting down traffic and blocking government entry to the neighborhood.<sup>158</sup> According to testimony from community leaders, government officials made several attempts to persuade residents to remove the barriers.<sup>159</sup> When these efforts were repeatedly rejected, the Secretary of State for Public Security, Léon Ronsard Saint-Cyr, reportedly approached Chérizier on October 31, 2019 and asked him to secure the removal of barriers and prevent further anti-government protests in Bel-Air.<sup>160</sup> In exchange, Saint-Cyr allegedly provided Chérizier with a large sum of money and several new motorcycles.<sup>161</sup> At the time of this exchange, Chérizier was widely known for his role in both the Grand Ravine and La Saline massacres.<sup>162</sup> Saint-Cyr denies these allegations.<sup>163</sup>

Events leading to the Bel-Air attack	
<b>Sep.-Nov. 2019</b>	<i>Peyi lok</i> - nation-wide shutdown with regular antigovernment protests known.
<b>Sep.-Oct. 2019</b>	Government officials fail to persuade residents to remove <i>peyi lok</i> road barriers in Bel-Air.
<b>Oct. 31, 2019</b>	Government official Saint-Cyr reportedly asks Chérizier to remove barriers and to prevent further protests.
<b>Nov. 3, 2019</b>	Chérizier, 40 armed men, and other gang leaders ask Bel-Air residents to remove barriers. Residents refuse.
<b>Nov. 4-7, 2019</b>	Chérizier and armed gang members attack residents and burn down houses, killing at least 24.

## The Attack

On November 3, 2019, 40 armed men led by Chérizier and two allied gang leaders, Wilson Pierre *alias* Ti Sonson and Alex *alias* Malkomprann, went to Bel-Air and offered residents money to remove the barriers.<sup>164</sup> The residents rejected the proposition, noting that the barricades were erected as a part of popular movement that they did not control.<sup>165</sup>

Over the course of the next four days, the gangs carried out attacks that killed at least 24 people, injured five, and burned 28 residences and 11 vehicles.<sup>166</sup> The attacks began on November 4, when Chérizier and his co-perpetrators returned to Bel-Air with 50 heavily armed men carrying automatic assault rifles.<sup>167</sup> Multiple eyewitnesses confirmed the presence of three plain-clothed PNH officers with ties to Chérizier’s Delmas 6 gang among the attackers.<sup>168</sup> The assailants fired at residents and homes and set fire to numerous vehicles and residences, injuring at least two residents.<sup>169</sup> The attack was reported on numerous radio stations as it was taking place, but the police did not deploy to intervene.<sup>170</sup> Later in the day, a BOID patrol vehicle happened to pass through Bel-Air and exchanged fire with the attackers, causing the assailants to temporarily retreat.<sup>171</sup> The BOID officers notified central command of the situation, but did not call for reinforcements, physically pursue the attackers, return to provide protection, nor take measures to investigate the attack or identify victims and damage.<sup>172</sup>



In the middle of the night on November 5, Chérizier and his co-perpetrators returned to Bel-Air, again firing at civilian homes while residents slept inside, injuring at least one woman.<sup>173</sup> A group of off-duty police officers residing in an adjacent neighborhood opened fire in response, killing Alex in the shoot-out.<sup>174</sup> On November 6, Chérizier, Pierre and their men returned to avenge Alex death.<sup>175</sup> Armed with military rifles and assault rifles, they killed two men and a 16-year-old girl and set 26 homes ablaze.<sup>176</sup> Deadly attacks on Bel-Air continued for several days throughout November.<sup>177</sup>

## State Response

Bel-Air is surrounded by police outposts, including four local police stations, the main Port-au-Prince station, and three police department headquarters.<sup>178</sup> Over the course of the multiple-day attacks, residents repeatedly called on the authorities for help.<sup>179</sup> These requests were widely circulated over the radio and social media, but PNH did not intervene or provide protection.<sup>180</sup> Investigations and prosecution of these crimes have largely stalled, and the UN has expressed concern that this lack of accountability contributed to an increase in gang attacks throughout 2020, including the attack on Cité Soleil.<sup>181</sup>

## Attack on Cité Soleil, May-July 2020

### Leadup to the Attack

Cité Soleil is a deeply impoverished and densely populated commune with approximately 250,000 residents.<sup>182</sup> It borders La Saline to the north. Like La Saline and Bel-Air, it is a historical stronghold for *Fanmi Lavalas*.<sup>183</sup> For decades, warring gangs have controlled different neighborhoods in Cité Soleil, but gang fighting has intensified in recent years.<sup>184</sup> Control over Cité Soleil has political implications because it is an area with many large polling stations; the gangs that hold territorial control are in a position to influence electoral outcomes and political activities.<sup>185</sup>

Violent gang fighting surged in 2020 during the solidification of the G9 alliance and in anticipation of elections, in what appears to be a concerted effort to turn Cité Soleil into an area controlled by pro-government gangs.<sup>186</sup> In May 2020, Altès, the leader of one of the anti-government gangs in Cité Soleil, was allegedly paid by an unidentified state actor to switch political alliances and eliminate Ernso Nicolas, another anti-government gang leader in the area.<sup>187</sup> He allegedly received 40,000 US dollars, five new firearms, the return of three other weapons previously seized by the police, and the withdrawal of official ‘wanted person’ notifications as a part of the deal.<sup>188</sup> After Nicolas was murdered, several gangs with ties to the government joined forces to take control of additional anti-government strongholds.<sup>189</sup>

To this end, on May 23, 2020, Chérizier convened a meeting of 13 gang leaders—who would go on to form the G9 alliance—to plan simultaneous attacks in various parts of Cité Soleil and the adjacent neighborhood of Nan Tokyo.<sup>190</sup> The attacks targeted Pont Rouge, where residents had blocked Moïse from laying a wreath the year prior; Nan Brooklyn, a neighborhood in Cité Soleil controlled by Gabriel Jean-Pierre *alias* Ti Gabriel, who reportedly supported government opposition during *peyi lok*; and Nan Tokyo, which had previously been brutally attacked by Chérizier and Alectis.<sup>191</sup>



Timeline of the Cité Soleil Attack	
<b>May 2020</b>	Government official reportedly pays gang leader Micanor Altès to switch alliance from antigovernment gang to Chérizier-allied gangs, kill another antigovernment gang leader.
<b>May 23, 2020</b>	Chérizier convened meeting of 13 gang leaders, including Altès, to plan simultaneous attacks against in parts of Cité Soleil and Nan Tokyo.
<b>May 24-27, 2020</b>	Chérizier and allied gangs attack Cité Soleil and Nan Tokyo, killing at least 34 people. As a result, Chérizier and allies take control of nine more areas.
<b>Jun. 2020</b>	Chérizier and allies form the G9 gang alliance.
<b>Jun.-Jul. 2020</b>	G9 focuses attacks on Nan Brooklyn neighborhood of Cité Soleil, controlled by their rival Gabriel Jean-Pierre. During this period, at least 111 were killed.

## The Attack

Between May 24 and July 31, 2020, communities in Cité Soleil faced an onslaught of gang-led assaults during which at least 145 people were killed and 98 homes were destroyed.<sup>192</sup>

On May 24, Chérizier and his men arrived in Nan Tokyo, while gangs led by Altès and Alectis besieged Pont Rouge.<sup>193</sup> Throughout the afternoon and evening and carrying into the following day, the gangs fired automatic weapons at civilians, reportedly killing numerous people.<sup>194</sup> When rival gangs hid in a post-earthquake resettlement camp for disabled people, attackers followed them there on May 25 and set 24 residences on fire, killing two residents.<sup>195</sup>

On May 26, at around 3pm, five armored PNH vehicles parked outside a key entrance to Nan Brooklyn.<sup>196</sup> According to survivors' accounts, tear gas tubes and cylinders were indiscriminately fired, forcing residents to flee and leading to an eruption of gunfire from all directions.<sup>197</sup> Residents were shot and attacked with knives and stones as they tried to escape.<sup>198</sup> Some were beheaded.<sup>199</sup> Many bodies were burned and thrown into the water.<sup>200</sup> On May 26 and 27, gangs attacked Nan Brooklyn killing at least four people, injuring 20 others, and setting fire to multiple houses.<sup>201</sup> G9 gangs also attacked displaced persons from La Saline who had taken refuge at the Wharf Jérémie after the November 2018 massacre, killing them and throwing their remains into the sea.<sup>202</sup> As a result of these attacks, the G9 took control of nine more areas, including Chancerelles, Nan Tokyo, and Fort Dimanche.<sup>203</sup>

After the May 2020 attacks, the entire commune of Cité Soleil was subject to greater gang-related violence. Between June and July 2020, G9 gangs murdered at least 111 people, a number of whom were first captured and then shot in the head.<sup>204</sup> The gangs also committed rapes and burned houses.<sup>205</sup> The G9 particularly focused attacks in Nan Brooklyn, the neighborhood still controlled by their rival and anti-government leader Gabriel Jean-Pierre.<sup>206</sup> They carried out five separate attacks on the Nan Brooklyn Market during this period and monitored all roads into Nan Brooklyn.<sup>207</sup>



## State Response

There is no indication that police intervened in order to protect civilians during the course of the sustained attack. RNDHH notes that police presence in the area was markedly lower throughout this time,<sup>208</sup> and that PNH officers twice abandoned the Cite Soleil police station during the height of the attack, citing a lack of resources and reinforcements.<sup>209</sup> Given the scale of the insecurity, police interviewed as a part of RNDDH's investigation noted that units needed reinforcements and a comprehensive plan for intervention from senior officials, including the Directorate General of PNH, but no such plan was issued.<sup>210</sup> Meanwhile, some PNH officers and resources were periodically used to perpetrate the attacks. In addition to PNH's involvement in the May attack, on July 2, 2020, two armored PNH vehicles passed through an area under G9 attack and shot at passersby in the direction of homes, killing at least five civilians and injuring ten others.<sup>211</sup> Four armored PNH carriers also assisted G9 gangs on July 19, 2020 to take back a building seized by Jean-Pierre.<sup>212</sup> While the Prime Minister and the Minister of Justice and Public Safety have allegedly issued orders to pursue accountability for perpetrators, no arrests appear to have been made in connection with the attack.<sup>213</sup>

RNDDH interviewed residents of Cité Soleil who believe that the attacks were politically motivated, carried out as a part of a concerted effort between gangs and the government to control the neighborhoods for electoral purposes.<sup>214</sup> Former Deputy for Cité Soleil, Pierre Lemaire, told FKJL that President Moïse set out to remove Jean-Pierre from control of the neighborhood after learning of his role in organizing anti-government activity during *peyi lok* in 2019.<sup>215</sup> Residents of Pont Rouge believe they were targeted in retaliation for denying Moïse entry to the area for the October 17, 2018 wreath-laying ceremony.<sup>216</sup> While additional evidence is needed to confirm these theories, they are consistent with a broader pattern of state-sponsored gang attacks being used for political aims.

Gangs implicated in each attack	
<b>La Saline attack 2018</b>	<ul style="list-style-type: none"> <li>• Chabon led by Alectis</li> <li>• Delmas 6 led by Chérizier</li> <li>• Nan Bwadam led by Jimmy Joseph</li> <li>• Belekou led by Iscar Andrice</li> <li>• Twi Bwa led by Chrisla</li> <li>• Base Pilate led by Wilson Pierre</li> <li>• St Martin Street gang led by Alex</li> </ul>
<b>Bel-Air attack 2019</b>	<ul style="list-style-type: none"> <li>• Delmas 6 led by Chérizier</li> <li>• Chabon led by Alectis</li> <li>• Krache Dife led by Pierre</li> <li>• St Martin Street gang led by Malkonprann</li> </ul>
<b>Cité Soleil attack 2020</b>	<ul style="list-style-type: none"> <li>• Wharf Jérémie gang led by Altès</li> <li>• Chabon led by Alectis</li> <li>• Delmas 6 led by Chérizier</li> <li>• Simon Pélé gang led by Zouma</li> <li>• Belekou led by Iscar Andrice</li> <li>• Nan Boston gang led by Matias Saintil</li> </ul>

## III. Legal Analysis: There Is a Reasonable Basis to Conclude That the Attacks Amount to Crimes Against Humanity

---

### Crimes Against Humanity Under International Law

Crimes against humanity are among the gravest crimes under international law. They are considered crimes not just against the individual victims, but humanity as a whole.<sup>217</sup> Crimes against humanity are prohibited under customary international law and are considered *jus cogens*, a peremptory norm from which no derogation is permitted.<sup>218</sup> They are therefore prohibited internationally regardless of whether a state has affirmatively joined a treaty that outlaws such crimes.

This section assesses whether the attacks in La Saline, Bel-Air, and Cité Soleil meet the legal definition of crimes against humanity under international criminal law. The report uses the definition of crimes against humanity articulated in the Rome Statute, the international treaty that created the International Criminal Court (ICC), because the Rome Statute and related jurisprudence is regarded as the most widely accepted and recent articulation of the crime under international law.<sup>219</sup> Where instructive, the analysis in this section also draws on case law from other international criminal tribunals.

To find that crimes against humanity are taking place under the Rome Statute's definition, several elements must be present. First, the attack must involve at least one of the underlying crimes listed in Article 7(1) of the Rome Statute, such as murder or rape.<sup>220</sup> Second, several contextual elements must be met: the underlying crimes must be (1) committed as part of an attack directed against any civilian population; (2) that is widespread or systematic; and (3) that is pursuant to or in furtherance of a state or organizational policy.<sup>221</sup>

Based on the publicly available evidence, there is a reasonable basis to conclude that all these elements are met, and that the attacks in La Saline, Bel-Air, and Cité Soleil amount to crimes against humanity. The report uses the "reasonable basis" standard because it is the one used by the ICC prosecutor to determine whether to open an investigation into a given situation, with a view to prosecuting the individuals who are personally responsible for committing the crimes.<sup>222</sup> While Haiti has signed, but not ratified the Rome Statute, and therefore is not subject to the prosecutor directly opening an investigation, the framework is useful for evaluating Haiti's international duty to fully investigate and prosecute the crimes. Moreover, the UN Security Council may refer crimes against humanity in Haiti to the ICC, regardless of whether Haiti is a party to the Rome Statute.<sup>223</sup> Potential venues for trying crimes against humanity are discussed in Section V, below.

### The Attacks Involved Qualifying Acts of Violence

To find that a crime against humanity has taken place, at least one of the underlying crimes listed in Article 7(1) of the Rome Statute must be present. There is evidence that at least four such crimes were perpetrated in the attacks in La Saline, Bel-Air, and Cité Soleil: murder, rape, torture, and the persecution of groups based on their political identity. Each are analyzed in turn.



## Murder

The Rome Statute and Elements of Crime define murder as the killing of one or more persons.<sup>224</sup> Investigations into the attacks have documented at least 240 civilians who were killed in the three attacks. In the La Saline attack of November 2018, RNDDH documented that at least 71 people were killed as assailants systematically shot and beheaded civilians.<sup>225</sup> This number is likely an undercount; since many bodies were burned, chopped into pieces, and disposed of by the gangs, human rights investigators have noted that the true number of deaths may never be known.<sup>226</sup> In the Bel-Air attack of November 2019, Chérizier and his associates killed at least 24 people.<sup>227</sup> Between May 23 and July 28, 2020, armed gangs led by G9 members killed at least 145 people in numerous attacks on and around Cite Soleil.<sup>228</sup>

## Rape

Rape is another prohibited act under the Rome Statute. Rape requires the invasion, committed by force, threat of force, or coercion,<sup>229</sup> of a person's body "by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ."<sup>230</sup>

Human rights groups have documented the use of rape as a tool to terrorize civilians in the La Saline and Cité Soleil attacks. Haitian human rights organizations have reported 11 cases of rapes, including gang rapes, that took place during the 2018 attack on La Saline.<sup>231</sup> RNDDH interviewed a 19-year old woman who recalled that at least five men broke into her house and gang raped her.<sup>232</sup> J.J.L., a 26-year-old survivor, described how armed men entered her house, raped her, and then set her house on fire.<sup>233</sup> Similarly, J.J., a 27-year-old woman, reported that she was in her home when two armed individuals broke into her house and then took turns raping her.<sup>234</sup> Another 23-year-old woman was beaten with rifles before the assailants raped her.<sup>235</sup> A 14-year old girl also reported on the radio that she was raped by Alectis, leader of the Chabon gang.<sup>236</sup>

During the course of the attack on Cité Soleil from May 24 to July 28, 2020, RNDDH documented that at least 18 women were raped by gang members.<sup>237</sup> Many survivors named the armed gangs led by Iscard Andrice as key perpetrators.<sup>238</sup> A.C., a 38-year-old woman, reported being raped by three members of Andrice's gang in her home on June 3.<sup>239</sup> On the same day, 25-year-old F.P. was beaten and raped by at least five of Andrice's men.<sup>240</sup> Other survivors described how they were accosted by gang members as they were walking to work or on their way to buy groceries. L.T. was on her way to buy food for her three children when two armed men beat her, dragged her into an alley, and then took turns raping her.<sup>241</sup> On July 7, two young women were captured by three armed men and held for several hours during which they repeatedly raped. S.R., a 59-year-old woman, was walking in Cité Soleil when armed gang members stopped her and began to beat her. One of the perpetrators dragged her into a street corner and raped her.<sup>242</sup>

These testimonies likely do not capture the full scale of rapes committed during the attacks, as social stigma often stifles the reporting of the crime.<sup>243</sup>

## Torture

Torture is another crime that underlies crimes against humanity.<sup>244</sup> The Rome Statute defines torture as the intentional infliction of severe pain or suffering, whether physical or mental, and which does not arise from lawful sanctions.<sup>245</sup> Courts have further elaborated that, to rise to torture, the infliction



of severe pain or suffering must be aimed at “obtaining information or a confession, or at punishing, intimidating or coercing the victim or a third person, or at discriminating, on any ground, against the victim or third person.”<sup>246</sup>

Courts have consistently found that rape is a form of torture.<sup>247</sup> As discussed above, rape—and therefore torture—was used as a tool to terrorize civilians in at least 11 instances in the La Saline attacks and in at least 18 instances in the Cité Soleil attacks. Perpetrators in the La Saline attacks also tortured victims by raping them while relatives were watching, and by causing victims to watch the rape of their relatives. Such acts inflict severe mental suffering that amounts to torture.<sup>248</sup> The UN verified that in the La Saline attacks, gang rapes took place in the homes of the victims, in front of their parents or children.<sup>249</sup> In one such case, the perpetrators also mutilated the rape victim’s parents.<sup>250</sup> Such mutilation inflicts severe pain in itself, and especially rises to torture in the context of mental suffering from watching the rape of a child.<sup>251</sup>

Other acts in the attacks also likely inflicted severe pain that amount to torture. In the aftermath of the La Saline attacks, for example, human bodies were found charred, mutilated, dismembered, and left for pigs to feed on.<sup>252</sup>

These acts amount to torture as they appear aimed to punish or intimidate the victims. Each of the attacks were perpetrated against residents in neighborhoods known as antigovernment strongholds and sites of recent antigovernment activity. As further discussed below, the perpetrators likely attacked these victims to punish them for perceived antigovernment activity and to intimidate them from further antigovernment activity. Moreover, in the Bel-Air attack, RNDDH reports that a man named Etienne Monbrun was captured and taken to Delmas 4, where he was brutally beaten and eventually killed for failing to provide the information that gang members requested.<sup>253</sup> This particular act also amounts to torture as the pain was inflicted in order to obtain information.

### **Persecution against an identifiable group or collectivity on political grounds**

Persecution of identifiable groups on political grounds is another prohibited act. The Rome Statute defines persecution as the intentional and severe violation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.<sup>254</sup> The severe deprivation of fundamental rights can include murder, sexual assault, and property damage such as the burning and pillaging of homes.<sup>255</sup>

The neighborhoods of La Saline, Bel-Air, and Cité Soleil are all known strongholds of the political opposition. The communities were particularly active in organizing and carrying out protests against Moïse that included publicly calling for his resignation. They are also historical strongholds of the *Fanmi Lavalas* party, a key opposition party to Moïse’s PHTK, and have become rallying sites for broader alliances opposed to PHTK.<sup>256</sup> As set out in Section II, the massacre in La Saline followed several failed attempts by senior government officials to bribe the community into discontinuing anti-government demonstrations.<sup>257</sup> The attacks in Bel-Air similarly took place after failed government attempts to persuade residents to remove blockades during the *peyi lok* anti-government protests.<sup>258</sup> Finally, residents of Cité Soleil believe that they were targeted because of their political affiliations with *Fanmi Lavalas*, in an effort to ensure pro-government election outcomes.<sup>259</sup> The community in Pont Rouge further believes that they were targeted in retaliation for having blocked President Moïse from laying a wreath there during the October 2018 protests.<sup>260</sup> These common characteristics and the context in which the attacks were perpetrated suggest that the residents of La Saline, Bel-Air, and Cité Soleil were targeted because of their identity as supporters of the political opposition.



## The underlying crimes are a part of the attacks

In order to meet the requirements for crimes against humanity, the underlying crimes must be a part of the attack.<sup>261</sup> The crime cannot be an isolated act so far removed from an attack that, considering the context and circumstances, it cannot reasonably be said to have been part of the attack.<sup>262</sup> In order to determine whether a specific act of violence has an adequate nexus to the attack, an individualized inquiry is needed. For the purpose of meeting the definition of crimes against humanity, however, it is sufficient to view the acts as whole to assess whether their “characteristics, aims, nature, or consequence” demonstrate that they are objectively connected to the attack.<sup>263</sup>

The acts enumerated above—murder, rape, torture, and destruction of property—make up the heart of the attacks on La Saline, Bel-Air, and Cité Soleil. These acts are not isolated or disconnected from the attacks, but rather appear to be carried out pursuant to a pre-established plan.<sup>264</sup> This conclusion is reinforced by the fact that in each of the attacks, the perpetrators came to the sites of the attack together, they were sufficiently armed to cause widespread harm, and they worked together to inflict violence in a coordinated manner.<sup>265</sup>

Further fact-finding may also reveal additional acts that formed parts of these attacks.

## The Attacks Were Directed Against a Civilian Population

### The assaults on La Saline, Bel-Air, and Cité Soleil constitute attacks

The Rome Statute requires that the prohibited acts must be part of “an attack directed against any civilian population.”<sup>266</sup> An “attack” refers to multiple commissions of prohibited acts that form a course of conduct or pattern of behavior.<sup>267</sup> It describes a series or overall flow of events as opposed to a mere aggregate of random acts.<sup>268</sup>

The evidence indicates that the events in La Saline, Bel-Air, and Cité Soleil each meet the definition of an attack. The killings, rapes, and property destruction in La Saline were carried out pursuant to a preconceived plan and followed a systematic pattern that formed an attack on the neighborhood.<sup>269</sup> In Bel-Air, the killings and property destruction were also carried out pursuant to a plan. They took place over the course of three days, and were carried out by the same perpetrators who repeatedly returned to continue the attack.<sup>270</sup> Finally, the crimes committed by G9 in Cité Soleil also follow a pattern that indicates that they were not merely an aggregate of random acts. The assaults on May 24-27 were carried out pursuant to a plan to simultaneously target Nan Brooklyn, Nan Tokyo, and Pont Rouge.<sup>271</sup> As a result, G9 gained control of nine new neighborhoods in Cité Soleil.<sup>272</sup> Nan Brooklyn, however, remained under the control of rival Jean-Pierre.<sup>273</sup> G9 then continued to carry out killings, rapes, and property damage in June and July that focused on Nan Brooklyn, using a similar pattern of violence targeted at civilians.<sup>274</sup> The evidence indicates that these were not random acts of gang violence, but a part of an ongoing attack over an extended period of time.<sup>275</sup>

The assaults on La Saline, Bel-Air, and Cité Soleil could also potentially be viewed as components of a sustained, multi-year attack against civilians pursuant to an effort to exert control over communities opposed to the government.<sup>276</sup> The repeated involvement of Chérizier, the common characteristics of the targeted neighborhoods, and similarities in how the attacks were carried out, may establish a broader pattern indicative of such a sustained attack. Since the available evidence supports a finding that each of the assaults in and of themselves amount to crimes against humanity, however, this report primarily analyses each event as a separate attack.



