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House Foreign Affairs Committee
Tom Lantos Human Rights Commission

Hearing
on
Human Rights in Haiti: Ideas for Next Steps

March 4, 2020 – 2:00 p.m.
2255 Rayburn House Office Building

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Chairman McGovern, Chairman Smith, and other distinguished Members of the Tom Lantos Human Rights Commission:

I would like to thank all of you for the opportunity to speak about the human rights situation in Haiti today. The path forward must be determined by Haitian people. As Congress aims to support Haiti to address the short-term and historical causes of its political, economic, and social challenges, the international community must create space for Haitian self-determination.

In the past two years, in response to detailed evidence of misappropriation of funds and corruption, Haitian people have channeled calls for change into collective action, organizing massive nationwide protests to demand government accountability. The protests are unprecedented in their representation of Haitian people: protestors come from all classes and all generations. The popular slogan *kote kòb la*—where is the money?—and the demand for new leadership not stained by corruption has been met—time and again—with repression and violence. The worsening insecurity—this past weekend *Le Nouvelliste*¹, Haiti’s leading newspaper, reported more than 18 people killed by gun violence and many cases of kidnappings—is a symptom of an utter lack of accountability. As explained in the December, 2019 testimonies of Pierre Espérance of the Haitian National Human Rights Defense Network and

¹ <https://lenouvelliste.com/article/212838/un-week-end-chaud-carnage-kidnapping-incendie-et-debandade-des-blindes-de-la-pnh>

*This communication does not purport to represent the institutional views, if any, of NYU

Emmanuela Douyon of *Nou Pap Dòmi*, impunity and incidents of State-sanctioned violence enable a general climate of fear and lawlessness. I commend their testimony to you, in oral² and written³ form.

Distinguished Members, I will make one main point today, examining three major areas of concern. In these areas—elections; insecurity and impunity; and corruption and impunity—it is impossible to escape the conclusion that the actions of the U.S. State Department, the United Nations, and the Organization of American States—because they are not rooted in strong analyses led by Haitian voices—have often made a bad situation worse. To avoid such missteps, it is essential that the Congress of the United States determines its course of action with information and input from victims of human rights violations in Haiti and from those in Haiti calling for systemic change. Absent such an orientation, it will remain difficult to build legitimacy, and even well-intentioned actions may be met with unanticipated consequences.

Elections

In the current climate, elections are not the next step in addressing Haiti’s political crisis. The elections of the past 10 years demonstrate that they are not an automatic means of achieving representative democracy. Rushing into elections without addressing infrastructure and legitimacy deficits risks further eroding Haitians’ faith and participation in the vote.

Voter Registry: The civil registry in Haiti, the basis for the vote, has excluded the poorest and most marginalized. Recurring natural disasters have made the situation worse by destroying records and hobbling the capacity of the state to register citizens. Today, Haitians face the prospect of being asked to hand over their sensitive biometric data to a government that has lost its legitimacy. In 2018, the Ethics and Anti-corruption Commission in Haiti’s Senate raised concern over the government’s contract with the German company Dermalog. Haitian organizations and journalists have expressed concerns that the government’s \$27 million contract with Dermalog to create an entirely new database of biometric data is a step backwards, and that it will disenfranchise and discourage voters.⁴

Further, Haiti has neither an electoral law nor an electoral budget. President Moïse could pass an electoral law and budget by decree, but popular protests and dissent make clear this would not be seen as legitimate.

Legitimacy: To achieve their goal of resolving the political crisis, elections—and the act of voting—must be seen as legitimate. Legitimacy rests on the perception that voting is a fair exercise of democracy. Such perceptions are impossible in a context of electoral violence and voter intimidation. The elections of 2015 were marred by fraud and violence, with approximately two-thirds of voting centers affected and an estimated 25% of voter tally sheets lost.⁵ Violence is much worse today. The

² [Haiti On the Brink: Assessing U.S. Policy Toward a Country in Crisis](#)

³ <https://docs.house.gov/meetings/FA/FA07/20191210/110326/HMTG-116-FA07-Wstate-EspranceP-20191210.pdf> and <https://docs.house.gov/meetings/FA/FA07/20191210/110326/HMTG-116-FA07-Wstate-DouyonE-20191210.pdf>

⁴ <https://ayibopost.com/pourquoi-le-dossier-dermalog-est-un-vaste-scandale/>; <https://web.rnddh.org/la-carte-didentification-nationale-unique-entre-m%c3%a9fiance-populaire-op%c3%a9ration-de-corruption-et-violations-de-droits-humains/>
Further, they allege that the contract is illegal and marred by fraud.

⁵ <http://www.ijdh.org/wp-content/uploads/2017/02/Haitis-Unrepresentative-Democracy.pdf>

proliferation of gangs and the rise of the newly reconstituted Haitian army suggest that absent great change, Haiti's next election will not lead to the creation of a legitimate government.