## The attacks were directed against a civilian population

The attacks must be directed at a civilian population. This distinguishes crimes against humanity from attacks directed against “armed forces and other legitimate combatants.”<sup>277</sup> To meet this element, civilians must be the “primary object of the attack,” and not just incidental victims of the attack.<sup>278</sup> Moreover, the attack must target a broader group and not merely a “limited and randomly selected number of individuals.”<sup>279</sup> The targeted civilian population can include a group defined by its perceived political affiliation.<sup>280</sup>

The primary objects of the three attacks are civilian residents of the targeted opposition neighborhoods. The manner in which the residents were targeted—including being extracted from or sought out in their homes to be murdered or raped—demonstrates that they were primary targets of the attacks, and not merely collateral damage in the context of gang fighting.

## The Attacks Were Widespread and Systematic in Nature

In order for specific crimes to amount to crimes against humanity, they must also be a part of an attack that is either widespread or systematic in nature.<sup>281</sup> While only one of the two is required to establish this element,<sup>282</sup> the existing evidence supports a finding that the attacks in La Saline, Bel-Air, and Cité Soleil were both widespread and systematic.

### The attacks were widespread

An attack is widespread when it is a large-scale attack with numerous victims.<sup>283</sup> While no numerical threshold of victims must be met and no large geographic area is required,<sup>284</sup> courts have taken into account the consequences of the attack on the targeted population, the number of victims, and the nature of the acts.<sup>285</sup>

Each of the three attacks meet this requirement. In La Saline, the attackers killed at least 71 people, raped seven people, and vandalized 150 homes.<sup>286</sup> In Bel-Air, the gangs killed at least 24 people and set 28 houses on fire.<sup>287</sup> In the attack on Cité Soleil, the perpetrators killed at least 145 people and burned or vandalized more than 90 houses.<sup>288</sup> The cumulative number of deaths as a result of these attacks is at least 240. Beyond the number of casualties and physical injuries, the attacks have had dire economic and social consequences on the civilian population in these neighborhoods. According to human rights groups, hundreds of civilians were displaced as a result of the La Saline massacre.<sup>289</sup> Many have not been able to return to their homes and became homeless, and some who sought shelter in Wharf Jérémie were executed during the attack on Cité Soleil two years later.<sup>290</sup> The UN reports that the attacks in Cité Soleil rendered at least 298 households displaced,<sup>291</sup> and Haiti’s Office for Civil Protection estimates the number of displaced persons to be over 1000.<sup>292</sup> As insecurity persists, terror and trauma continues to prevail in the targeted communities.

### The attacks were systematic

While it is only necessary to demonstrate that an attack is widespread, there is also evidence that the attacks were systematic. Systematic refers to the “the organized nature of the acts of violence and the improbability of their random occurrence.”<sup>293</sup> A systematic attack may be demonstrated through “patterns of crimes—that is the non-accidental repetition of similar criminal conduct on a regular basis.”<sup>294</sup> Other factors that are indicative of a systematic and organized attack include the identification of a target population prior to the commencement of the attack, the ferrying of attackers





from other locations specifically for the purpose of the attack, and the provision of uniforms and weapons to the attackers.<sup>295</sup>

The attacks in La Saline, Bel-Air, and Cité Soleil were far from spontaneous or random; rather, each attack was organized and entails a pattern of similar criminal conduct.

The 2018 La Saline attack was well-organized and carried out pursuant to an established plan. Two weeks before the attack, Richard Duplan, then President Moïse's Delegate for the West Department; Fednel Monchéry, then Director General of the Ministry of the Interior; and gang leaders including Chérizier met to plan the attack.<sup>296</sup> During the planning meeting, Duplan and Monchéry reportedly furnished the gangs with weapons, police uniforms, and government vehicles that were used in the attack, and provided payment for the execution of the attack.<sup>297</sup> On November 13, 2018, about 50 heavily-armed assailants arrived in La Saline together in order to carry out the attack.<sup>298</sup> The acts of violence carried out during the attack follow a pattern of similar criminal conduct: over the course of fourteen hours, the assailants divided into four groups and systematically went from house to house, pulling residents out their homes and killing them with single shots or machete blows.<sup>299</sup> Numerous bodies were hacked to pieces and several women were raped.<sup>300</sup> An estimated 150 homes were looted and burned.<sup>301</sup> Gangs also appear to have coordinated in the disposal of bodies; gangs burned the corpses in the evening, and a tractor picked up the burnt bodies and moved them to another location on the night of November 15-16.<sup>302</sup>

The 2019 Bel-Air attack was similarly planned and organized, and showed a pattern of terrorizing civilians. After failed attempts to remove flaming barriers placed on Bel-Air's roads as part of the *peyi lok* protests, then Secretary of State for Public Security Léon Saint-Cyr reportedly met with Chérizier and paid him a significant sum of money to secure the removal of the barriers and prevent further anti-government protests in Bel-Air.<sup>303</sup> Chérizier initially approached organizers with 40 armed men and sought to bribe them into removing the barricades.<sup>304</sup> After he was rebuffed, Chérizier brought 50 heavily-armed men carrying automatic assault rifles to Bel-Air on November 4, 2019, to carry out the attack.<sup>305</sup> They terrorized the neighborhood, shooting civilians and setting fire to homes.<sup>306</sup> Gangs returned for two consecutive nights, wearing coordinated military uniforms and again firing at civilians and setting fire to their homes while they slept inside.<sup>307</sup>

The May-July 2020 attack on Cité Soleil also reveals organization and a pattern of terrorizing civilians through similar criminal conduct. Thirteen gang leaders from the G9 alliance met on May 23, 2020 to plan simultaneous assaults on Pont Rouge, Chancerelles, and Nan Tokyo.<sup>308</sup> In these attacks, gangs again fired at civilians, burned their bodies, and set houses on fire.<sup>309</sup> Those who tried to flee were specifically targeted and shot, attacked with knives or stones.<sup>310</sup> Some were beheaded. Throughout June and July, the G9 continued its assault on the residents of Cité Soleil to capture parts of the area not yet under their control.<sup>311</sup> G9 particularly focused on Nan Brooklyn, a neighborhood controlled by their rival Jean-Pierre.<sup>312</sup> Within these attacks, gang members followed a similar pattern of terrorizing civilians by capturing them and then shooting or raping them and burning numerous houses.<sup>313</sup> The violence does not appear to be random, accidental, or isolated.

## The Attacks Furthered a State or Organizational Policy

The Rome Statute also requires that the attacks were committed pursuant to, or in furtherance of, a state or organizational policy to commit the attack.<sup>314</sup> The policy element does not refer to a formally defined policy in the commonly used sense; rather, any attack "which is planned, directed or organized—as opposed to spontaneous or isolated acts of violence"<sup>315</sup> will qualify as a policy.

To establish a policy, it is relevant that the state or organization actively promoted or encouraged an attack against a civilian population;<sup>316</sup> however, attacks do not have to be predetermined in order to be part of a policy. A policy may “only crystallize and develop as actions are set in train and undertaken by perpetrators,” such that it is only possible to define the overall policy in retrospect.<sup>317</sup> Motive or purpose is not required to prove a policy to attack a civilian population.<sup>318</sup>

The policy element shares many similarities with the systematic element, such that evidence relevant to demonstrating the systematic nature of an attack is also relevant to whether the attack was carried out pursuant to a policy.<sup>319</sup> However, the two elements are not simply synonymous.<sup>320</sup> The systematic nature of an attack concerns the pattern of repeated, non-random acts of crime, but “to establish a ‘policy’ it need be demonstrated only that the State or organization meant to commit an attack against a civilian population.”<sup>321</sup>

### The attacks furthered a state policy

There are substantial grounds to find that the attacks in La Saline, Bel-Air, and Cité Soleil furthered a state policy to attack civilians in order to discourage or repress political opposition. A state policy does not have to be explicit or formal; indeed, it is relatively rare that a “State or organization seeking to encourage an attack against a civilian population might adopt and disseminate a pre-established design or plan to that effect.”<sup>322</sup> Instead, a state policy to attack can be inferred from such evidence as preparations or collective mobilization coordinated by the state,<sup>323</sup> including “the enlistment of gangs to unleash violence on perceived rival communities.”<sup>324</sup> The police’s deliberate failure to take action, with the aim of encouraging the attack,<sup>325</sup> and the political background against which the attack took place,<sup>326</sup> are also relevant.

The involvement of various Moïse administration officials and police officers in planning and executing the attacks point to a state policy to attack civilians. As set out in the preceding section, each attack was carried out pursuant to a plan, and evidence suggests that government officials were active in the preparations of at least the La Saline and Bel-Air attacks and that they enlisted gangs to carry out the attacks. The attack in Cité Soleil was triggered by an unidentified government official paying Altès to switch political alliances and kill another anti-government gang leader in the area.<sup>327</sup> Even if the government official did not commission the attack on civilians *per se*, this reinforces a pattern of gangs being used to effectuate a state policy.

Persistent use of police resources in the execution of the attacks also support an inference of a policy.<sup>328</sup> Gang members arrived in a BOID vehicle in the La Saline attack,<sup>329</sup> undercover police officers attacked civilians alongside gang members in the Bel-Air attacks,<sup>330</sup> and Chérizier arrived in Cité Soleil in a PNH vehicle in the May 2020 attacks.<sup>331</sup> Moreover, the police failed to intervene to protect civilians in each of the attacks. The La Saline attack lasted for 14 hours without any intervention from PNH, even though two police sub-stations were less than a kilometer away and five different police units were on notice of the attacks.<sup>332</sup> The Bel-Air attack took place over a three-day period without PNH intervention, even though police stations surround the area and a BOID control alerted the police force of the attacks.<sup>333</sup> The police also did not intervene in the May attack on Cité Soleil, and RNDDH reports that PNH’s presence generally declined in the area despite continued violence against civilians over the subsequent months.<sup>334</sup> The extended time periods of the attacks provided ample opportunity to at least attempt to intervene, call in reinforcements, and/or gather additional resources. Especially when viewed in contrast to the strong show of force by police against protesters, these facts may suggest a conscious aim to encourage the attacks.



Finally, the political background of the attacks suggest that they furthered a broader state policy to repress. As set out in Section I, President Moïse has engaged in a persistent pattern of repression against the political opposition. Moreover, as detailed above, each of the attacked neighborhoods are opposition strongholds and each attack took place in the context of growing protests against Moïse's administration. This political background, and state actors' involvement in the planning and execution of the attacks, indicate that the attacks furthered a state policy.

### **The attacks furthered a separate gang policy to attack**

The attacks also appear to have furthered the gangs' own organizational policy to attack civilians in order to gain territorial control. First, the gangs that carried out the attacks are organizations within the meaning of the Rome Statute. "Organizations" include non-state-actors and do not need to be organized similarly to a state.<sup>335</sup> Rather, instructive factors include: (1) whether the group is under a responsible command or has an established hierarchy;<sup>336</sup> (2) whether it has the necessary capacities to "allow an attack to be executed", including having the membership and resources to undertake the "action, mutual agreement and coordination;"<sup>337</sup> (3) whether it exercises control over part of the territory of a state; and (4) whether it has criminal activities against civilians as a primary purpose. Applying such factors, organized gangs in other contexts have been found to meet the definition of an organization under the Rome Statute.<sup>338</sup>

As noted in Section I of this report, the gangs involved in these attacks are structured entities organized under a leader who exerts command over the membership.<sup>339</sup> The gangs exercise authority over distinct territories, command significant resources, and often carry out state-like functions with regards to the populations they control. These structures and resources allow gang leaders to efficiently coordinate attacks against a civilian population.

Ample evidence indicates that the gangs were acting pursuant to a policy to gain territorial control by attacking the civilian population. While analyzing each specific gang implicated in each attack is beyond the scope of this report, these gangs generally follow an economic model that relies on exerting authority over territory through the use of violence.<sup>340</sup> As discussed above, the attacks were directed by established gang leaders, planned in advance, and well-organized in their execution. Chérizier, who orchestrated each of the attacks, has himself articulated a policy of sorts, calling his gang activities an "armed revolution," while noting that he would "put guns in the hands of every child if we have to."<sup>341</sup> These aspects all point to the attacks having been carried out in furtherance of an organizational policy.

Thus, there is a reasonable basis to conclude that the elements of crimes against humanity are met in the attacks on La Saline, Bel-Air, and Cité Soleil.

## IV. The Available Evidence Points to Several State Actors Who May Be Liable for Crimes Against Humanity

---

Under international criminal law, criminal liability for crimes against humanity extends both to the individuals who carry out the underlying violent acts, and to the individuals who have planned, instigated, ordered, or otherwise aided and abetted in the planning, preparation, or execution of the attacks.

To date, much of the international reporting on these attacks has focused on gangs as the chief perpetrators.<sup>342</sup> Indeed, the attacks were led by gang leaders, most prominent among them Jimmy Chérizier, who appears to have played a central role in orchestrating and executing each of the three emblematic attacks. Investigators have also identified the gangs that directly participated in carrying out these attacks, and in some cases, the individuals who committed the specific crimes.<sup>343</sup> It is critical for these individuals to be fully investigated, tried, and punished for crimes against humanity. As the UN has stressed, the ongoing failure to hold perpetrators accountable for these attacks is “creating an enabling environment for further violence.”<sup>344</sup>

Yet the available evidence also suggests repeated involvement of state actors in both the commission of the crimes, and in ordering, instigating, and enabling the attacks. These state actors include officers within PNH who participated in carrying out the attacks or otherwise supported their execution; senior officials in the Moïse administration who appear to have commissioned the attacks; and President Moïse himself, whose position of control and failure to act in response may trigger liability under the doctrine of command responsibility. Individuals in a position of superiority who fail in their duty to prevent or punish crimes against humanity may be considered more culpable than the direct perpetrators, in light of their leadership position and their failure to uphold duties to prevent or punish the crimes.<sup>345</sup>

Despite the potential liability of state actors for these attacks, their role in perpetrating crimes against humanity in Haiti has received relatively less attention at the international level.<sup>346</sup> In order to provide a fuller picture of the actors who could be responsible for crimes against humanity in Haiti, this section identifies the principal legal theories under which state actors may be held criminally responsible for the attacks.

Assigning criminal responsibility to specific individuals requires an extensive, individualized inquiry into the actions and state of mind of specific perpetrators, and will necessitate additional fact-finding and investigation. While such an analysis is thus beyond the scope of this report, this section sets out the most relevant analytical frameworks for understanding potential liability of the state actors implicated in the attacks to date. Further investigations are needed to establish the extent of state involvement, the specific acts in which various individuals were involved, and the state of mind of the accused.

### Direct Commission

In addition to gang members, the available evidence implicates state actors in the direct commission of certain crimes. These individuals can be held criminally responsible if their acts were a part of the widespread or systematic attack and they acted with knowledge that their conduct was part of such an attack.<sup>347</sup>



Investigations have found that multiple PNH officers participated in the attacks alongside gang members. Chérizier was still a police officer at the time of the La Saline attack and has been consistently singled out for responsibility in the attacks.<sup>348</sup> Then-police officer Gregory Antoine, *alias* Ti Greg, and Gustave *alias* Chupit are also accused of participating in the La Saline attack.<sup>349</sup> In the Bel-Air attack, eyewitnesses report that three police officers in civilian clothes who had ties to Chérizier's gang shot residents and burned vehicles alongside gang members.<sup>350</sup> The UN's investigation identified two of the police officers by precinct and noted that the third was believed to be a member of the National Palace security.<sup>351</sup> In Cité Soleil, police officers in armored vehicles who drove through the neighborhood during the course of an attack reportedly shot and killed five civilians.<sup>352</sup>

These officers may be responsible for directly committing crimes against humanity if they knew or intended for these acts to be a part of the attacks.<sup>353</sup> Given that the PNH officers were seen working closely with gang members during the attacks, it is likely that such knowledge existed. Further fact-finding and an individualized inquiry into the actions and states of mind of specific officers are required to establish their responsibility.

## Aiding and Abetting

Even if there is not adequate evidence to establish that state actors personally carried out the underlying criminal acts, they may still be responsible for aiding and abetting crimes against humanity.<sup>354</sup> Aiding and abetting refers to acts or omissions that assist, encourage, or lend moral support to crimes.<sup>355</sup> The assistance may either be practical, material, moral, or psychological,<sup>356</sup> provided that it had an effect on the crime.<sup>357</sup> Moreover, under the Rome Statute, the aider and abettor must also have acted with the purpose of facilitating the commission of the crime.<sup>358</sup>

## Haitian National Police

The existing evidence indicates that PNH officers may have aided and abetted the crimes through: (1) their presence and actions during the course of the attacks;<sup>359</sup> (2) the provision of PNH resources for use in the attacks;<sup>360</sup> and (3) their failure to intervene and protect civilians under attack.<sup>361</sup>

First, as noted above, a number of police officers actively supported gang perpetrators in each of the three attacks. In La Saline and Bel-Air, the officers were identified as participating in the attack alongside gang members.<sup>362</sup> Even if evidence is inadequate to hold them responsible for directly committing the underlying crimes, their presence likely served as encouragement to the principal perpetrators, especially in light of their positions of authority.<sup>363</sup> The circumstances of the attacks, including the pre-planning, scale, concentration, extended period of the attacks, and the fact that the PNH officers worked alongside gang members during the attacks, suggest that they intended to facilitate the crimes through their presence. In Cité Soleil, the police arrived separately from the gangs, but did not intervene to stop the attacks and instead may have assisted through their own use of force against civilians. On May 26, 2020, five armored PNH vehicles parked at the entrance to Nan Brooklyn and fired gas tubes and cylinders that forced residents to flee and set the stage for gangs to systematically chase down and attack civilians.<sup>364</sup> In July, two armored PNH vehicles passed through an area under G9 attack and shot at passersby, killing at least five civilians.<sup>365</sup> Additional investigations may further support the conclusion that the police acted with the purpose of facilitating the attacks.

Moreover, RNDDH has documented that Chérizier generally operates with the assistance of PNH officers, who facilitate his travel and ensure his safety, including during the course of criminal activities.<sup>366</sup> RNDDH has identified officers Garry Sanon, Alain Boyard, Mackendy Cantave, David

Diverant, and Luckson Dessources as acting in collusion with Chérizier.<sup>367</sup> If further investigations show that their services were used in the attacks discussed here, and that the services were provided with the purpose of facilitating the attacks, these officers could also be liable for aiding and abetting crimes against humanity.

Second, official PNH resources including weapons, vehicles, and uniforms were used in the attacks on La Saline and Cité Soleil. In La Saline, some of the assailants were transported to the scene in an armored BOID vehicle, wearing BOID uniforms that induced residents to believe they were a part of an official PNH operation rather than an operation aimed at the residents themselves.<sup>368</sup> RNDDH's investigation indicates that these resources may have been furnished by Duplan and Monchéry, but further investigation may show that police officers were also complicit in making the resources available for the purpose of facilitating the crimes.<sup>369</sup> In Cité Soleil, Chérizier again arrived at the scene of the May attack in a PNH vehicle.<sup>370</sup> In July 2020, four armored PNH personnel carriers assisted armed gangs led by Andrice and Saintil in taking over a building where multiple people were killed.<sup>371</sup> While investigations to date do not establish how these vehicles were obtained, further investigations may find that they were provided by PNH officials to facilitate the crime.<sup>372</sup>

Finally, the police may have facilitated the crimes by failing in their legal duty to intervene to protect civilians during the attacks. During the multiple-day attacks in Bel-Air, residents made repeated pleas for help, the attacks took place in a neighborhood surrounded by police outposts, and a police patrol notified central command of the attack, yet PNH did not respond. As the UN has found, the police's failure to respond to La Saline, moreover, may not only have signaled official approval for the attacks, but also facilitated the ongoing perpetration of the crimes and the high death toll.<sup>373</sup> RNDDH has similarly found that the decreased PNH presence in Cité Soleil "facilitates the intensification of armed attacks against the city by G-9 members."<sup>374</sup> To find that this inaction violated a legal duty to act, however, the police must have had the means to act,<sup>375</sup> which PNH has contested.<sup>376</sup>

## Moïse Administration Officials

Government officials may also be liable for aiding and abetting crimes against humanity under the legal framework set out above. There is significant evidence that officials in the Moïse administration provided practical, material, and moral assistance to the gangs in the commission of the attacks in La Saline and Bel-Air. Duplan and Monchéry allegedly furnished weapons and vehicles for use in the La Saline attack.<sup>377</sup> Duplan was also physically present with Chérizier, Gregory Antoine, and other assailants at the scene of the La Saline attack, which may have had the effect of providing encouragement and moral support.<sup>378</sup> The fact that Duplan and Monchéry provided resources in the context of a planning meeting suggests intent to assist in the attack.

Moreover, Léon Saint-Cyr's alleged payment to Chérizier to put an end to growing anti-government protests in advance of the Bel-Air attack<sup>379</sup> likely served as essential encouragement for the attack. Saint-Cyr's decision to hire Chérizier for the task, when Chérizier was well-known for his use of violence against civilians in both Grand Ravine and La Saline, may indicate an intent to facilitate a violent attack. However, a more extensive inquiry into the effect of the support and Saint-Cyr's state of mind would be required, especially in light of Saint-Cyr's denials.<sup>380</sup>

## Ordering, Soliciting, or Inducing the Crimes

Under international criminal law, individuals are liable for crimes against humanity if they are found to have ordered, solicited, or induced the crimes carried out by others.<sup>381</sup> Individuals in a position of



authority can be liable for ordering a crime if they used their authority to instruct another person to commit an offence.<sup>382</sup> A formal superior-subordinate relationship is not necessary.<sup>383</sup> Orders must entail a positive act, rather than an omission, but do not need to be issued directly, in writing, or given in any particular form.<sup>384</sup> The individuals must also have intended to order a crime or must be aware of the substantial likelihood that the crime would be committed due to their order.<sup>385</sup> Individuals can be equally liable for soliciting, inducing, or instigating the perpetrators to commit the underlying crimes by prompting or urging them to do so.<sup>386</sup> There must be a causal link, or nexus, between the instigation and the final offence; the instigation must substantially contribute to the final offense.<sup>387</sup> Moreover, they must have acted with either the intent to instigate another person to commit a crime, or alternatively, with awareness of the “substantial likelihood that a crime will be committed in the execution of the act or omission instigated.”<sup>388</sup>

Senior government officials in the Moïse administration may be liable for ordering, inducing, soliciting, or instigating gangs to perpetrate the crimes in La Saline and Bel-Air. Evidence strongly suggests that government officials Duplan and Monchéry ordered, induced, or solicited gangs to attack civilians in La Saline. The DCPJ has identified them as the “presumed authors” of the La Saline attack.<sup>389</sup> They commissioned Chérizier and others to commit the crime in exchange for payment.<sup>390</sup> They also actively participated in the planning of the attack and reportedly provided key resources, including weapons, government vehicles, and police uniforms that made a substantial contribution to the resulting offenses.<sup>391</sup> Eyewitnesses report that Duplan was personally present during the attack in La Saline, and that he told Chérizier “you killed too many people,” suggesting that he knew that a crime was likely to be committed in the execution of the act.<sup>392</sup> The senior government officials’ advanced planning is evidence of their intent to engage in the criminal act, and demonstrates their awareness that their conduct would influence gang members’ perpetration of the crimes.

Similarly, government official Leon Saint-Cyr may have ordered, induced, or solicited Chérizier and his gang to attack civilians in Bel-Air. Saint-Cyr allegedly asked Chérizier to remove the road barriers and prevent further antigovernment protests, in exchange for a substantial sum of money and several motorcycles.<sup>393</sup> This conduct prompted Chérizier to remove the barriers by force, attacking civilians in November 2019. The paid exchange indicates that Saint-Cyr’s request made a substantial contribution to the Bel-Air attacks against civilians, and was perhaps the catalyst. In light of Chérizier’s well known record of using violence against civilians, Saint-Cyr would have been aware that Chérizier’s involvement in this type of operation was likely to lead to criminal acts.<sup>394</sup>

## Common Enterprise

Government officials and PNH officers may also potentially be liable for taking part in a joint criminal enterprise with those who carried out the attacks. A joint criminal enterprise does not have to be formally organized in a military, political, or administrative structure;<sup>395</sup> rather, the existence of a common plan, design, or purpose that involves the commission of a crime is relevant.<sup>396</sup> There is no need for the purpose to have been previously arranged or formulated; it may materialize extemporaneously and be inferred from the facts.<sup>397</sup> To be liable under this theory, a person must have substantially assisted or significantly affected the furtherance of the goals of the enterprise, such as by procuring weapons for the plan.<sup>398</sup> Moreover, all co-perpetrators, including the accused, must have had the shared intent to perpetrate the crime.<sup>399</sup>

## Moïse Administration Officials

Though the requirement of a significant contribution to the planned crime creates a high bar to hold



individuals liable in a joint criminal enterprise, Duplan and Monchéry may meet this bar for their role in the La Saline attack. The common plan is evident in their meeting with gang members two weeks prior to the attack to plan it.<sup>400</sup> This planning meeting also demonstrates a shared intent among the co-perpetrators—Duplan, Monchéry, and the gang leaders—to commit the attack. Duplan and Monchéry significantly contributed to the crime by planning the attack and furnishing resources for the attack, including weapons, vehicles, and police uniforms.<sup>401</sup> Furthermore, Duplan was present at the attack along with gang members.<sup>402</sup> This significant contribution indicates that they intended to perpetrate the attack against civilians.

## Haitian National Police

Further investigations may also reveal that police officers were engaged in a common enterprise with gang leaders. The evidence to date does not indicate how all the police resources used in the attacks were obtained, but if it is shown that police officers made them available for the purpose of facilitating the attacks, a common enterprise may be found.

## President Moïse May Be Responsible for Crimes Against Humanity Under the Doctrine of Command Responsibility

President Moïse may personally be criminally responsible for crimes against humanity committed during his term as president. In particular, the prominent role of Moïse’s senior officials in planning and executing the La Saline attack may trigger liability under the doctrine of command responsibility. It is a well-established norm of international law that “military commanders and other persons occupying positions of superior authority may be held criminally responsible for the unlawful conduct of their subordinates.”<sup>403</sup> This criminal responsibility “may arise either out of the positive acts of the superior or from his culpable omissions,” such as “failing to take measures to prevent or repress the unlawful conduct of his subordinates.”<sup>404</sup>

For President Moïse to be criminally responsible under the doctrine of command responsibility, three elements must be met: (1) there is a superior-subordinate relationship between the commander and the perpetrator of the crime;<sup>405</sup> (2) the commander knew or should have known, owing to the circumstances at the time, that his subordinates had committed, were committing, or planned to commit criminal acts;<sup>406</sup> and (3) the commander failed to prevent the commission for the crime, or failed to punish the subordinates after the commission of the crime.<sup>407</sup>

With respect to the first element of command responsibility, the superior-subordinate relationship centers on whether the superior had “effective control” over the subordinate.<sup>408</sup> Effective control can be indicated by the power to prevent or punish the subordinate.<sup>409</sup> It extends to situations where the superior has less than absolute power, such as a degree of “influence” that does not amount to “formal powers of command.”<sup>410</sup> Persons in senior government offices, including presidents, have been subject to liability under the command responsibility doctrine.<sup>411</sup> Moreover, command responsibility is not limited to liability within military structures, but applies to civilian structures as well, so long as the superior had the power to prevent or punish the subordinate.<sup>412</sup>

First, there is a reasonable basis to conclude that President Moïse occupied a superior position over both Duplan and Monchéry, the two officials in his administration that DCPJ identified as the “presumed authors” of the La Saline attack.<sup>413</sup> At the time of the attack, Duplan held a senior government position as the Delegate to the West Department, Moïse’s official representative for one





of Haiti's ten geographical territories. Delegates report directly to the president.<sup>414</sup> Moreover, Moïse personally appointed Duplan to the position in 2017, and was empowered to unilaterally remove him from the position.<sup>415</sup> Monchéry was serving as Director General of the Ministry of the Interior, a position that oversees the principal execution of the Ministry's work.<sup>416</sup> Moïse also personally appointed Monchéry to the position in 2017.<sup>417</sup> Moïse's position of superiority and oversight gave him effective control over Duplan and Monchéry; that is, he had the power to prevent their acts or punish them for acts that rise to the level of crimes against humanity.

Second, Moïse is likely to have known, and certainly should have known, that his subordinates had committed, were committing, or planned to commit the acts rising to crimes against humanity. Duplan and Monchéry's proximity to the President creates an inference of knowledge. This is reinforced by the fact that the attack was planned specifically to suppress protests against Moïse. Moreover, President Moïse and his wife were personally involved in efforts to control anti-government activity in La Saline prior to the planning of the attacks. On October 13, 2017, about a year before the attack, First Lady Martine Moïse and then-Minister of Interior Max Rudolph Saint-Albin personally led a delegation to La Saline to offer state resources in exchange for the discontinuation of protests.<sup>418</sup> In the days before anti-government protests were scheduled to take place in October 2018, residents report that the First Lady returned to La Saline to bribe the community into compliance (an allegation she has denied).<sup>419</sup> Around the same time, President Moïse also personally visited police stations across the capital and reportedly distributed cash to officers to encourage them to quell the protests.<sup>420</sup> Haiti's former police chief denounced the action, interpreting it as a sign of the President's state of panic in the context of growing opposition.<sup>421</sup> The protests proceeded anyway and demonstrators blocked President Moïse and the First Lady from entering La Saline for the official commemoration ceremony, injuring one of their security guards in the process.<sup>422</sup> The plan to attack residents of La Saline was put into motion by Moïse's senior officials two weeks later.

Furthermore, President Moïse certainly should have known that crimes had been committed by his subordinates in La Saline after the fact. The massacre was a major event. In the immediate aftermath, photos and videos of corpses circulated widely on social media and the attacks were reported across Haitian news.<sup>423</sup> An estimated 300 people fled La Saline and took up shelter in a makeshift camp across the street from the Haitian Parliament.<sup>424</sup> RNDDH identified Duplan and Monchéry as key suspects in a report published just two weeks after the attack.<sup>425</sup> This information was reinforced by DCPJ's official investigation, which was made public in May 2019, and named Duplan and Monchéry as the "presumed authors" of the attack.<sup>426</sup> Under the doctrine of command responsibility, Moïse cannot escape liability by claiming ignorance that his subordinates had planned and committed these crimes.

Finally, President Moïse failed to properly investigate and punish his subordinates after the commission of the crime. Despite many credible sources, including the UN and the DCPJ, implicating Duplan and Monchéry in the attack, Moïse did not immediately remove them from their posts. Instead, they remained in their official government roles for almost a year after the La Saline attack.<sup>427</sup> Prosecutions of both Duplan and Monchéry have stalled, and neither has been arrested for their roles in the massacre. They initially sought to avoid responsibility by asserting that, as high-level officials, they could not be prosecuted without the President's consent.<sup>428</sup> President Moïse has not taken action to issue such consent or otherwise ensure that the prosecution moves forward.

Based on the currently available evidence, there is a reasonable basis to conclude that President Moïse may be liable for crimes against humanity committed in La Saline under the doctrine of command responsibility. Further investigations may reveal culpability in other attacks as well.

## V. Ensuring Accountability for Perpetrators of Crimes Against Humanity

---

### The Crimes Have Been Carried Out with Impunity

To date, the attacks on civilians have largely been carried out with impunity. In 2020, the UN expressed concern that the ongoing “lack of accountability for human rights violations committed by State agents,” and the “chronic absence of progress on judicial proceedings against alleged perpetrators.”<sup>429</sup> Indeed, criminal investigations and prosecutions for the attacks have been slow to non-existent. Out of nearly one hundred suspects identified, only 11 people have been arrested for the La Saline massacre,<sup>430</sup> and the prosecution has stalled since July 2019.<sup>431</sup> None of the chief perpetrators or implicated police officers are among those arrested.<sup>432</sup> Chérizier remains at large despite a warrant for his arrest for involvement in the Grand Ravine massacre, and has continued to gain power over the course of Moïse’s presidency. While the government maintains that he has eluded capture, he has been seen in the company of police officers who have declined to arrest him<sup>433</sup> and has repeatedly been interviewed by media.<sup>434</sup> Duplan and Monchéry also remain free. Monchéry was briefly arrested for driving with a government license plate in February 2021, and then promptly released.<sup>435</sup> Similarly, no one has been held criminally responsible for the attacks in Bel-Air or Cité Soleil.<sup>436</sup> It is unclear whether Saint Cyr’s alleged involvement in Bel-Air is subject to any formal investigation.

The Moïse administration has also persistently rejected international calls for accountability. In 2018, when the UN Special Representative to the Secretary-General in Haiti urged an investigation into the 2017 Grand Ravine and Lilavois massacres, Moïse responded by recalling Haiti’s ambassador to the UN and summoning the Special Representative to explain her comments.<sup>437</sup> She was recalled and replaced shortly thereafter.<sup>438</sup> A year later, when members of the U.S. Congress publicly urged an independent investigation of the La Saline massacre, the Haitian Embassy condemned the statement and categorically denied the existence of human rights violations in Haiti.<sup>439</sup> In December 2020, the United States government issued civil sanctions against Duplan, Monchéry, and Chérizier for their involvement in the attack,<sup>440</sup> but Haitian authorities have not taken any subsequent meaningful steps towards holding them accountable.

### Implications for Accountability

The finding that crimes against humanity have likely taken place in Haiti has important implications for accountability, as it heightens the duty to investigate and prosecute perpetrators and opens additional avenues for doing so. Specifically, it (1) triggers an international obligation on the Haitian government to investigate and prosecute individuals responsible for these crimes;<sup>441</sup> (2) allows other states and international bodies to investigate and prosecute the crimes under certain circumstances;<sup>442</sup> and (3) limits the application of domestic statutes of limitations and immunity provisions so even high-ranking government officials can be tried for crimes indefinitely into the future.<sup>443</sup>

Haiti has a duty to investigate and prosecute crimes against humanity.<sup>444</sup> Haiti is a party to the American Convention on Human Rights, which recognizes the universal application of the crime.<sup>445</sup> Under Haiti’s Constitution, international agreements ratified by Haiti, such as the American Convention, become part of the country’s domestic laws. Indeed, in 2014, because of the country’s ratification of the American Convention, the Port-au-Prince Court of Appeals decided to reopen a domestic investigation against former dictator Jean-Claude Duvalier for alleged crimes against humanity.<sup>446</sup>



Duvalier had just returned to Haiti after 25 years in exile, and stood accused of overseeing brutal crimes against civilians carried out by *tonton macoutes*—state-sponsored gangs operating within an apparatus that shares some similar characteristics to the patterns of terrorizing civilians seen today.<sup>447</sup> The prosecution has stalled since his death in 2014, but the case serves as a relevant example.<sup>448</sup> The Haitian government must promptly investigate and prosecute the crimes against humanity that are taking place in present day.

The finding that crimes against humanity have likely been committed also opens the door for other countries and international bodies to ensure that justice is served. Crimes against humanity are crimes so serious and heinous that they are an “attack on the very quality of being human.”<sup>449</sup> They not only represent a crime against the individual victims, but are an affront against humanity as a whole. Humankind, therefore, has an interest in ensuring that crimes against humanity do not go unpunished.<sup>450</sup> Haiti is not a party to the Rome Statute, so the ICC prosecutor cannot directly open an investigation into the situation, but the UN Security Council has the power to refer the situation to the Court.<sup>451</sup> The Security Council could also decide to establish an ad hoc tribunal or mechanism for Haiti, as it has in prior circumstances where the host state was unable or unwilling to prosecute international crimes.<sup>452</sup> Finally, domestic courts of other countries could prosecute crimes against humanity under the principle of universal jurisdiction, should the Haitian state continue to prove unwilling or unable to do so.<sup>453</sup> The principle of universal jurisdiction allows states to prosecute certain crimes—including crimes against humanity—regardless of the location of the crime or the nationality of the perpetrators or victims.<sup>454</sup> Initially codified in the 1949 Geneva Conventions on the laws of war, governments have increased the application of universal jurisdiction in the past 15 years.<sup>455</sup> This is a significant step in offering redress to victims who have no legal recourse in the states where the crimes were committed, and combating a culture of impunity for perpetrators of grave human rights violations.

Importantly, Haitian and international courts have held that there is no statute of limitations for crimes against humanity, meaning that alleged perpetrators can be tried even after time limits under domestic law have lapsed.<sup>456</sup> Thus, there can and should be accountability for these abuses into the future. There are also limitations to the application of immunity for crimes against humanity. As noted above, the draft constitution proposed by Moïse’s administration in January 2021 introduces immunity for acts taken by the head of state in an official capacity, and applies it retroactively even beyond the end of mandate. If the new constitution passes by referendum, questions will remain as to its enforceability, however, given that the current constitution bans amendments through referendum. Moreover, the immunity clause should not serve as a bar to prosecution for crimes against humanity, as acts that are incompatible with the president’s mandate and that do not fall within the exercise of presidential functions are not covered by immunity.<sup>457</sup> Since crimes against humanity are prohibited in Haiti as *jus cogens* and through Haiti’s incorporation of the American Convention on Human Rights into domestic law,<sup>458</sup> there is a strong argument that such conduct is incompatible with the president’s mandate and exercise of functions. Moreover, both international and national courts have found that *jus cogens* violations such as crimes against humanity cannot be a state actor’s “official acts” for the purpose of immunity, and therefore allowed prosecution of heads of state in domestic courts.<sup>459</sup> As for international courts, head of state immunity does not apply to international crimes under customary international law.<sup>460</sup> Therefore, an international court may issue a warrant for the arrest of a head of state, and also request another states to arrest and surrender a head of state.<sup>461</sup>

It is imperative that actors within and outside of Haiti fulfil their duties to ensure accountability for these heinous crimes.



## Recommendations

---

Based on the finding that there is compelling evidence that crimes against humanity have been committed in Haiti, we recommend the following actions:

### Haiti

We urge Haiti to urgently and rigorously investigate and prosecute the crimes discussed in this report. As Haiti has a duty to investigate crimes against humanity as a result of its international obligations and as statute of limitations do not apply, perpetrators of crimes against humanity can, and should, be tried directly in Haiti's domestic courts. The justice system must ensure that criminal accountability extends to government officials and other state agents who share culpability for the attacks. Moreover, individuals identified by DCPJ as implicated in the La Saline massacre should immediately be placed under arrest.

### The Inter-American Commission on Human Rights

The Inter-American Commission on Human Rights (IACHR) has historically played an important role in supporting an end to impunity for gross human rights violations in Haiti. We ask the Commission to address crimes against humanity in Haiti as a situation that requires special attention in its annual report, by conducting a country visit on the concerns raised herein, and requesting that the Haitian government submit a written report outlining a concrete plan of action for addressing crimes against humanity.<sup>462</sup> We also encourage the IACHR to offer the Haitian government technical assistance to prosecute the crimes against humanity identified in this report.

In January 2020, the IACHR granted precautionary measures in favor of La Saline Victims' Committee, a group comprised of victims of the La Saline attack, their families, and human rights defenders.<sup>463</sup> The IACHR found that members of the La Saline Victims' Committee face serious, urgent risk of suffering irreparable damages and requested that the Haitian government protect the rights to life and integrity of the affected individuals. The IACHR further demanded that the government ensure that members of the La Saline Victims' Committee can do their work as human rights defenders without being subject to threats, harassment, or other acts of violence, and that Haiti report on any actions taken to investigate the La Saline attack.<sup>464</sup>

To date, the Haitian government has markedly failed to comply with the measures recommended by the IACHR. We urge the Commission to ensure that Haiti complies with the precautionary measures by convening working meetings or hearings, initiating an exchange of communications, and holding a follow-up visit to Haiti.<sup>465</sup> In addition, should Haiti continue its history of noncompliance, we encourage IACHR to file a provisional measure request with the Inter-American Court of Human Rights.<sup>466</sup>

### The United Nations

The UN should strongly condemn the crimes against humanity identified in this report and support investigations and prosecutions of the perpetrators.

Specifically, we urge BINUH and the Office of the High Commissioner for Human Rights (OHCHR) to pursue further investigations into the attacks on civilians in Haiti, including the attack in Cité

Soleil that has not been subject of a UN investigation. While UN actors have undertaken important documentation of gang violence, similar investigations into the role of state actors are merited. We also encourage the offices to provide technical support for the prosecution of perpetrators, as was done for the prosecution of Jean-Claude Duvalier for crimes against humanity.

We also encourage the UN Security Council to continue to monitor the human right situation in Haiti, with a renewed focus on the role of state actors in the commission of gross human rights violations, and to consider referring the situation in Haiti to the ICC. The Haitian government has proven unable or unwilling to try these crimes, and since Haiti is not a party to the Rome Statute, Security Council referral is the only avenue to bring the crimes before the ICC.

## The United States

The United States has responded to the Moïse administration's consolidation of power and record of human rights abuses with mixed messages.<sup>467</sup>

In December 2020, the U.S. Treasury Department sanctioned Chérizier, Duplan, and Monchéry for their roles in the La Saline attack, and has repeatedly called for the prosecution of perpetrators of human rights violations. At the same time, the State Department has taken several concerning positions that run contrary to supporting civil society's calls to hold the Haitian government accountability for human rights abuse. On September 16, 2020, a senior State Department official encouraged President Moïse to unilaterally appoint a provisional electoral council (CEP) to organize elections and warned Haitian civil society and opposition groups to comply with the process, threatening that further resistance is "going to start to have consequences for those who stand in the way of it."<sup>468</sup> In the context of the brutal attacks already carried out against the political opposition, observers have expressed concern that this statement condones the actions of the Moïse administration.<sup>469</sup> Further, in February 2021, the State Department explicitly endorsed President Moïse's position that he is entitled to remain in office until February 2022,<sup>470</sup> contrary to the interpretation of Haitian legal experts, opposition groups, and members of U.S. Congress.<sup>471</sup> After Haitians who protested faced violent repression, the State Department commented that the "remarkable lack of popular response to calls for mass protests" indicates that the Haitian people are tired of "squabbles over power."<sup>472</sup> Members of the U.S. Congress have strongly condemned these positions and repeatedly called on the State Department to promote democracy and human rights in Haiti.<sup>473</sup>

We urge the United States government to support accountability for human rights in Haiti by continuing to call for investigations and prosecutions of the perpetrators in all instances of crimes against humanity, and by extending sanctions to other perpetrators as merited by the evidence. We also encourage the United States to consider the Haitian government's role in these crimes as it formulates foreign policy vis-à-vis Haiti and to respect Haitian sovereignty by refraining from supporting political moves that are inconsistent with the Haitian constitution and rule of law.

## Governments with Universal Jurisdiction Statutes

To the extent that the Haitian government fails to prosecute the crimes against humanity discussed in this report, we appeal to governments with universal jurisdiction statutes, such as Canada, France, Senegal, Switzerland, and the United States, to prosecute any perpetrators found within their jurisdictions.



## Conclusion

---

There is a reasonable basis to conclude that state and non-state actors have committed crimes against humanity in Haiti during Jovenel Moïse's presidency. The brutal killings, rapes, and torture of civilians in La Saline, Bel-Air, and Cité Soleil appear to follow a widespread and systematic pattern that further state and organizational policies to control and repress communities at the forefront of government opposition. This finding must serve as an urgent call to action to ensure that accountability follows.

The attacks show an alarming pattern of state involvement. Evidence suggests that senior government officials in Moïse's administration have planned, provided resources for, and solicited attacks against civilians. Police resources were used in all three attacks, and police officers directly participated in the attacks alongside gang members. The police also failed to intervene to protect civilians during the course of the attacks, despite their close proximity to the sites and repeated pleas for help. Each attack targeted neighborhoods known as opposition strongholds and where recent protests against Moïse's administration had taken place. In short, there is strong indication that these massacres were politically motivated.

The human cost is intolerable. At least 240 civilians were killed in these three attacks. Hundreds of homes have been vandalized or burned. Human rights groups documented at least 25 rapes in the attacks. The full toll is likely far greater, as incomplete access to evidence, disposal of bodies, fear of retribution, and social stigma often stifles the reporting of these crimes. Beyond the number of casualties and physical injuries, the attacks have had dire economic, social, and psychological consequences for the victims and their communities, including widespread displacement, homelessness, and survival in a state of terror.

The Haitian government has so far appeared unwilling or unable to hold perpetrators accountable and has instead fostered a culture of impunity that the UN has cautioned may encourage further attacks. Indeed, after the government failed to take action to hold perpetrators accountable for the attack in La Saline, the BAI noted that this "begs the question, when will the next carnage happen?" The answer came a year later in Bel-Air, and recurred the following year in Cité Soleil. Since that time, Chérisier and other perpetrators have gone on to carry out similar attacks.

The Haitian government must heed mounting calls from Haitian civil society to urgently investigate and prosecute the crimes discussed in this report. The finding that crimes against humanity are likely taking place should also trigger action by the international community, as these crimes are not only an affront to the victims in Haiti, but against humanity as a whole. The UN, the Inter-American Commission on Human Rights, and other governments must do more to unequivocally condemn the crimes taking place under Moïse's rule and facilitate the investigation and prosecution of perpetrators – whether in Haiti or abroad.

Putting an end to impunity for gross human rights violations is critical for Haiti's future. As Moïse takes steps to remove limits on his power, Haitian civil society is increasingly raising concerns of a slide back to Haiti's dictatorial past. That past was characterized by brutal repression and extensive rights violations. Accountability and rule of law are critical pre-requisites for human rights and democracy to thrive in Haiti and beyond.

## Annex I

---

This report draws on the extensive fact-finding conducted by Haitian human rights organizations, the UN, and other international actors. The report primarily relies on findings from the following investigations:

**National Network for the Defense of Human Rights (RNDDH), *The events in La Saline: from power struggle between armed gangs to State-sanctioned massacre (Dec. 1, 2018)*** documenting the events of and leading up to the La Saline attack. RNDHH interviewed 439 residents of La Saline, including victims and their families; government officials, including Richard Duplan and then-police officer Gregory Antoine, members of the judiciary, police authorities; and members of grassroots organizations. Available at <https://web.rnddh.org/wp-content/uploads/2018/12/10-Rap-La-Saline-1Dec2018-Ang1.pdf>.

**Mission des Nations Unies Pour L'Appui A La Justice en Haiti (MINUJUSTH), *La Saline: Justice pour les victims. L'Etat a l'obligation de protéger tous les citoyens (June 2019)*** presenting the findings of the Human Rights Service (SDH) division of MINUJUSTH on the attacks of November 13 and 14, 2018, in La Saline. The report is based on 55 interviews with survivors, eyewitnesses and family members of those killed, as well as 10 meeting with civil society and 25 meetings with state actors. Available at [https://reliefweb.int/sites/reliefweb.int/files/resources/minujsth\\_hcdh\\_rapport\\_la\\_saline\\_1.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/minujsth_hcdh_rapport_la_saline_1.pdf).

**Judith Mirkinson and Seth Donnelly, *The Lasalin Massacre and the Human Rights Crisis in Haiti, National Lawyers Guild and Haiti Action Committee (Jul. 8, 2019)*** report documenting the events of the La Saline attack based on interviews with victims and their families. Available at <https://www.nlg.org/wp-content/uploads/2019/07/The-Lasalin-Massacre-ONLINE-7-11-19-Nat-NLG.pdf>.

**National Network for the Defense of Human Rights (RNDDH), *Massacre au Bel-Air: Banalisation du droit a la vie par les autorités étatiques (Dec. 17, 2019)*** report documenting the Bel-Air attack from Nov. 4-8, 2019. RNDDH interviewed victims and their families, government officials, including Ronsard Saint-Cyr, Secretary of State for Public Security, and a Judge at the Tribunal of Peace in Delmas. Available at <https://www.haitilibre.com/docs/6-Rap-Massacre-Bel-Air-17Dec2019.pdf>.

**Fondasyon Je Klere (FJKL), *Conflit au Bel-Air et à la ruelle Mayard : la Fondasyon Je Klere (FJKL) s'inquiète de l'instrumentalisation politique des groupes armés (Nov. 29, 2019)*** documenting attacks in Bel-Air and its contiguous neighborhoods from November 4-6, 2019. Available at [https://www.fjkl.org.ht/images/doc/FJKL\\_conflit\\_au\\_Bel\\_Air.pdf](https://www.fjkl.org.ht/images/doc/FJKL_conflit_au_Bel_Air.pdf).

**BINUH, *Rapport sur les allegations d eviolations et abus des droits de l'homme lors des attques dans le quartier de Bel-Air, a Port-au-Prince, du 4 au 6 novembre 2019 (Feb. 2020)*** report documenting the human rights abuses that occurred between Nov. 4 and 6, 2019, in Bel-Air. BINUH's human rights section conducted 34 interviews with victims, witnesses, hospital staff, government officials such as members of the Port-au-Prince Public Prosecutor's Office, the General Inspectorate of the Haitian National Police, the Investigative Service of the Port-au-Prince Police Station, and the Departmental Judicial Police Section (SDPJ) of the West Department. Available at [https://reliefweb.int/sites/reliefweb.int/files/resources/20200217\\_haiti\\_-\\_rapport\\_bel-air\\_-\\_final\\_master\\_version.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/20200217_haiti_-_rapport_bel-air_-_final_master_version.pdf).



**RNDDH, *Attacks on deprived neighborhoods: The RNDDH demands the end of the protection of armed gangs by the authorities in power, (Jun. 23, 2020)*** documenting attacks from May 23-27, 2020, in several impoverished areas of Port-au-Prince, including Pont Rouge, Fort Dimanche, La Saline, and Nan Tokyo. RNDDH conducted interviews with 27 victims, police authorities, judicial authorities, the Director General of the Social Assistance Fund, Frantz Indrice, and Pierre Lemaire, former member of parliament for Cité Soleil. Available at <https://web.rnddh.org/wp-content/uploads/2020/06/7-Rap-Attaque-Quartiers-Defavorise-Version-Anglaise-23Jun2020-2.pdf>.

**RNDDH, *Assassinations, Ambushes, Hostage-taking, Rape, Fires, Raids: The authorities in power have installed terror in Cité Soleil (Aug. 13, 2020)*** reporting on armed attacks in Cité Soleil from June 30 to August 8, 2020 by interviewing several government officials, including officials from Central Directorate of Administrative Police, PNH, Public Prosecutor's Office at the Court of First Instance in Port-au-Prince, and 108 victims and their families. Available at <https://web.rnddh.org/wp-content/uploads/2020/08/Version-Anglaise-Rap-Cité-Soleil-082020.pdf>.



## Endnotes

- 1 Bureau intégré des Nations Unies en Haïti (BINUH), *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*, ¶5 (2020) (noting that multiple waves of protests began in 2018, and that the 2019 demonstrations, which demanded the departure of the President, paralyzed the country for many weeks) [hereinafter BINUH]; U.N. Secretary-General, United Nations Integrated Office in Haiti, ¶3, U.N. Doc. S/2020/123 (Feb. 13, 2020) (“the wave of civil unrest that gripped the country between September and November 2019 [was] the longest period of continued protests since the President, Jovenel Moïse, assumed office.”)[hereinafter Secretary-General Feb. 2020 Report]; see also Inst. Just. & Democracy in Haiti (IJDH), *Haiti at a Crossroads: An Analysis of the Drivers Behind Haiti's Political Crisis* (2019) (describing the immediate, medium and long-term drivers of the protests) [hereinafter IJDH, *Haiti at a Crossroads*].
- 2 Jake Johnston & Kira Paulemon, *What's in Haiti's New National Security Decrees: An Intelligence Agency and an Expanded Definition of Terrorism*, Ctr. Econ. & Pol'y Research (Dec. 14, 2020) (discussing Moïse's creation of a domestic intelligence agency with sweeping surveillance powers that is not subject to judicial review and criminalizing popular forms of non-violent protests as “terrorist acts.”). In January 2021, Moïse announced that the agency had begun surveilling opponents. See Robenson Geffrard, *L'Agence nationale d'intelligence opérationnelle, les adversaires de Jovenel Moïse sous surveillance*, Le Nouvelliste (Jan. 19, 2021).
- 3 See e.g. Jacqueline Charles, *Haitian lawyer, constitutional expert gunned down hours after controversial radio interview*, Miami Herald (Aug. 29, 2020) (reporting the assassination of prominent lawyer Monferrier Dorval, hours after he criticized the government on a radio interview.); Campaign Letter by Amnesty International, *Haiti: Human Rights Defender Fears for Safety* (May 16, 2019), <https://www.amnesty.org/download/Documents/AMR3603432019ENGLISH.pdf> (addressing the death threats made to Pierre Espérance, a prominent Haitian human rights defender).
- 4 In addition to the attacks on La Saline, Bel-Air, and Cité Soleil that are the focus of this report, attacks also took place in the neighborhoods of Lilavois (October 2017), Grand Ravine (November 2017), Nan Tokyo (four separate occasions between March 2019 and December 2019), and Bel-Air (August 2020). See U.N. Secretary-General, *United Nations Integrated Office in Haiti*, U.N. Doc. S/2020/537, ¶24 (June 15, 2020)[hereinafter Secretary-General June 2020 Report] (noting no new concrete judicial action in response to Lilavois, Grand Ravine, La Saline or Bel-Air); Réseau National de défense des droits de l'homme (RNDDH), *Attacks on Deprived Neighborhoods: The RNDDH Demands the End of the Protection of Armed Gangs by the Authorities in Power*, ¶¶24-29 (2020) (documenting four separate attacks in Nan Tokyo between March 2019 and December 2019)[hereinafter RNDDH, *Attacks on Deprived Neighborhoods*]; Onz Chery, *HaitiPM: Helping During Bel-Air Massacre Could Have Hurt More People*, HAITIAN TIMES (Sept. 14, 2020) (noting that at least 12 people died during the Bel-Air attack carried out by the G9 alliance on Aug. 31, 2020); see also Danio Darius, *Cinquante personnes tuées à Cité Soleil en juillet, selon Pierre Espérance*, Le Nouvelliste (Aug. 10, 2020) (quoting RNDDH Director Pierre Espérance counting nine massacres between November 2017 and July 2020).
- 5 See generally RNDDH, *The Events in La Saline: from Power Struggle Between Armed Gangs to State-Sanctioned Massacre* (2018) [hereinafter RNDDH, *The Events in La Saline*]; Mission des Nations Unies Pour L'Appui à la Justice en Haïti (MINUJUSTH), *La Saline: Justice pour les Victimes. L'Etat a L'Obligation de Protéger tous les Citoyens* (2019) [hereinafter MINUJUSTH]; BINUH, *supra* note 1; RNDDH, *Attacks on Deprived Neighborhoods: The RNDDH Demands the End of the Protection of Armed Gangs by the Authorities in Power* (2020); RNDDH, *Assassinations, Ambushes, Hostage-taking, Rape, Fires, Raids: The Authorities in Power Have Installed Terror in Cité Soleil* (2020) [hereinafter RNDDH, *Terror in Cité Soleil*].
- 6 RNDDH, *The Events in La Saline*, *supra* note 5, ¶10 (“La Saline has an exceptional ability to either mobilize or thwart street demonstrations...” and noting that political opposition rallied protesters on Oct. 15, 2018 and the antigovernment demonstration in La Saline on October 17, 2018.); see also Fondasyon Je Klere (FJKL), *Situation de Terreur à la Saline: La Fondasyon Je Klere (FJKL) Deplore L'incapacité de L'état à Garantir la Sécurité des Citoyens et des Citoyennes 3* (2018) (noting that Moïse's procession was attacked by demonstrators at the Pont Rouge as one of the causes of the La Saline attack); Sojourner Truth with Margaret Prescod, *Sojourner Truth Radio: La Saline, Haiti Speaks Out Against Poverty and State Violence*, KPFC Radio, at 11:58 (Apr. 5, 2019), <https://soundcloud.com/sojournertruthradio/sojourner-truth-radio-april-5> (a victim of the attack saying that La Saline “has a reputation of revolution” and that is a reason why the “government does not like the community.”).
- 7 RNDDH, *The Events in La Saline*, *supra* note 5, ¶58.
- 8 *Id.*, ¶¶38-40.
- 9 MINUJUSTH, *supra* note 5, ¶5 (confirming that the bodies of victims were mutilated, burned and left in a dump at the mercy of animals.)
- 10 Press Release, RNDDH, *Communiqué de presse: Massacre d'Etat à La Saline : Révision à la hausse du bilan des personnes tuées et violées le 13 novembre 2018*, at 3 (Dec. 20, 2018) [hereinafter RNDDH, *Revised Toll*]; see also Jacqueline Charles, *Dozens Brutally Killed, Raped in Haiti Massacre, Police Say. 'Even Young Children Were not Spared'*, Miami Herald (May 15, 2019) (reporting that human rights groups put the death toll between 15 and 71) [hereinafter “Charles, *Dozens Brutally Killed*”]; cf. MINUJUSTH, *supra* note 5, ¶5 (separately able to confirm 26 deaths, 12 missing, three injured, and two gang rapes).
- 11 Instead, Duplan and Monchéry stayed in their government roles until September 2019. See *Fednel Monchéry et Joseph Pierre Richard Duplan révoqués*, Le Nouvelliste (Sep. 9, 2019).
- 12 BINUH, *supra* note 1, ¶6 (noting that Bel-Air is also considered to be one of the traditional bases of anti-government mobilization and that demonstrators placed barricades on the main axes of the district in support of *peyi lok*).
- 13 RNDDH, *Massacre au Bel-Air : Banalisation du droit à la vie par les autorités étatique* ¶20 (Dec. 17, 2019), [hereinafter RNDDH, *Massacre au Bel-Air*]; see also BINUH, *supra* note 1, ¶17 (finding a link between the state representative and Cherizier's acts).
- 14 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶31; cf. BINUH, *supra* note 1, ¶2 (confirming that the attacks left at least 3 dead).
- 15 BINUH, *supra* note 1, ¶19.
- 16 BINUH, *supra* note 1, ¶¶20-21.
- 17 U.N. Secretary-General, *United Nations Integrated Office in Haiti*, ¶16, U.N. Doc. S/2020/944 (Sept. 25, 2020), [hereinafter Secretary-General Sept. 2020 Report].



- 18 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶155 (documenting 34 killings between May 24-27, 2020); RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶13 (documenting 111 killings between June and July 2020).
- 19 RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶158.
- 20 *Id.*, ¶¶17-21.
- 21 *Id.*, ¶87.
- 22 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶¶61-68.
- 23 U.N. Secretary-General, *United Nations Integrated Office in Haiti*, ¶33, U.N. Doc. S/2021/133 (Feb. 11, 2021), [hereinafter Secretary-General Feb. 2021 Report].
- 24 MINUJUSTH, *supra* note 5, ¶17 (noting that Duplan and Monchéry are still at large).
- 25 *Fednel Monchéry et Joseph Pierre Richard Duplan révoqués*, *Le Nouvelliste*, *supra* note 11; see also Edwidge Danticat, *Demonstrators in Haiti are Fighting for an Uncertain Future*, *New Yorker* (Oct. 19, 2019) (noting that Duplan and Monchéry were only fired as protests against the government intensified and stating that “Moïse has not directly denounced the La Saline massacre, nor has his government sought to prosecute any of the perpetrators.”)
- 26 IJDH, Request for a thematic hearing on impunity for serious human rights violations and the lack of judicial independence in Haiti, at 7 (Sept. 23, 2020) (noting that senior state actors implicated in the La Saline attack have not been arrested and that judicial processes appear blocked).
- 27 See Secretary-General Sept. 2020 Report, *supra* note 17, ¶34 (“The lack of accountability for human rights violations committed by State agents... remains concerning, because of the chronic absence of progress on judicial proceedings against alleged perpetrators, including those within the national police.”).
- 28 Moïse was likely to have known, or should have known, that senior government officials Duplan and Monchéry orchestrated the La Saline attack and failed to prevent their acts and punish them. See Section IV of this report.
- 29 Secretary-General Sept. 2020 Report, *supra* note 17, ¶32 (noting that known perpetrators of past attacks, such as Chérizier, have committed more recent attacks, which “underscores how impunity and a manifest lack of accountability fuel recurrent cycles of violence.”).
- 30 See Annex 1 for a list of principal investigations relied on in this report.
- 31 See U.N. Office on Genocide Protection and the Responsibility to Protect, Definitions: Crimes Against Humanity, <https://www.un.org/en/genocideprevention/crimes-against-humanity.shtml> (last visited Feb. 25, 2021) (the Rome Statute “reflects the latest consensus among the international community...[and] offers the most extensive list of specific acts that may constitute the crime.”); Sean Murphy (Special Rapporteur), *First Report on Crimes Against Humanity*, U.N. Doc A/CN.4/680, ¶8 (Feb. 17, 2015) (“Article 7 of the Rome Statute marks the culmination of almost a century of development of the concept of crimes against humanity and expresses the core elements of the crime.”).
- 32 Rome Statute of the International Criminal Court, art. 7, Jul. 17, 1998, 2187 U.N.T.S. 38544.
- 33 *Id.*, art. 7(1).
- 34 See, e.g., Secretary-General Feb. 2021 Report, *supra* note 23, ¶33 (discussing attacks in the context of gang violence and mentioning the state’s failure to protect but omitting any reference to state actors in the commission of the crimes); Secretary-General Sept. 2020 Report, *supra* note 17 (discussing the rise in G-9 and Chérizier’s role in massacres without acknowledging documentation of state actor involvement); see also IJDH, *Human Rights and Rule of Law in Haiti: Key Recent Developments* fn. 95 (Feb. 2020) (“Though BINUH reports and Security Council comments extensively discuss gang violence, Jimmy Chérizier, and the G-9, the UN and Security Council Members systematically ignore well-documented evidence from civil society regarding state actor complicity in that violence and requests for investigation and accountability.”) [hereinafter IJDH, *Human Rights and the Rule of Law in Haiti*].
- 35 Constitution de la République d’Haïti, art. 276(2) (1987) (English translation), available at [https://www.constituteproject.org/constitution/Haiti\\_2012.pdf?lang=en](https://www.constituteproject.org/constitution/Haiti_2012.pdf?lang=en) [hereinafter Haiti Const.].
- 36 *Arellano v. Chile*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 154, ¶¶152, 110 (Sep. 26, 2006) (crimes against humanity are “intolerable in the eyes of the international community and offend humanity as a whole. The damage caused by these crimes ... demand that those responsible be investigated and punished”); (“The obligation that arises pursuant to international law to try, and if, if found guilty, to punish the perpetrators of certain international crimes, among which are crimes against humanity, is derived from the duty of protection embodied in Article 1(1) of the American Convention.”).
- 37 *Id.*, ¶152.
- 38 *Id.*, ¶110.
- 39 See U.N.G.A. 6th Comm., 73<sup>rd</sup> Sess., The scope and application of the principle of universal jurisdiction: Summary of work (2018), [https://www.un.org/en/ga/sixth/73/universal\\_jurisdiction.shtml](https://www.un.org/en/ga/sixth/73/universal_jurisdiction.shtml) (“Delegations generally stated that universal jurisdiction was an important, well-established principle of international law aimed at combating impunity... which should be exercised in accordance with the principle of subsidiarity.”); Basic Facts on Universal Jurisdiction, Human Rights Watch (Oct. 19, 2009), <https://www.hrw.org/news/2009/10/19/basic-facts-universal-jurisdiction> (“Universal jurisdiction is the ability of the domestic judicial systems of a state to investigate and prosecute certain crimes, even if they were not committed on its territory, by one of its nationals, or against one of its nationals.”).
- 40 Rome Statute, *supra* note 32, art. 13(b) (granting the Security Council the power, acting under Chapter VII of the UN Charter, to refer to the ICC situations in which crimes under the jurisdiction of the court have taken place).
- 41 After the initial 2015 election was nullified due to extensive fraud, the 2016 re-run election saw the lowest turnout since the end of the Duvalier dictatorship in 1987. In 2016, Moïse received a mere 600,000 votes in a country of 10 million people, representing the support of less than 10% of registered voters. IJDH, *Haiti at a Crossroads*, *supra* note 1; see also Freedom House, *Freedom in the World 2018 Haiti* (2019); Int’l Ass’n Democratic Law. & Nat’l Law. Guild, *Haiti’s Unrepresentative Democracy: Exclusion and Discouragement in the November 20, 2016, Elections* 9-13 (2017).
- 42 Jacqueline Charles, *Trump Administration Wants Haiti to Hold Overdue Legislative Elections by January*, *Miami Herald* (Oct. 27, 2020).
- 43 Parliamentary elections scheduled for October 2019 were postponed due to failures to achieve a ratified government and budget since March 2019. On January 13, 2020, one-third of the seats in the Senate, all seats in the lower chamber of Deputies, and all locally elected posts had expired. IJDH, *Human Rights and Rule of Law in Haiti*, *supra* note 34, at 1; Kim Ives, *Haitian Opposition Condemns Moïse’s Appointment of New De Facto Prime Minister*, *Haïti Liberté* (Mar. 4, 2020) (noting that Moïse dissolved the Haitian Parliament on Jan. 13, 2020).

- 44 See e.g., Secretary-General Feb. 2021 Report, *supra* note 23, ¶13 (“several actors, both domestic and foreign, reiterated strong calls to the President to limit his use of executive decrees to govern”); U.S. Dept of State, Department Press Briefing – February 5, 2021: Ned Price (Department Spokesperson) (Feb. 5, 2021) (“The United States continues to maintain that the Haitian Government should exercise restraint in issuing decrees, only using that power to schedule legislative elections...”).
- 45 Robenson Geffrard, *Jovenel Moïse apporte quelques modifications au décret portant création de l’Agence nationale d’intelligence*, Le Nouvelliste (Feb. 4, 2021) (noting that while citizens may file a complaint with the General Inspectorate of Intelligence Services should they have been harmed by the agency’s activities, the government is under no obligation to disclose the details of its operations).
- 46 Johnston & Paulemon, *supra* note 2; see also Jacqueline Charles, *Slew of Presidential Decrees Have Some Wondering If Haiti Is On the Road to Dictatorship*, Miami Herald (Dec. 21, 2020); Moïse has issued at least 44 unilateral decrees since the Parliament termed out. Kim Ives, *The Year the Regime and Empire Struck Back, Assisted by Covid-19*, Haiti Liberté (Dec. 30, 2020).
- 47 Robenson Geffrard, *La présidence prend le contrôle des mairies*, Le Nouvelliste (Jul. 8, 2020).
- 48 Décret du 15 mars 2021 révisant la Loi du 15 avril 2010 portant amendement de celle du 9 septembre 2008 sur l’État d’Urgence, 176 Le Moniteur 17 (Mar. 15, 2021)(on file); Arrêté instaurant l’État d’Urgence dans les zones de Village de Dieu; de Grand-Ravine; de Delmas 2; de Savien, dans la Petite Rivière de l’Artibonite; et dans toutes autres zones rouges identifiées par le Conseil supérieur de la Police nationale, pour une période d’un (1) mois, 176 Le Moniteur 18 (Mar. 16, 2021)(on file); see also Robenson Geffrard, *Jovenel Moïse modifie la loi sur l’état d’urgence et se donne de nouveaux pouvoirs*, Le Nouvelliste (Mar. 17, 2021).
- 49 The PetroCaribe loan program provided access to low-interest fuel from Venezuela, with revenue intended to finance socioeconomic development. IJDH, *Haiti at a Crossroads*, *supra* note 1, at 3. In July 2017, Moïse replaced the Director General of the Central Financial Intelligence Unit (UCREF), an anti-corruption unit that found that Moïse had laundered approximately \$6 million through his company. Kim Ives, *Illegally Ousted Anti-Corruption Chief: “We Have a Dictatorship taking Place*, Haiti Liberté (Jul 12, 2017). Moïse also constrained the powers of the Superior Court of Auditors and Administrative Disputes (CSCCA), which has implicated him and a large swath of government officials in the PetroCaribe scandal. Jake Johnston & Kira Paulemon, *At Odds with Presidency, a Government Watchdog is Weakened by Executive Decree*, Ctr. Econ. & Pol’y Research (Nov. 12, 2020).
- 50 IJDH, *Human Rights and Rule of Law in Haiti*, *supra* note 34, 4 (Nov. 2020); Secretary-General Feb. 2020 Report, *supra* note 1, ¶110 (noting that the only ongoing prosecution related to PetroCaribe accountability initiated by the Moïse administration has been characterized by human rights groups as an “instrumentalization of the judiciary for political purposes,” selectively prosecuting only one political rival in order to achieve the administrations political goals related to electricity).
- 51 Haiti presidents are elected to a five-year term. Moïse was elected in 2016, in a re-run of the 2015 election. Moïse argues that because he did not take office until 2017, his five-year term runs until February 2022, but this is inconsistent with the Haitian Constitution and the 2015 Electoral Law. The Constitution specifies that the presidential term starts on February 7 after elections are held. Haiti Const., *supra* note 35, art. 134-1. Article 134-2 further specifies that when elections are delayed, “the president elected enters into his functions immediately after the validation of the ballot and his mandate is considered to have commenced on 7 February of the year of the election.” *Id.* art. 134-2. The 2016 elections were organized pursuant to the 2015 Electoral Law, which specified that the president’s term would end five years from the mandated start date, regardless of when the president actually took office. Electoral Law of 2015, art. 239(a), Le Moniteur, <https://www.haitilibre.com/docs/decreteelectoral2015.pdf> (“The term of office of the President of the Republic shall end on the seventh (7th) of February in the fifth year of his term of office, regardless of the date of his entry into office.”). The Superior Council of Judicial Power, the Haitian Bar Federation, and many other legal experts and civil society endorse this interpretation. See e.g., Conseil Supérieur du Pouvoir Judiciaire, *Resolution of the Superior Council of the Judicial Power (CSPJ) on the issue of the expiry of the constitutional mandate of the President of the Republic His Excellency Mr. Jovenel Moïse*, adopted Feb. 6, 2021, available at <https://www.haitiwatch.org/home/cspj6feb2021en>; Haitian Bar Federation, *Institutional Crisis and the End of the Presidential Term*, Resolution 2021-01, adopted Jan. 30, 2021, available at <https://bdh Haiti.org/archives/754>. The U.S. State Department and Secretary-General of the Organizations of American States have sided with Moïse’s interpretation. U.S. Dept. of State, *supra* note 44 (“In accordance with the OAS position on the need to proceed with the democratic transfer of executive power, a new elected president should succeed President Moïse when his term ends on February 2nd, 2022.”).
- 52 IJDH, *Human Rights and Rule of Law in Haiti*, *supra* note 34, at 1; see also Caleb Lefevre, *L’opposition crée une direction politique pour préparer l’après Jovenel Moïse*, Le Nouvelliste (Oct. 15, 2020) (reporting that opposition organizations and political parties are working together to call and prepare for a transitional government).
- 53 The Haitian Bar Federation has objected to the CEP’s constitutionality, and Haiti’s Supreme Court refused to swear in the CEP. Jacqueline Charles, *Haiti’s supreme court declines to swear in election council. Moïse installed them anyway*, Miami Herald (Sep. 22, 2020).
- 54 Haiti Const., *supra* note 35, art. 284-3 (“General elections to amend the Constitution by referendum are strictly forbidden.”).
- 55 The proposed changes would completely eliminate the Senate, replace the semi-independent Prime Minister with a Vice-President, and allow Moïse to hand-pick an electoral council that would run the next two Presidential elections. See Winnie Hugot Gabriel Duvil, *L’avant-projet de nouvelle constitution consacre un président avec des pouvoirs exorbitants*, Le Nouvelliste (Feb. 5, 2021)(constitutional amendments would profoundly change the organization of the three branches of government); U.S. Rep. Maxine Waters, *Haiti’s President Jovenel Moïse’s shameful assault on democracy*, Miami Herald (Feb. 27, 2021)(calling the referendum Moïse’s “most audacious and dangerous power grab yet.”); Farah Stockman, *Did a Coup Really Happen Two Weeks Ago in Haiti?*, N.Y. Times (Feb. 23, 2021) (noting that the “nakedly unconstitutional referendum...would strengthen his grip on power”).
- 56 Comité Consultatif Indépendant, *Avant-Projet Constitution art. 139* (Jan. 2021), [https://www.haitilibre.com/docs/CCI-CONSTITUTION\\_Projet-de-Constitution-2-fevrier-2021-20h00.pdf](https://www.haitilibre.com/docs/CCI-CONSTITUTION_Projet-de-Constitution-2-fevrier-2021-20h00.pdf).
- 57 Jacqueline Charles, *Amid calls for Moïse’s ouster, Haiti announces arrest of 23 people in alleged coup attempt*, Miami Herald (Feb. 7, 2021). Human rights organizations view the arrests as a crackdown against Moïse’s political opponents. *Id.*; see also Stockman, *supra* note 55 (questioning the evidence of a coup).
- 58 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). Article 177 of the Constitution provides that Supreme Court judges are “irremovable” unless they have been legally determined to have abused their authority. Haiti Const., *supra* note 35, art 177.



- 59 Winnie Hugot Gabriel Duvil, *Le Président Moïse Nomme Trois Nouveaux Juges à la Cour de Cassation*, Le Nouvelliste (Feb. 12, 2021). The Constitution requires that the president nominate judges chosen from a list provided by the Senate. Haiti Const., *supra* note 35, art. 175. Although Moïse claimed in a Tweet to have followed this procedure, the Senate has not been in session for many months, since the terms of most members of parliament have expired. Ives, *supra* note 43 (noting that Moïse dissolved the Haitian Parliament on Jan. 13, 2020).
- 60 *Après la Cour de cassation, l'École de la magistrature est placée sous contrôle de la police*, Haiti Standard (Feb. 8, 2021).
- 61 See e.g., UN Human Rights Office Alarmed by 'Attacks' on Judicial Independence in Haiti, U.N. News (Feb. 19, 2021); *Haiti: Attacks on Judicial Independence*, Human Rights Watch (Feb. 22, 2021).
- 62 See U.N. Secretary-General, *United Nations Mission for Justice Support in Haiti*, ¶12, U.N. Doc. S/2018/1059 (Nov. 28, 2018) [hereinafter Secretary-General Nov. 2018 Report] (noting that the PetroCaribe scandal gave rise to widespread yet predominantly peaceful civil society demonstrations nationwide in 2018); Jacqueline Charles, 'Where did the money go?' *Haitians denounce corruption in social media campaign*, Miami Herald (Aug. 25, 2020) (reporting on the continued protests related to PetroCaribe in 2020); 'Down with the Dictatorship': *Protests continue in Haiti*, Al Jazeera (Feb. 15, 2021) (reporting that mass protests in 2021 were in part due to the PetroCaribe corruption scandal).
- 63 Secretary-General Nov. 2018 Report, *supra* note 62, ¶13.
- 64 BINUH, *supra* note 1, ¶6.
- 65 *Id.* (noting that *peyi lok* began in September 2019 and continued up to the Bel-Air attack in November 2019); Danticat, *supra* note 25 (noting that since the *peyi lok* began in September 2019, large demonstrations have taken place almost every day).
- 66 According to the UN, kidnappings increased by 200% from Feb. 2020 to Feb. 2021 compared to the previous year and voluntary homicide increased by 20% in 2020. Secretary-General Feb. 2021 Report, *supra* note 23, ¶19.
- 67 *Id.* at ¶17 ("The mounting insecurity, driven by a growing wave of kidnappings combined with several ruthless killings, increased public outrage, as evidenced by a monthly average of 84 demonstrations in the second half of 2020."); Sandra Lemaire & Renan Toussaint, *Thousands of Haitians Protest Violence, Impunity on Human Rights Day*, VOA News (Dec. 20, 2020).
- 68 Ralph Tomassaint Joseph, *What is Happening in Haiti, Where Political Crisis Persists?*, Al Jazeera, Feb. 28, 2021.
- 69 Jacqueline Charles, *Thousands march in Haiti to say 'No to dictatorship' as peaceful protest turned violent*, Miami Herald (Feb. 14, 2021).
- 70 RNDDH, *The Events in La Saline*, *supra* note 5, ¶¶25-29, 54, 58 (reporting that in 2017 First Lady Martine Moïse and other government officials offered to invest in community projects in La Saline in exchange for a reduction in anti-government protests in the area, and that just prior to the La Saline attack in 2018 two high-level government officials, Fednel Monchéry and Richard Duplan, held a planning meeting with Chérizier, providing resources for the attack); BINUH, *supra* note 1, ¶¶17-18 (noting that Chérizier's attack on Bel-Air followed shortly after government officials unsuccessfully tried to bribe local organizations to remove the barricades from the neighborhood); RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶¶35, 54, 64 (reporting that a government actor allegedly paid off an anti-government gang leader, Altès, to take control of anti-government strongholds in Cité Soleil).
- 71 See fn. 4, *supra*.
- 72 The UN has documented 60 violations of the right to life and 171 violations of the right to personal security committed by state actors against protesters between July 6, 2018 and December 10, 2019. BINUH & Le Haut-Commissariat des Nations Unies aux droits de l'homme (HCDH), *Manifestations en Haïti : Leurs impacts sur les droits humains et l'obligation de l'État de protéger tous les citoyens* 12 (2021). Between June-July 2020, for example, the PNH repeatedly shot live rounds and teargas to break up peaceful sit-ins and other demonstrations. IJDH, *Human Rights and Rule of Law in Haiti*, *supra* note 34.
- 73 Johnston & Paulemon, *supra* note 2; Jacqueline Charles, *Is democracy in Haiti eroding? The president's new intelligence agency has many uneasy*, Miami Herald (Dec. 12, 2020).
- 74 *Id.*
- 75 Charles, *Haitian Lawyer, Constitutional Expert Gunned Down*, *supra* note 3.
- 76 *Id.*
- 77 *Id.*
- 78 Secretary-General Feb. 2021 Report, *supra* note 23, ¶¶35, 61.
- 79 After significant civil society and international pressure, investigations into the killing have resulted in four arrests, including of a businessman who allegedly worked at the National Palace and has close ties to Moïse's *Parti Haitien Tet Kale* (PHTK). Pierre Emmanuella Tanis, *Enquête sur l'assassinat de Me Monferrier Dorval: Arrestation de l'homme d'affaires Vilpique Dunès*, Juno7 (Sep. 12, 2020); see also Le Nouvelliste, *Le téléphone de Me Monferrier Dorval mène aux présumés exécutants et complices, un juge d'instruction saisi* (Sept. 25, 2020).
- 80 Fédération internationale pour les droits humains (FIDH), *Haïti : Planification d'assassinat à l'encontre de M. Pierre Espérance* (May 9, 2019), <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/haïti-planification-d-assassinat-a-l-encontre-de-m-pierre-esperance>.
- 81 Le Nouvelliste, *Le ministre de la Justice accuse des organisations de défense des droits humains d'être « des outils de déstabilisation »* (Dec. 14, 2020).
- 82 Le Nouvelliste, *L'Agence nationale d'intelligence opérationnelle, les adversaires de Jovenel Moïse sous surveillance* (Jan. 19, 2021).
- 83 Johnston, *supra* note 2; Charles, *Thousands march in Haiti to say 'No to dictatorship,'* *supra* note 69.
- 84 Jake Johnston, *Meet the New Haitian Military? It's Starting to Look a Lot Like the Old One*, Ctr. Econ. & Pol'y Research (Mar. 16, 2018); Freedom House, *Freedom in the World 2018 – Haiti* (Aug. 1, 2018); see also Jacqueline Charles, *Haiti has a new army with much of the old leadership. Some in the U.S. aren't happy*, Miami Herald (Mar. 26, 2018).
- 85 Andres Martinez Casares & Joseph Guyler Delva, *Haitian army set to make controversial after two decades*, Reuters (Nov. 18, 2017).
- 86 Press Release, IJDH & 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. 14, 2018).
- 87 In 2019, the National Commission for Disarmament, Demobilization and Reintegration (CNDDR) documented the existence of at least 76 armed gangs in Haiti. Danio Darius, *76 gangs armés répertoriés en Haïti par la Commission de désarmement*, Le Nouvelliste (May 6, 2019).
- 88 *Id.* For example, control over areas such as the *Croix-des-Bossales* market in La Saline is highly contested, as it allows for the extortion of businesses and collection of fees for space allocation. RNDDH, *The events in La Saline: supra* note 5, ¶¶16-19.

- 89 See RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶¶38-49; FKJL, *Terreur dans les quartiers populaires/Pont Rouge au Coeur d'une stratégie électorale macabre* ¶42 (June 22, 2020).
- 90 See e.g., RNDDH, *The Events in La Saline*, *supra* note 5, ¶¶14, 17; RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶120; FJKL, *Conflit au Bel-Air et à la ruelle Mayard : la Fondation Je Klere (FJKL) s'inquiète de l'instrumentalisation politique des groupes armés*, at 11-12 (Nov. 29, 2019) [hereinafter FJKL, *Conflit au Bel-Air*]; RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶¶35, 62; Hamed Aleaziz, *DHS Officials Are Deporting Haitian Immigrants Despite Knowing They May Face Danger*, *BuzzFeed News* (Mar. 2, 2021)(citing U.S. Department of Homeland Security document acknowledging that the Haitian government was using gangs to "repress the opposition."); cf. Darius, *supra* note 87 (quoting Jean Rebel Dorcéat, member of the CNDDR, as stating that gang members have confirmed to him that they lack the means to purchase arms but are rather armed by politicians close to the government, as well as the opposition and the private sector).
- 91 FKJL, *Terreur dans les quartiers populaires*, *supra* note 89, ¶36 (noting that it is well-known that electoral outcomes in impoverished neighborhoods reflect the will of the gangs in control, not the will of the people); Secretary-General Sept. 2020 Report, *supra* note 17, ¶15 (noting "linkages between gang violence and political developments...which suggest that competition among gangs is growing in anticipation of elections.").
- 92 Secretary-General Sept. 2020 Report, *supra* note 17, ¶15.
- 93 *Id.*, at ¶16 (noting that G9's creation has "raised concerns among political and civil society actors about the detrimental impact partisan gangs can have on State institutions."); Ingrid Arnesen & Anthony Faiola, *In Haiti, coronavirus and a man named Barbecue test the rule of law*, *Wash. Post* (Aug. 14, 2020).
- 94 *Id.*
- 95 *Id.*
- 96 See e.g., RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶98 ("armed gangs protected by the power of Jovenel Moïse become more powerful day by day. They organize themselves with the blessing of the authorities who provide them with weapons and ammunition. They benefit, for the protection of the police institution. This is the case for example of Jimmy Chérizier alias Barbecue, which is allowed to use the rolling stock of the PNH for as long as it says it wants attack underprivileged neighborhoods housing close relatives of the political opposition."); ¶¶84-87 (noting that members of G9 participate in high-level government meetings and are able to influence government appointments, including the appointment of Frantz Iderice as head of the Caisse d'Assistance Social). Chérizier has denied such ties. Jimmy CHERIZIER Alys BARBECUE ap espliké kisa ki G9 an Fanmi e Alye a, June 10, 2020, YouTube.com, [https://www.youtube.com/watch?v=Fc3Rq\\_3PZ5g](https://www.youtube.com/watch?v=Fc3Rq_3PZ5g) (presenting on G-9's formation and insisting on its independence from the government and other political forces).
- 97 Haitian Popular News Agency, *Social movements in Haiti denounce president's links to criminal gangs*, *Peoples Dispatch* (Sept. 9, 2020); see also Danio Darius, *Les gangs se sont fédérés sur proposition de la Commission nationale de désarmement, démantèlement et réinsertion*, *Le Nouvelliste* (Sept. 2, 2020).
- 98 *Haiti – G9: Formal denial of the National Disarmament Commission*, *Haiti Libre* (Sept. 20, 2020), <https://www.haitilibre.com/en/news-31847-haiti-g9-formal-denial-of-the-national-disarmament-commission.html>.
- 99 See e.g., RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶¶88-93 (documenting that Chérizier generally operates with the assistance of PNH officers, who facilitate his travel and ensure his safety); RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶¶31, 101 (in Cité Soleil, residents believe calling on police for protection is futile because local police officers regularly participate in recreational activities with armed gangs, including celebrating gang members' birthdays, watching soccer matches and consuming alcohol with them).
- 100 See *Emblematic Attacks Against Civilians*, *infra*.
- 101 *Id.*; MINUJUSTH noted that the La Saline attack lasted at least fourteen hours, yet the PNH did not intervene to protect civilians. This is particularly striking as two police stations were located less than one kilometre from the site of the attack. MINUJUSTH, *supra* note 5, ¶¶23-26. It was only following public outcry that the DCJP conducted an investigation into the La Saline attack. The investigation implicated 70 individuals responsible for carrying out their attack, including Duplan, Monchéry and Chérizier. Jacqueline Charles, *U.N. investigators say Haitian government condoned massacre that left dozens dead*, *Miami Herald* (June 21, 2019); Press Release, IJDH & BAI, *Human Rights Groups Petition Inter-American Commission to Protect Survivors of Haiti's La Saline Massacre* (Aug. 13, 2019), <http://www.ijdh.org/wp-content/uploads/2019/08/Press-Release-La-Saline-PMs-8-31-FINAL.pdf>. Nevertheless, none of them have been arrested. See also Press Release, Security Council, *Haiti's Stability in Peril without Strong Response to COVID-19*, *Legal Experts Tell Security Council*, U.N. Press Release SC/14218 (June 19, 2020 (noting that "[A]ccountability is a challenge, seen in the lack of progress in investigating and prosecuting the Lilavois, Grand Ravine, La Saline and Bel-Air cases, involving abuses by gang members, law enforcement agents and political officials."); Secretary-General Sept. 2020 Report, *supra* note 17, ¶31 (highlighting the "lack of accountability for past abuses, including emblematic cases like Grand Ravine (2017), La Saline (2018) and Bel-Air (2019).").
- 102 PNH has cited these constraints as a reason for their failure to intervene in the attacks. See, e.g., BINUH, *supra* note 1, ¶21. Strengthening the police force through capacity building and training has also been a key objective of the UN deployed peacekeeping missions to Haiti from 2004-2019. MINUJUSTH, *MINUJUSTH Completes its Mandate, Putting an End to 15 Consecutive Years of Peacekeeping in Haiti* (Oct. 16, 2019), <https://minujsth.unmissions.org/en/minujsth-completes-its-mandate-putting-end-15-consecutive-years-peacekeeping-haiti-0>. Yet PNH has continued to suffer from some systemic constraints, including poor pay and difficult working conditions. Jacqueline Charles, *While Haiti police take frustration out on streets, U.N. sounds alarm on gangs, bad cops*, *Miami Herald* (Feb. 18, 2020). In September 2020, the Moïse administration increased funding for PNH for the first time in 13 years. Secretary-General Feb. 2021 Report, *supra* note 23, ¶17.
- 103 At least 71 people were killed in the 2018 La Saline attack. RNDDH, *Revised Toll*, *supra* note 10; Seth Donnelly & Judith Mirkinson, *The Lasalin massacre and the human rights crisis in Haiti* 6 (Aug. 23, 2019) (noting that "residents and local human rights defenders maintain that this number is deplorably low, based only on the number of bodies actually left on the ground and not taking into account either those buried or taken away."); cf. MINUJUSTH, *supra* note 5, ¶15 (separately able to confirm 26 deaths) The death toll of the Bel-Air attack is at least 24 people. RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶31; cf. BINUH, *supra* note 1, ¶¶2, 4 (separately able to confirm that the attacks left at least 3 dead but noting that this is likely an undercount). Between May and July 2020, at least 145 people were killed in Cité Soleil. RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 5, ¶55 (documenting the death of 34 people in Pont Rouge, Nan Brooklyn, Chancerelles, Fort Dimanche, and Nan Tokyo between May 24-27, 2020); RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶3 (documenting 111 killings between June and July 2020).



- 104 RNDDH reported that 5 were injured in the Bel-Air attack. RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶34. At least 40 people were shot and injured in Cité Soleil between May 24-July 28, 2020. RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶51 (reporting that at least 20 people were injured on May 26 and 27); RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶65 (documenting that at least 20 people were injured between June 1 and July 28, 2020).
- 105 At least 7 women were raped in La Saline. RNDDH, *The Events in La Saline*, *supra* note 5, ¶43. Between June 1 and July 28, 2020, 18 women and girls were reported raped in Cité-Soleil. RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶65.
- 106 RNDDH documented that 150 houses were vandalized by the attackers La Saline. RNDDH, *The Events of La Saline*, *supra* note 5, ¶46. Moreover, at least 300 people are estimated to have fled La Saline after the attack. Press Release, RNDH, *supra* note 11. 28 houses were set on fire during the Bel-Air attack. RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶35. 98 houses were set on fire in Cité-Soleil May 23 to 27, 2020. RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 5, ¶59. As a consequence of the various attacks, the UN estimates that at least 298 households have been displaced in Bel-Air and Cité-Soleil. Secretary-General Sept. 2020 Report, *supra* note 17, ¶15. See also Office for Civil Protection Haiti, *Profile – Site de Déplacés Poste Marchand* (Sept. 17, 2020), [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/dpc\\_oim\\_bel\\_air\\_3\\_sites\\_de\\_deplaces.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/dpc_oim_bel_air_3_sites_de_deplaces.pdf).
- 107 RNDDH, *The Events of La Saline*, *supra* note 5, ¶¶10, 30-31 (noting that “La Saline has an exceptional ability to either mobilize or thwart street demonstrations, which is why this community is often courted by opposition political clans” and highlighting the anti-government demonstrations on October 15 and 17, 2018); BINUH, *supra* note 1, ¶¶6, 16 (emphasizing Bel-Air’s central role in the 2019 *peyi lok* protests where almost daily demonstrations against the government took place); RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶¶17-18 (highlighting Cité-Soleil’s historical support for *Fanmi Lavalas*, the government opposition).
- 108 See Annex I for a list of the principal investigations relied on in this report.
- 109 *Id.*
- 110 RNDDH, *The Events in La Saline*, *supra* note 5; MINUJUSTH, *supra* note 5; Donnelly & Mirkinson, *supra* note 103.
- 111 See Donnelly & Mirkinson, *supra* note 103, at 4 (“La Saline has been known as a stronghold of Lavalas”); Press Release, Human Rights Delegation Condemns Political Massacres Tied to Haiti’s Government (May 8, 2019), <http://www.ijdh.org/wp-content/uploads/2019/05/DelegationPressReleaseFinal5-08-2.pdf> (human rights delegation finding that “the months-long series of attacks in poor neighborhoods of Port-au-Prince ... were done to punish neighborhood residents—many of whom identify as supporters of the Fanmi Lavalas party—for playing a leading role in a series of demonstrations opposing government corruption, mismanagement and brutality.”); Bureau des Avocats Internationaux (BAI) & IJDH, *Precautionary Measures Request for Anonymous Petitioners of La Saline*, Inter-Am. Comm’n H.R., ¶¶11-13, <http://www.ijdh.org/wp-content/uploads/2019/08/IACHR-Precautionary-Measures-Request-Haiti-La-Saline-August-9-2019.pdf> [hereinafter BAI & IJDH, *Petition for Precautionary Measures*] (setting out the political background of La Saline); Prescod, *supra* note 6.
- 112 RNDDH, *The Events in La Saline*, *supra* note 5, ¶10; see also Randall White, *Haiti Government Complicit in La Saline Massacre*, *haitiaction.net* (Dec. 4, 2018), [http://www.haitiaction.net/News/RAW/12\\_4\\_18/12\\_4\\_18.html](http://www.haitiaction.net/News/RAW/12_4_18/12_4_18.html) (describing La Saline as a frequent starting point for demonstrations).
- 113 RNDDH, *The Events in La Saline*, *supra* note 5, ¶17.
- 114 *Id.* ¶16; MINUJUSTH, *supra* note 5, ¶10.
- 115 Press Release, Human Rights Delegation, *supra* note 111; RNDDH, *The Events in La Saline*, *supra* note 5, at 6; Prescod, *supra* note 6.
- 116 RNDDH, *The Events in La Saline*, *supra* note 5, ¶¶25-28; Donnelly & Mirkinson, *supra* note 103, at 4.
- 117 RNDDH, *The Events in La Saline*, *supra* note 5, ¶29.
- 118 Secretary-General Nov. 2018 Report, *supra* note 60, ¶3.
- 119 RNDDH, *The Events in La Saline*, *supra* note 5, ¶30; Donnelly & Mirkinson, *supra* note 103, at 4.
- 120 Secretary-General Nov. 2018 Report, *supra* note 60, ¶3; RNDDH, *The Events in La Saline*, *supra* note 5, ¶31.
- 121 Donnelly & Mirkinson, *supra* note 103, at 4-5; FKJL, *Situation de Terreur a La Saline* 3 (Nov. 2018).
- 122 The President’s delegates serve as their official representative in each of Haiti’s ten geographic departments, and are responsible for the coordination and control of public services there. Haiti Const. *supra* note 35, art. 85.
- 123 RNDDH, *The Events in La Saline*, *supra* note 5, ¶58.
- 124 MINUJUSTH, *supra* note 5, ¶21.
- 125 Jake Johnston, *A UN-Backed Police Force Carried out a Massacre in Haiti. The Killings Have Been Almost Entirely Ignore*, *The Intercept* (Jan. 10, 2018).
- 126 RNDDH, *The Events in La Saline*, *supra* note 5, ¶¶54-58; see also Press Release, Treasury Sanctions Serious Human Rights Abusers on International Human Rights Day, U.S. Treasury Dept. (Dec. 10, 2020), <https://home.treasury.gov/news/press-releases/sm1208> (“Monchéry supplied weapons and state vehicles to members of armed gangs who perpetrated the attack....Duplan provided firearms and HNP uniforms to armed gang members who participated in the killings.”).
- 127 See e.g., RNDDH, *The Events in La Saline*, *supra* note 5; MINUJUSTH, *supra* note 5; Donnelly & Mirkinson, *supra* note 103.
- 128 MINUJUSTH, *supra* note 5, ¶¶12-15; RNDDH, *The Events in La Saline*, *supra* note 5, ¶¶38-40.
- 129 RNDDH Revised Toll, *supra* note 103; see also Donnelly & Mirkinson, *supra* note 103 (noting that “residents and local human rights defenders maintain that this number is deplorably low, based only on the number of bodies actually left on the ground and not taking into account either those buried or taken away.”). MINUJUSTH was separately able to confirm 26 deaths, 12 missing, three injured, and two gang rapes. MINUJUSTH, *supra* note 5, ¶4.
- 130 MINUJUSTH, *supra* note 5, ¶¶13-15.
- 131 RNDDH, *The Events in La Saline*, *supra* note 5, ¶39; MINUJUSTH, *supra* note 5, ¶5.
- 132 RNDDH, *The Events in La Saline*, *supra* note 5, ¶48 (documenting 7 rapes); MINUJUSTH, *supra* note 5, ¶7 (noting that Haitian human rights organizations documented 11 cases of rape, including two gang rapes).
- 133 RNDDH, *The Events in La Saline*, *supra* note 5, ¶46.
- 134 BAI & IJDH, *Petition for Precautionary Measures*, *supra* note 111, at 2.
- 135 MINUJUSTH, *supra* note 5, ¶19; RNDDH, *The Events in La Saline*, *supra* note 5, ¶4, 6; Donnelly & Mirkinson, *supra* note 103, at 2.
- 136 MINUJUSTH, *supra* note 5, ¶18; Haiti Breaking News – Massacre a La Saline, bidonville de Port-au-Prince, TVImage, Nov. 14, 2018, <https://www.youtube.com/watch?v=U1X6lpEhTvc> (showing bodies disposed of in trash piles).
- 137 MINUJUSTH, *supra* note 5, ¶19.

- 138 *Id.* ¶20; Jacqueline Charles, *Dozens Brutally Killed, Raped in Haiti Massacre, Police Say. 'Even Young Children Were Not Spared'*, Miami Herald (May 15, 2019).
- 139 RNDDH, *The events in La Saline*, *supra* note 5, ¶39; MINUJUSTH, *supra* note 5, ¶¶12-14.
- 140 MINUJUSTH, *supra* note 5, ¶¶21-22.
- 141 The UN documented that then-police officers Gregory Antoine and Gustave alias Chupit also participated in the attacks. *Id.*, ¶21.
- 142 *Id.*, ¶¶23-26 (documenting the proximity of various police outposts to the site of the attack and that police was put on notice of the attack as it was ongoing).
- 143 *Id.*
- 144 *Id.*, ¶24.
- 145 *Id.*, ¶26.
- 146 *Id.*
- 147 BAI & IJDH, Petition for Precautionary Measures, *supra* note 111, at 11-12 (“Despite the scale and horror of the atrocities, President Moïse has not spoken out about the massacre, condemned the massacre, or paid visits to the survivors.”); RNDDH, *The Events in La Saline*, *supra* note 5, ¶75 (noting that in the two weeks that followed the massacre, the only official comment on the attack was made by Prime Minister Céant); Michael Weissenstein, *Witnesses: Men in police garb massacred civilians in Haiti*, Associated Press (Jan. 14, 2019) (“The authorities have said nothing...they haven’t even condemned this massacre”(quoting FJKL director Marie-Ylene Gilles).
- 148 BAI & IJDH, Petition for Precautionary Measures, *supra* note 111, at 12; *see also* Hearing on Access to Justice and Judicial Independence in Haiti, Inter-Am. Comm’n H.R., PS 178 18, at 51:04, (Dec. 10, 2020), <https://www.youtube.com/watch?v=FUgzRzOI-BU> (Commission President Joel Hernández García calling on Haitian government to take concrete steps to advance reparations for victims of the La Saline massacre).
- 149 Charles, *supra* note 138 (reporting on the findings). The results of the investigation have been referred to the prosecutor, but remain confidential in accordance with Haitian criminal procedure. MINUJUSTH, *supra* note 5, ¶¶31-34.
- 150 *See e.g.*, BAI & IJDH, Written Submission for the Dec. 10, 2020 Thematic Hearing, *supra* note 26 (noting lack of accountability for La Saline attack, including that the legal process has stalled since 2019); Secretary-General Feb. 2021 Report, *supra* note 23, ¶133 (Cherizier remains at large despite continuing domestic and international appeals for justice); Worlgenson Noël, *Deux ans après le massacre à la Saline, toujours pas de justice pour les victimes...*, Le Nouvelliste (Nov. 12, 2020) (quoting RNDDH lamenting that government officials implicated in the massacre still hold political power). Monchéry was briefly arrested in 2021 for driving with illegal plates, but quickly released. Robenson Geffrard, *Indexé dans le cadre du massacre de La Saline, Fednel Monchéry arrêté puis libéré par la police*, Le Nouvelliste (Feb. 18, 2021).
- 151 Haiti - Politique : Fednel Monchéry, DG du Ministère de l’intérieur démissionne, Haiti Libre (Sept. 26, 2019) (citing letter of resignation from Monchéry); Fednel Monchéry et Joseph Pierre Richard Duplan révoqués, Le Nouvelliste (Sept. 26, 2019) (reporting on Duplan and Monchéry’s revocations and replacements) ; *see also* Danticat, *supra* note 11 (noting that they were fired as protests intensified).
- 152 BINUH, *supra* note 1, at 4 (citing warrant issued by an investigating judge on February 6, 2019); Sandra Lemaire, *UN Security Council Expresses Serious Concern About Haiti, Calls for Elections*, VOA News (Feb. 23, 2021) (France’s Deputy Permanent Representative to the UN asking Moïse “how is it possible today that Jimmy Chérizier is still walking free?”).
- 153 BINUH, *supra* note 1, ¶6.
- 154 Chelsey Kivland, *Street Sovereigns: Young Men and the Makeshift State in Urban Haiti* 87 (2000).
- 155 FJKL, *Conflit au Bel-Air*, *supra* note 90, at 11-12.
- 156 BINUH, *supra* note 1, ¶8.
- 157 *See e.g.*, Secretary-General Feb. 2020 Report, *supra* note 1, ¶13; Danticat, *supra* note 11; BINUH, *supra* note 1, ¶5.
- 158 BINUH, *supra* note 1, ¶6.
- 159 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶19; BINUH, *supra* note 1, ¶17.
- 160 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶20.
- 161 *Id.*, ¶¶20, 41.
- 162 *See e.g.*, BINUH, *supra* note 1, ¶7 (noting Cherizier’s documented involvement in Grand Ravine and La Saline).
- 163 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶42.
- 164 BINUH, *supra* note 1, ¶9.
- 165 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶19.
- 166 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶31. BINUH reported that multiple sources confirmed at least three deaths and six injured, while also noting that this may be a severe undercount in view of the office’s inability to access certain sites and reluctance by victims and witnesses to come forward. BINUH, *supra* note 1, ¶4.
- 167 BINUH, *supra* note 1, ¶10.
- 168 *Id.*, ¶19.
- 169 *Id.*, ¶10.
- 170 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶2; BINUH, *supra* note 1, ¶20.
- 171 BINUH, *supra* note 1, ¶11.
- 172 *Id.*
- 173 *Id.*, ¶12.
- 174 *Id.*
- 175 *Id.*, ¶13.
- 176 *Id.*; RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶27.
- 177 BINUH, *supra* note 1, ¶15.
- 178 *Id.*, ¶20.
- 179 *Id.*, ¶22.
- 180 *Id.*
- 181 BINUH, *supra* note 1, ¶28 (as of February 2020, no warrants for arrests were issued in connection with the attack); Press Release, Security Council, Haiti’s Stability in Peril without Strong Response to COVID-19, Legal Experts Tell Security Council, U.N. Press Release SC/14218, (Jun. 19, 2020), <https://www.un.org/press/en/2020/sc14218.doc.htm> (“Accountability is a challenge, seen in the lack of progress in investigating and prosecuting the Lilavois, Grand Ravine, La Saline and Bel-Air cases, involving abuses by gang members, law enforcement agents and political officials.”); *see also*

- Secretary-General Sept. 2020 Report, *supra* note 17, ¶131 (discussing an increase in attacks by gangs targeting the population, a development that can be explained by the establishment of the G9 and “lack of accountability for past abuses, including in emblematic cases like Grand Ravine (2017), La Saline (2018) and Bel-Air (2019).”).
- 182 RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶¶6-13 (describing the neighborhood); Cité Soleil, Wikipedia, [https://en.wikipedia.org/wiki/Cité\\_Soleil](https://en.wikipedia.org/wiki/Cité_Soleil).
- 183 RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶17.
- 184 *Id.*, ¶¶18-43 (setting out the background of gangs in Cite Soleil); RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶¶12-15 (noting that a situation of relative peace among gangs changed in 2018).
- 185 See Secretary-General Sept. 2020 Report, *supra* note 17, ¶15 (observing a rise in gang violence linked to competition in anticipation of elections); *Id.*, ¶87; RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶¶61-63 (testimony of former Cité Soleil parliamentary representative Pierre Lemaire, attributing the attacks to the “will of the authorities [and] the power to politically control the territories...for electoral purposes.”), ¶65 (noting that residents interviewed as a part of the investigation agree with the assessment of motive); *cf. id.* ¶68 (reporting that other residents believe they are being targeted as retribution for their anti-government positions and activities, rather than specifically for electoral control).
- 186 Secretary-General Sept. 2020 Report, *supra* note 17, ¶15; RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶70 (reporting that police officers interviewed as a part of the investigation believe the May 23-27 attack was planned in part because of the new G9 alliance); RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶¶1, 6 (observing that the rise in G-9 has contributed to inter-gang violence as they vie for control); see also text accompanying fns. 96-98 (discussing ties between the government and G-9).
- 187 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 5, ¶¶32-37 (discussing the circumstances of Erno Nicolas’ murder).
- 188 RNDDH, *Attaques contre des quartiers défavorisés: Le RNDDH exige la fin de la protection des gangs armés par les autorités au pouvoir*, ¶¶34-35, 62-64 (June 23, 2020) (French original including references to state involvement in payments, based on testimony of Pierre Lemaire).
- 189 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶40.
- 190 *Id.*, ¶¶41-42.
- 191 See e.g., text accompanying fn. 121 (describing the blockage of the wreath-laying ceremony); RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶14 (“for some, Pont Rouge, in the same way as La Saline, is hated by the authorities in power because of its anti-government resistance.”); *id.*, ¶¶25-31 (describing prior attacks in Nan Tokyo in 2019); FKJL, *Terreur dans les quartiers populaires*, *supra* note 89, ¶52 (President Moïse reportedly became aware of Jean-Pierre’s role in *peyi lok*).
- 192 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶55 (documenting toll of gang assaults in Cité Soleil between May 23-27, 2020); RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶59 (documenting toll of gang assaults in Cité Soleil between June and July 2020).
- 193 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶43.
- 194 *Id.*, ¶¶43-44.
- 195 *Id.*, ¶45.
- 196 *Id.*, ¶46.
- 197 *Id.*
- 198 *Id.*
- 199 *Id.*, ¶48.
- 200 *Id.*, ¶46.
- 201 *Id.*, ¶51.
- 202 *Id.*, ¶53.
- 203 In the aftermath of the attacks, G9 leaders appointed new gang leaders in the areas they had conquered. *Id.*, ¶77.
- 204 RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶59.
- 205 *Id.*, ¶¶63-64, 69, 71.
- 206 *Id.*, ¶52-57.
- 207 *Id.*, ¶¶55-56.
- 208 *Id.*, ¶58.
- 209 *Id.*, ¶¶73, 79.
- 210 *Id.*, ¶¶72-76, 79-81.
- 211 *Id.*, ¶58.
- 212 *Id.*
- 213 *Id.*, ¶84; see also Secretary-General Feb. 2021 Report, *supra* note 23, at ¶¶33-34 (noting the continued lack of accountability for human rights abuses committed by law enforcement and by prominent gang members such as Cherizier, who still remains at large.)
- 214 RNDDH, *Attacks on deprived neighborhoods*, *supra* note 4, ¶61.
- 215 FKJL, *Terreur dans les quartiers populaires*, *supra* note 89, ¶¶52-54.
- 216 RNDDH, *Attacks on deprived neighborhoods*, *supra* note 4, ¶68.
- 217 Murphy, *supra* note 31, ¶27.
- 218 *Id.*, ¶39; see also Arellano, *supra* note 36, ¶99 (acknowledging the *jus cogens* status of crimes against humanity).
- 219 Murphy, *supra* note 31, ¶¶8, 122; Int’l Hum. Rts. Clinic Harv. L. Sch., *Crimes in Burma* fn.4 (2009) (the Rome Statute reflects customary international law on key elements of crimes against humanity).
- 220 Rome Statute, *supra* note 32, art. 7.
- 221 *Id.*
- 222 *Id.*, art. 53.
- 223 Article 13(b) of the Rome Statute grants the Security Council the power, acting under Chapter VII of the UN Charter, to refer to the ICC situations in which crimes under the jurisdiction of the court have taken place. Rome Statute, *supra* note 32, art. 13(b).
- 224 International Criminal Court, *Elements of Crime*, ICC-ASP/1/3 (part II-B), at 5 (Sep. 9, 2002).
- 225 RNDDH, *Revised Toll*, *supra* note 10.
- 226 Donnelly & Mirkinson, *supra* note 103, at 7.



- 227 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶31; *cf.* BINUH *Rapport sur Bel Air*, *supra* note 1, ¶¶4, 13, 15, 27 (separately confirming 3 murders, and 5 complaints for murder filed with the police, while noting that the toll could be much higher since they were unable to verify several allegations due to challenges including accessing certain sites and the reluctance of victims and witnesses to give information for fear of reprisals).
- 228 34 people were killed in Pont Rouge, Nan Brooklyn, Chancerelles, Fort Dimanche, and Nan Tokyo between May 23-27, 2020. RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶55. 111 people were killed in Cité-Soleil between June 1 and July 28 2020. RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶59.
- 229 Prosecutor v. Furundžija, Case No. IT-97-17/1-T, Judgment, ¶185 (Int'l Crim. Trib. For the Former Yugoslavia Dec. 10, 1998).
- 230 Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08, Trial Judgement of Judge Steiner, ¶199-101 (Mar. 21, 2016).
- 231 MINUJUSTH, *supra* note 5, ¶7 (noting that 11 cases of rape were reported by Haitian human rights organizations, of which they could verify 2); *see also* RNDDH, *Revised Toll*, *supra* note 10.
- 232 RNDDH, *The Events in la Saline*, *supra* note 5, ¶48.
- 233 *Id.*
- 234 *Id.*
- 235 MINUJUSTH, *supra* note 5, ¶7.
- 236 Donnelly & Mirkinson, *supra* note 103, at 7.
- 237 RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶3.
- 238 *Id.*, at ¶69.
- 239 *Id.*
- 240 *Id.*
- 241 *Id.*
- 242 *Id.*
- 243 Donnelly & Mirkinson, *supra* note 103, at 7.
- 244 Rome Statute, *supra* note 32, art. 7(1)(f).
- 245 *Id.* art. 7(2)(e).
- 246 Prosecutor v. Karadžić, Case No. IT-95-5/18-T, Judgment, ¶506 (Int'l Crim. Trib. for the Former Yugoslavia Mar. 24, 2016).
- 247 Prosecutor v. Kunarac, Case No. IT-96-23-T and IT-96-23/1-A, Judgment ¶¶150-151 (Int'l Crim. Trib. for the Former Yugoslavia Jun. 12, 2002) (“rape is viewed as an ‘obvious’ per se act of torture. Severe pain or suffering, as required by the definition of the crime of torture, can thus be said to be established once rape has been proved, since the act of rape necessarily implies such pain or suffering.”); *see also* Prosecutor v. Delalić *et al.*, Case No. IT-96-21-T, Judgment ¶480 (Int'l Crim. Trib. for the Former Yugoslavia Nov. 16, 1998).
- 248 Prosecutor v. Kvočka, Case No. IT-98-30/1-T, Judgment ¶149 (Int'l Crim. Trib. for the Former Yugoslavia Nov. 2, 2001) (“The mental suffering caused to an individual who is forced to watch severe mistreatment inflicted on a relative would rise to the level of gravity required under the crime of torture. Similarly, the Furundžija Trial Chamber found that being forced to watch serious sexual attacks inflicted on a female acquaintance was torture for the forced observer. The presence of onlookers, particularly family members, also inflicts severe mental harm amounting to torture on the person being raped.”).
- 249 MINUJUSTH, *supra* note 5, ¶7.
- 250 *Id.*
- 251 Courts have not delineated the degree of pain required to constitute torture, but take the general circumstances into consideration. *See Kvočka*, *supra* note 248, ¶161 (“[T]he degree of physical or mental suffering required to prove cruel treatment is lower than the one required for torture, though it must be at the same level as ‘willfully causing great suffering or serious injury to body or health.’”); *see also* Prosecutor v. Krnojelac, Case No. IT-97-25-T, Judgment ¶¶182-183, (Int'l Crim. Trib. for the Former Yugoslavia Mar. 15, 2002) (“[T]he Trial Chamber must take into account all the circumstances of the case, including the nature and context of the infliction of pain, the premeditation and institutionalisation of the ill-treatment, the physical condition of the victim, the manner and method used, and the position of inferiority of the victim.”).
- 252 MINUJUSTH, *supra* note 5, ¶5.
- 253 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶33.
- 254 Rome Statute, *supra* note 32, art. 7(1)(h).
- 255 *See e.g.* Prosecutor v. Kupreškić *et al.*, Case No. IT-95-16-T, Judgment, ¶¶593-631 (Int'l Crim. Trib. for the Former Yugoslavia Jan. 14, 2000) (finding that murder, imprisonment, and deportation can constitute persecution); Prosecutor v. Blaškić, Case No. IT-95-14-T, Judgment, ¶233 (Int'l Crim. Trib. for the Former Yugoslavia Mar. 3, 2000) (finding that persecution includes harm to property, so long as the “victimised persons were specially selected on grounds linked to their belonging to a particular community.”) [hereinafter Blaškić Trial Chamber Judgment]; Prosecutor v. Kordić, Case No. IT-95-14-/2, Judgment, ¶205 (Feb. 26, 2001); Prosecutor v. Milutinović, Case No. IT-05-87, Trial Judgment, ¶¶193-4 (Int'l Crim. Trib. for the Former Yugoslavia Feb. 26 2009) (establishing that sexual assault may be a form of persecution.).
- 256 The Democratic and Popular Sector is a coalition of several opposition leaders and social sectors that have organized protests against Moïse in La Saline. *Port-au-Prince slum exemplifies dire problems of crisis-racked Haiti*, Agencia EFE (Feb. 22, 2019).
- 257 RNDDH, *The Events in La Saline*, *supra* note 5, ¶¶25-28; Donnelly & Mirkinson, *supra* note 103, at 4.
- 258 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶19; BINUH, *supra* note 1, ¶17.
- 259 RNDDH, *Attacks on deprived neighborhoods*, *supra* note 4, ¶61.
- 260 *Id.*, ¶68
- 261 *Kunarac*, *supra* note 247, ¶417.
- 262 *Id.*, ¶100; *see also* Prosecutor v. Kayishema, Case No. ICTR-95-1-T, Judgment, ¶122 (May 21, 1999).
- 263 *Situation in Kenya*, ICC-01/09 Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, ¶135 (Mar. 31, 2010) [hereinafter *Situation in Kenya*] (“the issue of whether an act was committed as part of a widespread or systematic attack needs to be analyzed on a case-by-case basis with regard to each particular act. At the current stage of the proceedings, the Chamber merely considers the situation as a whole without focusing beyond what is necessary for the purpose of the present decision on specific criminal acts. In this regard, the Chamber observes that the nature, aims and consequences of many of the individual acts recall either the characteristics of the initial attacks, the retaliatory attacks or the attacks emanating from the police.”).
- 264 *See* Section III of this report.
- 265 *See* Section II of this report.

- 266 Rome Statute, *supra* note 32, art. 7(1).
- 267 *Id.*, art. 7(2)(a).
- 268 Prosecutor v. Gbagbo, ICC-02/11-01/11-656-Red, Pre-Trial Chamber I Decision on the confirmation of charges, ¶209 (Jun. 12, 2014).
- 269 See Section II of this report.
- 270 BINUH, *supra* note 1, ¶¶8-12.
- 271 RNDDH, *Attacks on deprived neighborhoods, supra* note 5, ¶¶41-42.
- 272 *Id.*, ¶77.
- 273 RNDDH, *Terror in Cité Soleil, supra* note 5, ¶52.
- 274 *Id.*, ¶¶54-58 (G9 gangs monitored all roads in and out of Nan Brooklyn, and carried out seven attacks against Nan Brooklyn in June and July.)
- 275 It is common for courts to find that one attack can take place over an extended period of time. See e.g., *Kunarac, supra* note 247, ¶3 (charging three individuals with an attack that took place over the course of three days).
- 276 See BINUH, *supra* note 1, at 4 (observing that the attack on Bel Air is “far from an isolated incident,” with similarities to other attacks including La Saline that illustrate a broader reality in Haiti.)
- 277 Prosecutor v. Bemba, ICC-01/05-01/08-424, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, ¶78 (Jun. 15, 2009) [hereinafter *Bemba Confirmation of Charges Decision*].
- 278 *Id.*, ¶¶76-77.
- 279 Prosecutor v. Ntaganda, ICC-01/04-02/06-2359, Judgment, ¶667 (Jul. 9, 2019).
- 280 Prosecutor v. Muthaura, ICC-01/09-02/11-382-Red, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute ¶110 (Jan. 23, 2012).
- 281 Rome Statute, *supra* note 32, art. 7.
- 282 See, e.g., Prosecutor v. Kayishema, Case No. ICTR-95-1-T, Judgment, ¶123 (May 21, 1999) (“The attack must contain one of the alternative conditions of being widespread or systematic.”).
- 283 Prosecutor v. Prlić, Case No. IT-04-74-T, Judgment, ¶49 (Int’l Crim. Trib. for the Former Yugoslavia May 29, 2013).
- 284 Blaškić, Trial Chamber Judgment, *supra* note 255, ¶207 (“The quantitative criterion is not objectively definable as witnessed by the fact that neither international texts nor international and national case-law set any threshold starting with which a crime against humanity is constituted.”); *Kordić*, *supra* note 255, ¶179 (“a crime may be widespread or committed on a large scale by the ‘cumulative effect of a series of inhumane acts or the singular effect of an inhumane act of extraordinary magnitude.’”).
- 285 *Kunarac, supra* note 247, ¶95.
- 286 RNDDH, *Revised Toll, supra* note 10.
- 287 RNDDH, *Massacre au Bel-Air, supra* note 13, ¶31.
- 288 RNDDH, *Attacks on Deprived Neighborhoods, supra* note 4, ¶55 (documenting 34 deaths between May 23-27, 2020); RNDDH, *Terror in Cité Soleil, supra* note 5, ¶59 (documenting 111 deaths between June 1-July 28, 2020).
- 289 BAI & IJDH, *Precautionary Measures Request, supra* note 111, ¶4 (noting that at least 300 people fled La Saline after the massacre and seeking precautionary measures on behalf of those still displaced).
- 290 Donnelly & Mirkinson, *supra* note 103, RNDDH, *Attacks on deprived neighborhoods, supra* note 4, ¶53.
- 291 Secretary-General Sept. 2020 Report, *supra* note 17, ¶15.
- 292 See IJDH, *Human Rights and Rule of Law in Haiti, supra* note 34 (citing Office de la Protection du Citoyen, *Profilé – Site de Déplacés Poste Marchand* (Sept. 17, 2020)).
- 293 Blaškić, Case No. IT-95-14-A, Judgment, ¶101 (Int’l Crim. Trib. for the Former Yugoslavia, Jul. 29, 2004)[hereinafter *Blaškić*, Appeals Chamber Judgment]; Prosecutor v. Nindiliyimana, Case No. ICTR-00-56-A, Judgment, ¶260 (Feb. 11, 2014).
- 294 *Kunarac, supra* note 247, ¶94.
- 295 Prosecutor v. Muthaura, ICC-01/09-02/11, Decision on the Confirmation of Charges, ¶158 (Jan. 23, 2012).
- 296 RNDDH, *The Events in La Saline, supra* note 5, ¶58.
- 297 RNDDH, *The Events in La Saline, supra* note 5, ¶¶54-58. The ICC Pre-Trial Chamber has found that the provision of uniforms and weapons to the attackers supported a conclusion that an attack was systematic and organized. *Muthaura, supra* note 295, ¶158.
- 298 Charles, *Dozens Brutally Killed, Raped in Haiti Massacre, supra* note 138.
- 299 RNDDH, *The Events in La Saline, supra* note 5, ¶39; see also Weissenstein, *supra* note 147.
- 300 RNDDH, *The Events in La Saline, supra* note 5, ¶¶39, 43.
- 301 *Id.*, ¶46.
- 302 MINUJUSTH, *supra* note 5, ¶19.
- 303 RNDDH, *Massacre au Bel-Air, supra* note 13, ¶20.
- 304 BINUH, *supra* note 1, ¶9.
- 305 *Id.*, ¶10.
- 306 *Id.*, ¶¶9-11.
- 307 *Id.*, ¶¶12-14.
- 308 RNDDH, *Attacks on Deprived Neighborhoods, supra* note 5, ¶¶41-42.
- 309 *Id.*, ¶¶43-44.
- 310 *Id.*, ¶46.
- 311 RNDDH, *Terror in Cité Soleil, supra* note 5, ¶59.
- 312 *Id.*, ¶52.
- 313 *Id.*, ¶¶54-57, 64.
- 314 Rome Statute, *supra* note 32, art. 7(2). The ICTY has held that there is no separate policy requirement under customary international law, but that it is a relevant factor to assessing the systematic nature of an attack. *Kunarac, supra* note 247, ¶20; see also Marjolein Cupido, *The Policy Underlying Crimes Against Humanity*, 22 Crim. L. Forum 275, 283 (2011). While the analysis in this report applies the higher threshold of the Rome Statute, this element would not need to be established if the customary international law definition of crimes against humanity were applied. See, e.g., *Kunarac, supra* note 247, ¶98.

- 315 *Situation in Kenya*, *supra* note 263, ¶184; *see also* Prosecutor v. Katanga, ICC-01/04-01/07-3436-tENG, Judgment, ¶1108 (Mar. 7, 2014); Open Society Justice Initiatives (OSJI), *Undeniable Atrocities: Confronting Crimes Against Humanity in Mexico* 50 (2016) [hereinafter OSJI].
- 316 ICC, *Elements of Crimes*, *supra* note 224, at 5; *see also* Gbagbo, *supra* note 268, ¶214.
- 317 *Katanga*, *supra* note 315, ¶1110.
- 318 Prosecutor v. Ruto, ICC-01/09-01/11-373, Decision on the Confirmation of Charges, ¶213 (Jan. 23, 2012).
- 319 *See Cupido*, *supra* note 314, at 287 (analyzing ICC treatment of the policy element and finding that similar evidence is used under the policy and systematic elements).
- 320 *Katanga*, *supra* note 315, ¶1112 (“Indeed it should be recalled that it is not so much the policy as it is the widespread or systematic nature of the attack – viz. a consideration of the scale and regular nature of the pattern followed – which first and foremost distinguishes a crime against humanity and constitutes its ‘hallmark’... if an attack is ‘systematic’ because the existence of a policy had been demonstrated, that would be in “contradiction with the Statute’s disjunctive wording.”).
- 321 *Id.*, ¶1113.
- 322 *Id.*, ¶1109.
- 323 *Situation in Kenya*, *supra* note 263, ¶1119 (citing preparatory meetings during which perpetrators were “given instructions, supplied with weapons and distributed money” as relevant to finding a policy).
- 324 *Cupido*, *supra* note 314, at 295 (citing *Situation in Kenya*, *supra* note 263, ¶127); *see also* Gbagbo, *supra* note 268, ¶¶219-20 (holding that the actions of “pro-Gbagbo forces,” which included “youth militia and mercenaries” acting under the leadership of Gbagbo, could be attributed to either a “State” or an “organizational” policy for purposes of Article 7(2) of the Statute); *see also* Aleaziz, *supra* note 89 (U.S. Department of Homeland Security acknowledging that the Haitian government is using gangs to “repress the opposition.”); OSJI, *supra* note 315, at 50.
- 325 Prosecutor v. Ruto, *supra* note 318, ¶210.
- 326 *Katanga*, *supra* note 315, ¶1109; *see also* *Situation in Kenya*, *supra* note 263, ¶79.
- 327 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶64.
- 328 *See Situation in Kenya*, *supra* note 263, ¶1117 (noting participation of members of the police as indicative that violence was “not a mere accumulation of spontaneous or isolated acts”).
- 329 Donnelly & Mirkinson, *supra* note 103, at 5; RNDDH, *The Events in La Saline*, *supra* note 5, ¶40.
- 330 BINUH, *supra* note 1, ¶19.
- 331 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶52.
- 332 MINUJUSTH, *supra* note 5, ¶¶23, 48 [Translated from French] (“The lack of intervention by the PNH during the attack, which lasted for several hours, may have allowed the attackers to act with impunity and contributed to the very high number of victims.”).
- 333 BINUH, *supra* note 1, ¶20.
- 334 RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶58.
- 335 *Situation in Kenya*, *supra* note 263, ¶90.
- 336 *Id.*, ¶93 (stressing that these factors do not constitute a strict legal definition, and do not need to be exhaustively fulfilled).
- 337 *Katanga*, *supra* note 315, ¶1120.
- 338 *See e.g.*, *Muthaura*, *supra* note 295, ¶¶186, 190-223 (finding that the Mungiki gang constitutes an organization under the Rome Statute, pointing to factors such as the existence of leadership and the gang’s role as a quasi-public authority in certain slums. The Pre-trial Chamber expressly rejected an argument that shifting political affiliations of the gang suggests that it was not an ‘organization’); *see also* OSJI, *supra* note 315, at 87-92 (finding that the Mexican Zetas cartel meets the definition of an organization.)
- 339 Gangs also form structured and hierarchical alliance. In the Bel-Air attack, for example, the UN observed that different gang leaders pledged allegiance to Chérizier and operated under his authority. BINUH, *supra* note 1, ¶8.
- 340 *See* Section I, *infra*, at 9-10; *see also* OSJI, *supra* note 315, at 92 (pointing to this as indicative of a policy to attack civilians).
- 341 Arnesen & Faiola, *supra* note 93.
- 342 *See* IJDH, *Human Rights & Rule of Law in Haiti*, *supra* note 34, fn.95 (noting a disproportionate UN focus on gang violence while ignoring the role of state actor complicity in violence).
- 343 *See* text box in Section II.
- 344 Secretary-General June 2020 Report, *supra* note 4, ¶56.
- 345 *See e.g.*, Prosecutor v. Blaškić, Case No. IT-95-14-T, Judgment, ¶789, (Int’l Crim. Trib. For the Former Yugoslavia Mar. 3, 2000) (“... [w]hen a commander fails in his duty to prevent the crime or to punish the perpetrator thereof he should receive a heavier sentence than the subordinates who committed the crime insofar as the failing conveys some intolerance or even approval on the part of the commander towards the commission of crimes by his subordinates and thus contributes to encouraging the commission of new crimes. It would not be in fact consistent to punish a simple perpetrator with a sentence equal or greater to that of the commander.”)
- 346 *See, e.g.*, Secretary-General Feb. 2021 Report, *supra* note 23, ¶33 (discussing attacks in the context of gang violence and mentioning the state’s failure to protect but omitting any reference to state actors in the commission of the crimes); Secretary-General Sept. 2020 Report, *supra* note 17 (discussing the rise in G-9 and Chérizier’s role in massacres without acknowledging documentation of state actor involvement); *see also* IJDH, *Human Rights and Rule of Law in Haiti*, *supra* note 34, fn. 95 (“Though BINUH reports and Security Council comments extensively discuss gang violence, Jimmy Chérizier, and the G-9, the UN and Security Council Members systematically ignore well-documented evidence from civil society regarding state actor complicity in that violence and requests for investigation and accountability.”).
- 347 Rome Statute, *supra* note 32, art. 7(1).
- 348 BINUH, *supra* note 1, ¶7 (noting that Chérizier was a police officer until Dec. 14, 2018, and was found to be implicated as a perpetrator of the La Saline massacre by police and judicial investigations); *see also* Dánica Coto, *Leader or Killer? A day with ‘Barbecue in Haiti’s capital*, Associated Press, June 7, 2019, <https://apnews.com/article/ebc2cee089f149309bd73afa07816a63> (Chérizier has been personally implicated in carrying out at least two of the murders in La Saline); BINUH, *supra* note 1, ¶¶9-15 (identifying Chérizier as a lead perpetrator in the Bel-Air attack); RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶43 (Chérizier personally lead the May 24 attack on Nan Tokyo and May 26-27 attack on Nan Brooklyn); RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶67 (documenting that Chérizier personally captured 17-year old Waldo Jean in Cité Soleil on June 3, 2020, who has since been missing).

- 349 MINUJUSTH, *supra* note 5, ¶121 (Witnesses identified Gregory Antoine, an administrative police agent, dressed in civilian clothes at the center of the attack, and Gustave alias Chupit, a PNH agent with the CIMO agency, among members of the Chabon gang); RNDDH, *The Events in La Saline*, *supra* note 5, ¶156 (“Gregory Antoine alias Ti Greg presented by all interviewees as the Chief of *Base Pilate* is accused of having actively participated with his troop, alongside the *Base Nan Chabon* in the killings of November 13, 2018.”). Note that some sources maintain that Gregory Antoine has since died. Weissenstein *supra* note 147 (noting that family reports he was killed in a gang fight in January 2019); MINUJUSTH, *supra* note 5, ¶37 (noting that he is “allegedly dead.”).
- 350 BINUH, *supra* note 1, ¶19 (multiple eyewitnesses identified three police officers with ties to Cherizier’s Delmas 6 gang as armed and active participants throughout the three-day attack); RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶128 (police officers took part in the attack on Nov. 6, including setting a house where civilians were hiding on fire, killing 13 people).
- 351 BINUH, *supra* note 1, ¶19 (the officers belonged to the Petite-Rivière precinct in the Artibonite Department, the Pignon precinct in the North Department, and the ‘Unité de sécurité générale du Palais National (USGPN)).
- 352 RNDDH, *Terror in Cite Soleil*, *supra* note 5, ¶58.
- 353 Rome Statute, *supra* note 32, art. 7(1).
- 354 *Id.*, art. 25(3)(c); see generally Oona Hathaway et al., *Aiding and Abetting in International Criminal Law*, 104:6 Cornell L. Rev. 1593 (2019) (analyzing the state of international criminal law on aiding and abetting).
- 355 Bemba, Case No. ICC-0105-01/13, Trial Judgment Pursuant to Article 74 of the Statute, ¶¶88-89 (Oct. 19, 2016). Blaškić, Appeals Chamber Judgment, *supra* note 293, ¶146.
- 356 Bemba, *supra* note 355, ¶¶88-89.
- 357 *Id.*, ¶¶90-93 (holding that the Rome Statute does not require the meeting of any specific or minimum threshold); but see Hathaway et al., *supra* note 354, at 1611 (noting that the ad hoc tribunals and hybrid tribunals apply a “substantial effect” standard). Even under this standard, acquittals on the basis that the “substantial effect” requirement was not met are rare, however. *Id.* at 1611 (finding only two instances of such a basis for acquittal).
- 358 Rome Statute, *supra* note 32, art.25(3)(c); Bemba, *supra* note 355, ¶97; Prosecutor v. Mbarushimana, Case No. ICC-01/04-01/10, Decision on the Confirmation of the Charges, ¶274 (2011); but see Hathaway et al., *supra* note 354, at 1607 (finding that the ad hoc and hybrid tribunals only require knowledge that their act will assist the commission of the underlying crime).
- 359 See Bemba, *supra* note 355, ¶89 (“Under certain circumstances, even the act of being present at the crime scene (or in its vicinity) as a ‘silent spectator’ can be construed as tacit approval or encouragement of the crime.”); see also Prosecutor v. Aleksovski, Case No. IT-95-14/1-T, Judgment, ¶87 (Int’l Crim. Trib. For the Former Yugoslavia June 25, 1999) (finding a prison warden liable for aiding and abetting abuse due to his presence during the mistreatment of detainees, failure to object to it, and his necessary awareness that this would act as tacit approval, support and encouragement).
- 360 See e.g., Prosecutor v. Semanza, Case No. ICTR-97-20-T, Judgment, ¶432 (Mar. 3, 2003) (finding an individual liable for aiding and abetting genocide by bringing equipment to the site where a large-scale massacre of Tutsi refugees was occurring, thus providing substantial assistance to the genocidal enterprise).
- 361 See Prosecutor v. Mrkšić, Case No. IT-95-13/1-A, Judgment, ¶49 (Int’l Crim. Trib. For Former Yugoslavia May 5, 2009) (“The *actus reus* of aiding and abetting by omission will thus be fulfilled when it is established that the failure to discharge a legal duty assisted, encouraged or lent moral support to the perpetration of the crime and had a substantial effect on the realisation of that crime.”).
- 362 MINUJUSTH, *supra* note 5, ¶21 (discussing police involvement in La Saline); RNDDH, *The Events in La Saline*, *supra* note 5, ¶56; BINUH, *supra* note 1, ¶19 (discussing police participation throughout the three-day attack on Bel-Air); RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶128 (police officers took part in the attack on Nov. 6).
- 363 See e.g., Semanza, *supra* note 360, ¶386 (“The authority of an individual is frequently a strong indication that the principal perpetrators will perceive his presence as an act of encouragement.”); Aleksovski, *supra* note 359, ¶¶62-64 (while the mere presence of an individual in authority is not in itself enough to establish encouragement, “it can hardly be doubted that the presence of an individual with authority will frequently be perceived by the perpetrators of the criminal act as a sign of encouragement likely to have a significant or even decisive effect on promoting its commission.”). Previous active role in similar acts by the same group also strengthens the liability for aiding and abetting by presence. Prosecutor v. Tadić, Case No. IT-94-1-T, Opinion and Judgment, ¶690 (Int’l Crim. Trib. For Former Yugoslavia May 7, 1997) (when an accused is present and participates in the beating of one person and remains with the group when it moves on to beat another person, his presence would have an encouraging effect).
- 364 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶146.
- 365 RNDDH, *Terror in Cite Soleil*, *supra* note 5, ¶58.
- 366 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶¶88-93.
- 367 *Id.*
- 368 MINUJUSTH, *supra* note 5, ¶¶12-15; RNDDH, *The Events in La Saline*, *supra* note 5, ¶¶38-40; Weissenstein, *supra* note 147.
- 369 RNDDH, *The Events in La Saline*, *supra* note 5, ¶¶54-55 (residents interviewed report that Monchéry and Duplan provided weapons, government vehicles and uniforms); Press Release, Treasury Sanctions Serious Human Rights Abusers on International Human Rights Day, *supra* note 126 (“Monchéry supplied weapons and state vehicles to members of armed gangs who perpetrated the attack....Duplan provided firearms and HNP uniforms to armed gang members who participated in the killings.”); but see Weissenstein, *supra* note 147 (“Armed gangs have bought or stolen untold amounts of Haitian police gear in recent years, so the degree of official involvement in the La Saline massacre remains unclear.”).
- 370 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶52 (eyewitnesses report that Chérizier was transported to Cite Soleil in an armored PNH vehicle and that he requested photos and videos to be taken of his arrival).
- 371 RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶58.
- 372 Police officers interviewed as a part of RNDDH’s investigation into the May attack on Cité Soleil believe they are being intentionally furnished to support gang violence. RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶171 (noting with concern that “authorities in power” are providing “the continued supply of weapons and ammunition to armed gangs” at the expense of resourcing official PNH operations).
- 373 MINUJUSTH, *supra* note 5, at 17 (“The lack of intervention by the PNH during the attack, which lasted for several hours, may have allowed the attackers to act with impunity and contributed to the very high number of victims.”)(Translated from French).
- 374 RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶58.

- 375 Mrkšić, *supra* note 361, ¶149 (aiding and abetting by omission implicitly requires that the accused had the ability to act, such that there were means available to the accused to fulfil his duty).
- 376 See MINUJUSTH, *supra* note 5, ¶26 (PNH confirmed having notice of the attack on La Saline but maintained that it could not intervene due to limited available resources); BINUH, *supra* note 1, ¶21 (in response to questioning about inaction in Bel-Air, PNH cited the presence of barricades, and the lack of vehicles, communication equipment, and personal protective equipment); RNDDH, *Terror in Cité Soleil*, *supra* note 5, ¶¶72-81 (reporting on interviews with various police units citing the need for reinforcements and a response as a part of a comprehensive plan developed by senior leadership of PNH).
- 377 RNDDH, *The events in La Saline*, *supra* note 5, ¶¶54-55; Press Release, Treasury Sanctions Serious Human Rights Abusers on International Human Rights Day, *supra* note 126 (“Monchéry supplied weapons and state vehicles to members of armed gangs who perpetrated the attack....Duplan provided firearms and HNP uniforms to armed gang members who participated in the killings.”).
- 378 MINUJUSTH, *supra* note 5, ¶21. Presence itself can amount to abetting under certain circumstances, especially where the individual is in a position of authority. See Bemba, *supra* note 355, ¶89 (“Under certain circumstances, even the act of being present at the crime scene (or in its vicinity) as a ‘silent spectator’ can be construed as tacit approval or encouragement of the crime.”); Semanza, *supra* note 360, ¶386 (the presence of an individual in position of authority is a strong indication that it will serve as an act of encouragement.)
- 379 RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶¶20, 41-43.
- 380 *Id.*, ¶42 (noting that Saint-Cyr categorically denied the allegations to RNDDH, insisting that he learned of the attack on the radio).
- 381 Rome Statute art. 25(3)(b).
- 382 Prlić, *supra* note 283, ¶231.
- 383 *Id.*; Ndindiliyimana, *supra* note 293, ¶1911.
- 384 Prlić, *supra* note 283, ¶231; Karadžić, *supra* note 246, ¶573.
- 385 Karadžić, *supra* note 246, ¶573.
- 386 Prosecutor v. Sešelj, Case No. IT-03-67-T, Judgment, ¶295 (Int’l Crim. Trib. for the Former Yugoslavia Mar. 31, 2016) (“The physical element of instigation involves prompting another person to commit an offense.”); see also Prlić, *supra* note 284, ¶1229 (“... the very notion of instigation requires a positive act on the part of the instigator. The verb “to instigate” – to urge on or to incite a person to do something – implicitly suggests a positive action.”).
- 387 Prosecutor v. Nahimana, Case No. ICTR-99-52-A, Judgment, ¶480 (Nov. 28, 2007).
- 388 Karadžić, *supra* note 246, ¶572; Ndindiliyimana, *supra* note 293, ¶1913.
- 389 Charles, *Dozens Brutally Killed, Raped in Haiti Massacre*, *supra* note 10.
- 390 RNDDH, *The Events in La Saline*, *supra* note 5; MINUJUSTH, *supra* note 5.
- 391 RNDDH, *The Events in La Saline*, *supra* note 5, ¶¶53-55; see also Press Release, Treasury Sanctions Serious Human Rights Abusers on International Human Rights Day, *supra* note 126 (“Monchéry supplied weapons and state vehicles to members of armed gangs who perpetrated the attack....Duplan provided firearms and HNP uniforms to armed gang members who participated in the killings.”).
- 392 MINUJUSTH, *supra* note 5, ¶22 (reporting that Duplan was overheard stating « *Nou touye twop moun, se pa mison sa yo te bay nou* » (Vous avez tué trop de personnes, ce n’était pas ça votre mission)).
- 393 BINUH, *supra* note 1, ¶17; RNDDH, *Massacre au Bel-Air*, *supra* note 13, ¶41.
- 394 Leon Saint-Cyr denies that he requested Chérizier’s help in removing the protesters’ barricades. See RNDDH, *Massacre au Bel-Air*, *supra* note 14, ¶42.
- 395 Prosecutor v. Tadić, Case No. IT-94-1-A, Judgment, ¶227 (Int’l Crim. Trib. for the Former Yugoslavia July 15, 1999) [hereinafter *Tadić*, Appeals Judgment].
- 396 *Id.*, ¶227; Prosecutor v. Brđanin, Case No. IT-99-36-T, Judgment, ¶260 (Int’l Crim. Trib. for the Former Yugoslavia Sept. 1, 2004).
- 397 *Tadić*, Appeals Judgment, *supra* note 395, ¶227; Prosecutor v. Stakić, Case No. IT-97-24-A, Judgment, ¶64 (Int’l Crim. Trib. for the Former Yugoslavia Mar. 22, 2006).
- 398 Prosecutor v. Brđanin, Case No. IT-99-36-A, Judgment, ¶439 (Int’l Crim. Trib. for the Former Yugoslavia Apr. 3, 2007).
- 399 *Tadić*, Appeals Judgment, *supra* note 395, ¶228.
- 400 RNDDH, *The Events in La Saline*, *supra* note 5, ¶58.
- 401 *Id.*, ¶¶54-55.
- 402 MINUJUSTH, *supra* note 5, ¶22; see also Press Release, Treasury Sanctions Serious Human Rights Abusers on International Human Rights Day, *supra* note 126 (“Monchéry supplied weapons and state vehicles to members of armed gangs who perpetrated the attack....Duplan provided firearms and HNP uniforms to armed gang members who participated in the killings.”).
- 403 Prosecutor v. Delalic, Case No. IT-96-21-T, Judgment, ¶333 (Int’l Crim. Trib. for the Former Yugoslavia Nov. 16, 1998).
- 404 *Id.*
- 405 A superior-subordinate relationship exists (i) when the subordinate who committed the crime is subject to the effective control of the accused, that is to say, (ii) when the accused has the material ability to prevent the crime or punish the criminally responsible subordinate.” Prlić, *supra* note 283, ¶238.
- 406 *Id.*, ¶246 (“For this purpose, the Prosecution must prove: (1) that the superior actually knew, taking into consideration the direct or circumstantial evidence at his disposal, that his subordinates (i) were committing, preparing to commit, or had committed the crimes referred to in Articles 2 through 5 of the Statute; or (2) that the superior possessed information of a sort that would at least alert him to such risks insofar as they might indicate additional inquiries were needed (ii) to ascertain whether such crimes had been committed or were about to be. The assessment of the mental element required under Article 7(3) of the Statute must be conducted according to the circumstances of the case by taking into account the specific situation of the superior concerned at the time in question.”).
- 407 Karadžić, *supra* note 246, ¶587 (“For the accused to be held responsible under Article 7(3), it must be established that he failed to take the necessary and reasonable measures to prevent or punish the commission of the crimes charged.”); see also U.N. Secretary-General, Report of the Secretary-General pursuant to paragraph 5 of Security Council resolution 955 (1994), U.N. Doc. S/1995/134, ¶56 (Feb. 13, 1995) (“a person in a position of superior authority should, therefore, be held individually responsible for giving the unlawful order to commit a crime under the present statute. But he should also be held responsible for failure to prevent a crime or to deter the unlawful behaviour of his subordinates. This imputed responsibility or criminal negligence is engaged if the person in superior authority knew, or had reason to know, that his subordinates



- were about to commit or had committed crimes and yet failed to take the necessary and reasonable steps to prevent or repress the commission of such crimes or to punish those who had committed them.”)
- 408 Prosecutor v. Momčilo Perišić, Case No. IT-04-81-A, Judgement, ¶187 (Int’l. Crim. Trib. for the Former Yugoslavia Feb. 28, 2013).
- 409 *Id.*
- 410 *Delalic*, *supra* note 403, ¶375.
- 411 See *Mamani v. Sánchez de Lozada*, No. 18-12728, at 49-50 (11<sup>th</sup> Cir. Aug. 3, 2020)(confirming the viability of a jury verdict finding former Bolivian president and minister of defense liable under the command responsibility doctrine); *Yusuf v. Samantar*, 2012 WL 3730617, at \*11–12 (E.D. Va. Aug. 28, 2012) (First Vice President and Minister of Defense liable as persons “with higher authority”); *Ford ex rel. Est. of Ford v. Garcia*, 289 F.3d 1283, 1288-94 (11<sup>th</sup> Cir. 2002) (accepting that defendants, former Salvadoran Ministers of Defense, could have been held liable under the doctrine of command responsibility); see also OSJI, *The Trial of Charles Taylor before the Special Court for Sierra Leone*: the Appeal Judgment (Sept. 2013) (noting that former President Taylor was indicted on five counts of crimes against humanity based in part on liability under command responsibility, though the court ultimately disagreed that sufficient evidence existed to convict him on this theory of liability).
- 412 *Karadžić*, *supra* note 246, ¶580 (“In assessing whether there is a superior-subordinate relationship it does not matter whether the accused was a civilian or military superior. An evaluation of effective control is more a question of fact than of law and requires consideration of factors that show “that the accused had the power to prevent, punish, or initiate measures leading to proceedings against the alleged perpetrators where appropriate.”); see also *Prljić*, *supra* note 284, ¶240 (“The superior-subordinate relationship manifests itself in the exercise of effective control over subordinates. That control has been defined as “the material ability to prevent or punish criminal conduct” and pertains to every superior, whether a military chief or any civilian person vested with authority within a hierarchy, even a leader of a paramilitary group.”).
- 413 Charles, *Dozens Brutally Killed, Raped in Haiti Massacre*, *supra* note 11.
- 414 Haiti Const., *supra* note 35, art. 85-86.
- 415 See *id.* art. 85; New Wave of Appointments, Haiti Libre (Mar. 31, 2017), <https://www.haitilibre.com/en/news-20517-haiti-flash-new-wave-of-appointments.html>; BAI & IJDH, Petition for Precautionary Measures, *supra* note 111, ¶28.
- 416 See Ministère de l’Intérieur et des Collectivités Territoriales, Direction Générale, <http://www.mict.gouv.ht/direction-generale/> (describing the role of the directorate general).
- 417 See Robenson Geffrard, *Jovenel Moïse commence à prendre le contrôle de l’administration publique*, Le Nouvelliste (Mar. 27, 2017) (reporting on the appointment of Fednel Monchéry by presidential decree).
- 418 Donnelly & Mirkinson, *supra* note 103, at 4; RNDDH, *The Events of La Saline*, *supra* note 5, ¶¶25-29.
- 419 Donnelly & Mirkinson, *supra* note 103, at 5; see also *Le Point* (Tele Metropole broadcast Dec. 4, 2018), <https://www.youtube.com/watch?v=xY7J0kFggXs> (Interview with Martine Moïse denying reports that she was in La Saline in the days preceding the massacre).
- 420 IJDH, *Haiti at a Crossroads*, *supra* note 1, at 8; *Andrésol dénonce les visites de Jovenel Moïse dans les commissariats et les distributions d’argent*, Rezo Nodwes (Oct. 14, 2018), <https://rezonodwes.com/2018/10/14/andresol-denonce-les-visites-de-jovenel-moise-dans-les-commissariats-et-les-distributions-dargent/>.
- 421 Rezo Nodwes, *supra* note 420.
- 422 Charles, *Thousands Protest Corruption in Haiti as President Calls for Unity and Patience*, *supra* note 69.
- 423 MINUJUSTH, *supra* note 5, ¶18.
- 424 BAI & IJDH, *Precautionary Measures Request*, *supra* note 111, ¶18.
- 425 RNDDH, *The Events in La Saline*, *supra* note 5, ¶53.
- 426 Charles, *Dozens Brutally Killed, Raped in Haiti Massacre*, *supra* note 10.
- 427 *Fednel Monchéry et Joseph Pierre Richard Duplan révoqués*, Le Nouvelliste (Sep. 9, 2019); see also Danticat, *supra* note 25.
- 428 Legal experts have contested the viability of such a defense, noting that Duplan and Monchery’s positions did not fall within the definition of the article, and that since leaving their positions, the provision no longer applies. See e.g., BAI & IJDH, Petition for Precautionary Measures, *supra* note 111, ¶29; Caleb Lefèvre, *Fednel Monchery et Joseph Pierre Richard Duplan sont susceptibles d’être arrêtés*, Le Nouvelliste (Oct. 1, 2019).
- 429 Press Release, Security Council, Haiti’s Stability in Peril without Strong Response to COVID-19, Legal Experts Tell Security Council, U.N. Press Release SC/14218 (June 19, 2020) (noting that “accountability is a challenge, seen in the lack of progress in investigating and prosecuting the Lilavois, Grand Ravine, La Saline and Bel-Air cases, involving abuses by gang members, law enforcement agents and political officials.”); Secretary-General Sept. 2020 Report, *supra* note 17, ¶31 (highlighting the “lack of accountability for past abuses, including emblematic cases like Grand Ravine (2017), La Saline (2018) and Bel-Air (2019).”).
- 430 MINUJUSTH, *supra* note 5, ¶33.
- 431 BAI & IJDH, Written Submission for the Dec. 10, 2020 Thematic Hearing, *supra* note 26.
- 432 MINUJUSTH, *supra* note 5, ¶33 (those arrested so far are all presumed gang members).
- 433 RNDDH, *Attacks on Deprived Neighborhoods*, *supra* note 4, ¶¶99, 100.
- 434 Coto, *supra* note 348; Arnesen, *supra* note 93.
- 435 *Fednel Monchery Libéré*, Gazette Haiti (Feb. 13, 2021), <https://www.gazettehaiti.com/node/2622>.
- 436 Secretary-General Sept. 2020 Report, *supra* note 17, ¶56
- 437 Jake Johnston, *Haitian Government on the Defensive Following UN Welcoming of Corruption Investigation*, Ctr. Econ. & Pol. Research (Mar. 7, 2018), <https://cepr.net/haitian-government-on-the-defensive-following-un-welcoming-of-corruption-investigation/>.
- 438 *Id.*
- 439 Press Release, Embassy of the Republic of Haiti, Allegations of Human Rights Violations by Congress of the United States (Mar. 28, 2019), <https://www.haiti.org/allegations-of-human-rights-violations-by-congress-of-the-united-states/> (responding to a letter from a bipartisan group of 104 U.S. House of Representatives members calling on U.S. Secretary of State Mike Pompeo to support thorough and independent investigations into the extrajudicial killings that have taken place during the current crisis in Haiti, including the massacre at La Saline. See Letter from Members of Congress to Mike Pompeo, Sec’y of State, U.S. Dept. of State (Mar. 20, 2019), <http://www.ijdh.org/wp-content/uploads/2019/03/LevinLee-Haiti-ltr-03-2019-1.pdf>; Jacqueline Charles & Harold Isaac, *U.S. Congresswoman Maxine Waters, Actor Danny Glover Make Impromptu Visit to Haiti*, Miami Herald (Apr. 24, 2019).

- 440 Press Release, Treasury Sanctions Serious Human Rights Abusers on International Human Rights Day, *supra* note 126.
- 441 *Arellano*, *supra* note 36, ¶110.
- 442 U.N.G.A. 6th Comm., *supra* note 39; Human Rights Watch, *supra* note 39.
- 443 *Id.*, ¶152.
- 444 IACHR, Statement on the Duty of the Haitian State to Investigate the Gross Violations of Human Rights Committed during the Regime of Jean-Claude Duvalier (May 17, 2011), <http://www.oas.org/en/iachr/docs/other/Haiti2011.asp>; MINUJUSTH, *supra* note 5, ¶42.
- 445 *Arellano*, *supra* note 36, ¶¶152, 110 (stating that crimes against humanity are “intolerable in the eyes of the international community and offend humanity as a whole. The damage caused by these crimes ... demand that those responsible be investigated and punished”); (“The obligation that arises pursuant to international law to try, and if, if found guilty, to punish the perpetrators of certain international crimes, among which are crimes against humanity, is derived from the duty of protection embodied in Article 1(1) of the American Convention.”).
- 446 Amélie Baron, *Haiti court says human rights charges can be brought against Duvalier*, Reuters (Feb. 20, 2014), <https://www.reuters.com/article/us-haiti-duvalier/haiti-court-says-human-rights-charges-can-be-brought-against-duvalier-idUSBREA1J2D220140220>; Int’l Just. Resource Ctr., *In Landmarking Ruling, Haitian Court opens investigation into Jean-Claude Duvalier for crimes against humanity* (Feb. 25, 2014), <https://ijrcenter.org/2014/02/25/in-landmark-ruling-haitian-court-opens-investigation-into-jean-claude-duvalier-for-crimes-against-humanity/>.
- 447 Trenton Daniel, *Haiti court urges further probes on Duvalier trial*, Associated Press (Feb. 20, 2014), <https://apnews.com/article/045e363f6bdc485e8e18abdc056ed2b2>.
- 448 Justice Denied by Duvalier’s Death, Human Rights Watch (Oct. 4, 2014), <https://www.hrw.org/news/2014/10/04/haiti-justice-denied-duvaliers-death>; Human Rights Watch, *World Report 2020* 255 (2020).
- 449 Murphy, *supra* note 31, ¶27.
- 450 *Id.*
- 451 Article 13(b) of the Rome Statute grants the Security Council the power, acting under Chapter VII of the UN Charter, to refer to the ICC situations in which crimes under the jurisdiction of the court have taken place. Rome Statute, *supra* note 32, art. 13(b); see also Security Council Rpt., *In Hindsight: The Security Council and the International Criminal Court* (Jul. 31, 2008), [https://www.securitycouncilreport.org/monthly-forecast/2018-08/in\\_hindsight\\_the\\_security\\_council\\_and\\_the\\_international\\_criminal\\_court.php](https://www.securitycouncilreport.org/monthly-forecast/2018-08/in_hindsight_the_security_council_and_the_international_criminal_court.php).
- 452 For example, the Security Council established ad hoc tribunals for Yugoslavia and Rwanda. See United Nations Security Council, International Tribunals, <https://www.un.org/securitycouncil/content/repertoire/international-tribunals>. More recently, the General Assembly established an International, Impartial, Independent Mechanism to assist in the investigation and prosecution of international crimes committed in Syria. G.A. Res. 71/248 (Jan. 11, 2017).
- 453 See fn. 441, *supra*.
- 454 Xavier Philippe, *The principles of universal jurisdiction and complementarity: how do the two principles intermesh?*, 88 Int’l Rev. of the Red Cross 375, 377 (2006).
- 455 Human Rights Watch, *supra* note 39; see also Trial Int’l, *Make Way for Justice* #3, Universal Jurisdiction Annual Rev. 2017, 67-70 (2017); Trial Int’l, *Make Way for Justice* #6, Universal Jurisdiction Annual Rev. (2020).
- 456 Int’l Just. Resource Ctr., *supra* note 446; *Arellano*, *supra* note 37, ¶152.
- 457 Comité Consultatif Indépendant, *Avant-Projet Constitution art. 139* (Jan. 2021), [https://www.haitilibre.com/docs/CCI-CONSTITUTION\\_Projet-de-Constitution-2-fevrier-2021-20h00.pdf](https://www.haitilibre.com/docs/CCI-CONSTITUTION_Projet-de-Constitution-2-fevrier-2021-20h00.pdf).
- 458 Haiti Const., *supra* note 35, art. 276(2); see also *Arellano*, *supra* note 36, ¶¶110, 152 (stating that crimes against humanity are “intolerable in the eyes of the international community and offend humanity as a whole. The damage caused by these crimes still prevails in the national society and the international community, both of which demand that those responsible be investigated and punished” and holding that “to punish the perpetrators of certain international crimes, among which are crimes against humanity, is derived from the duty of protection embodied in Article 1(1) of the American Convention.”).
- 459 See, e.g. *Regina v. Bartle and the Commissioner of Police for the Metropolis and others ex parte Pinochet*, [1999] 38 I.L.M. at 581 (H.L.) ¶581 (appeal taken from Eng.); *Bouterse Case*, Petition Nos. R 97/163/12 Sv & R 97/176/12 Sv, P 5.1 (Amsterdam Ct. App. Nov. 20, 2000) (Neth.) [Unofficial International Commission of Jurists Translation] (“the commission of very serious offences as are concerned here—cannot be considered to be one of the official duties of a head of state.”); *Ould Dah v. France*, 2009-I Eur. Ct. H.R., 48 I.L.M. 884, 891 (2009) (determining that *ratione materiae* immunity was inapplicable to acts of torture, which are prohibited under international law as a matter of *jus cogens*.); A v. Office of the Attorney General of Switzerland, No. BB.2011.140, A, Bundesstrafgericht [BSrG] [Federal Criminal Court] July 25, 2012 (Switz.) [unofficial translation by TRIAL] (“[I]t is generally recognized that the prohibition of serious crimes against humanity... is mandatory in nature (*jus cogens*)... [I]t would be difficult to admit that conduct contrary to fundamental values of the international legal order can be protected by rules of the very same legal order. Such situation would be paradoxical... It follows that, in the present case, the suspect cannot claim any immunity *ratione materiae*.”); Questions Relating to Obligation to Prosecute or Extradite (*Belg. v. Sen.*), 2012 I.C.J. 1, P 22 (July 20) (Ordering Senegal to submit the case to prosecution or extradite Hissène Habré for alleged acts of torture “committed in the exercise of his functions” as the President of Chad.); Thomas Weatherall, *Jus Cogens and Sovereign Immunity: Reconciling Divergence in Contemporary Jurisprudence*, 46 Geo. J. Int’l L. 1151 at 1188 (“One might infer from this omission [by the ICJ on Habré’s claim of immunity] that the precedent had been sufficiently established by 2012 that immunity *ratione materiae* does not apply to the criminal prosecution of *jus cogens* violations before domestic courts.”).
- 460 *Prosecutor v. Omar Hassan Ahmad Al-Bashir*, Judgment in the Jordan Referral re Al-Bashir Appeal, Case No. ICC-02/05-01/09 OA2, ¶1 (May 6, 2019) (“[t]here is neither State practice nor *opinio juris* that would support the existence of Head of State immunity under customary international law *vis-à-vis* an international court.”); see also *Prosecutor v. Taylor*, Decision on Immunity from Jurisdictional Immunity, Case No. SCSL-03-01-I, ¶53 (May 31, 2004) (“the principle seems now established that the sovereign equality of states does not prevent a Head of State from being prosecuted before an international criminal tribunal or court.”).
- 461 *Prosecutor v Omar Hassan Ahmad Al-Bashir*, *supra* note 460 at ¶2.



- 462 We endorse the specific recommendations made by the BAI and IJDH in their recent submission to the IACHR calling for (1) including Haiti in Chapter IV.B of its Annual Report, (2) including the crimes against humanity, the pervasive impunity, and lack of accountability in Haiti among the working topics for the expected new Special Rapporteurship on judicial independence, (3) conducting a country visit on the concerns raised herein, and issuing a focused report with recommendations, (4) requesting that the government of Haiti submit a written report outlining a concrete plan of action for addressing the concerns raised herein; and (5) providing to the government of Haiti with technical and material support for strengthening the independence and capacity of Haiti's judicial system, in particular to prosecute the crimes against humanity identified in this report. BAI & IJDH, Written Submission for the Dec. 10, 2020 Thematic Hearing, *supra* note 26.
- 463 Press Release, IACHR Grants Precautionary Measures in Favor of Victims of La Saline in Haiti, Inter-Am. Comm'n for Hum. Rts. (Jan. 29, 2020), [https://www.oas.org/en/iachr/media\\_center/PReleases/2020/017.asp](https://www.oas.org/en/iachr/media_center/PReleases/2020/017.asp).
- 464 The IACHR also asked Haiti to come to an agreement with beneficiaries and their representatives regarding any measures that need to be taken. Press Release, IACHR Grants Precautionary Measures in Favor of Victims of La Saline in Haiti, Inter-Am. Comm'n for Hum. Rts. (Jan. 29, 2020), [https://www.oas.org/en/iachr/media\\_center/PReleases/2020/017.asp](https://www.oas.org/en/iachr/media_center/PReleases/2020/017.asp).
- 465 See Inter-American Commission on Human Rights, About Precautionary Measures, available at <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/decisions/about-precautionary.asp>.
- 466 Article 63(2) of the American Convention and Article 27 of the Court's Rules of Procedure (2009).
- 467 See Joint Statement from U.S. Human Rights Clinics on the Constitutional and Human Rights Crisis in Haiti (Feb. 13, 2021), [https://law.yale.edu/sites/default/files/area/clinic/document/210213-final\\_human\\_rights\\_clinics\\_statement\\_re\\_haiti\\_-\\_nyu\\_hls\\_yls8.pdf](https://law.yale.edu/sites/default/files/area/clinic/document/210213-final_human_rights_clinics_statement_re_haiti_-_nyu_hls_yls8.pdf).
- 468 Jacqueline Charles, *U.S. tells Haiti leaders on delayed elections: 'Do your respective jobs'*, Miami Herald (Sept. 16, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article245788370.html>.
- 469 Joint Statement from U.S. Human Rights Clinics, *supra* note 466.
- 470 Amy MacKinnon & Robbie Gramer, *Political Crisis in Haiti poses Challenges for Biden's Democracy Push*, Foreign Policy (Feb. 10, 2021), <https://foreignpolicy.com/2021/02/10/haiti-political-crisis-biden-state-department-challenge/>.
- 471 See e.g., Conseil Supérieur du Pouvoir Judiciaire, *supra* note 51; Haitian Bar Federation, *supra* note 51; Letter from Rep. Yvette D. Clark et al. to Sec'y of State Antony Blinken (Feb. 6, 2021), available at <https://clarke.house.gov/clarke-and-meeks-co-lead-letter-to-secretary-blinken-urging-the-u-s-to-condemn-the-undemocratic-actions-of-president-moise-and-support-the-establishment-of-a-transitional-government-in-haiti/> (urging the Sec'y of State to "unambiguously reject any attempt by President Moïse to retain power in contravention" of the rule of law and democracy); Patrick Leahy (Sen. Patrick Leahy), Twitter (Feb. 6, 2021, 1:10 PM), <https://twitter.com/SenatorLeahy/status/1358115921114578945> (stating that "US should join in calling for an inclusive transition that represents the Haitian people.").
- 472 Statement by Ned Price, Department Spokesperson, Press Briefing (Feb. 12, 2021), <https://www.state.gov/briefings/department-press-briefing-february-12-2021/#post-218259-HAITI>
- 473 Letter from Rep. Frederica Wilson et al. to Sec'y of State Mike Pompeo (Oct. 15, 2020), available at <https://www.dropbox.com/s/tw0vquftj3sdtx4/Markey%20Wilson%20Letter%20Haiti%2010.15.20%5B3%5D.pdf?dl=0>.