The United States has a recent record of supporting presidents who came to power without democratic mandates. The current president, Jovenel Moïse, and his predecessor, Michel Martelly, came to power in 2011 and 2017 with about 20% of the vote. In 2010, at the urging of the Organization of American States and the State Department, Martelly was placed into the second round runoff despite coming in third, not second, in the first round.⁶ Many Haitians saw Martelly's subsequent victory as tainted by foreign intervention. Martelly's four years in power only contributed to the perception that he did not represent the people: he retained visible contact with Duvalier-era officials, failed to hold any of the four elections for Parliament and local officials that Haiti's Constitution required, instead appointing mayors and local officials to elected positions. He is implicated in the PetroCaribe corruption scandal for, among other things, overpaying the companies led by his successor, President Moïse.

As of January, 2020, President Moïse rules by decree. In his three years as the head of state he has been unable to put together a government. Although Moïse's implication in corruption is a greater concern than his lack of democratic mandate, the fact that he came to power with an estimated 17% of the vote makes undermined his legitimacy from the start.

On March 2nd President Moïse passed a decree to declare Jouthe Joseph as the new prime minister. Moïse's action was met with criticism in Haiti.⁷ Notably, the U.S. Embassy welcomed Joseph.⁸ UN officials stated that they learned of the appointment via the press.⁹ Moïse nominated Joseph unilaterally, absent consultation.

Haitians have a hard time seeing interventions by the U.S. Department of State and the Organization of American States in Haitian politics as legitimate. Both are well-known for supporting elections marred by fraud. Following the violence and fraud in the 2010 and 2015 elections, a majority of Haitian candidates and political parties called for a new vote. The State Department and the OAS, however, called on Haitians and the international community to accept the results of the flawed elections. Haitians understood this as a U.S and OAS preference for "stability" over democracy.¹⁰ Although "stability" has positive connotations, in the case of Haiti, we must ask ourselves: stabilizing *what?*

Insecurity and Impunity

Gang violence, kidnapping, and consecutive government-linked massacres are creating a climate of widespread insecurity and fear. *Le Nouvelliste* wrote only days ago that one-third of Port-au-Prince is under control of gangs. These gangs operate without consequence, at the apparent protection of the executive. Although violence has been concentrated in Port-au-Prince, violent incidents have also been reported in rural zones. To avoid "hot" areas, Haitian people have changed the routes they

⁶ <https://www.theatlantic.com/international/archive/2016/02/haiti-michel-martelly/461991/>

⁷ <https://lenouvelliste.com/article/212883/jovenel-moise-a-choisi-seul-joseph-jouthe>

⁸ <https://ht.usembassy.gov/u-s-embassy-haiti-statement-on-haitis-new-government-3-4-2020/>

⁹ <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article240861171.html>

¹⁰ <https://www.ijdh.org/2017/02/topics/politics-democracy/haitis-eroding-democracy/>

take to get to work; bus drivers choose dirt roads to avoid traveling on highways from the capital to the provinces and, increasingly, people are simply not circulating at all. The insecurity and violence result in infringements of basic rights—for example, children are not attending school, families are unable to secure sufficient food, many do not have access to healthcare, and people are dissuaded from demonstrating political and civil discontent. In short, insecurity and violence operate as effective tools of repression.

State-Sanctioned Violence

The government of Haiti has been implicated in violence and increasing repression of those who are calling for accountability. In November of 2018, a documented 71 people were brutally killed and dismembered in the poor neighborhood of La Saline. This was the most deadly of a series of massacres—incidents of killings of multiple, defenseless victims—that implicate government authorities and the Haitian National Police (HNP).¹¹ One year and 56 more deaths-by-massacre later, 24 people were murdered in Bel-Air in November of 2019. The areas that have been sites of mass, indiscriminate killings, have two things in common: they are poor and they are places of frequent anti-government protest.

There is evidence that government officials are implicated in the massacres in La Saline in November of 2018 and in Bel-Air in November of 2019. The police did not intervene in either instance, despite the proximity of police stations. There are allegations, too, that the executive provides gangs with weapons to terrorize those who live in areas that have protested against corruption.

The Haitian government has not invested in the police force, and has failed to meet its demands for equipment and resources to respond to gang violence. The HNP has made good progress in the past years, and should play an essential role in Haiti. The government has ignored HNP's demands to unionize, and the high rate of on-the-job mortality is demoralizing. In February of this year, just days prior to Carnival, members of the HNP, having failed to secure higher pay and to unionize, went rogue, removing their uniforms, setting Carnival stands on fire, and later exchanging hours of gunfire with army soldiers.¹² One soldier was killed and several police officers were injured.¹³

The United Nations recently released a report¹⁴ on the Bel-Air attacks, noting evidence of collusion between criminal gangs, political actors, and the HNP. The UN concluded that the architect of the La Saline and Bel-Air massacres, Jimmy Cherizier, has not faced charges. The UN report is an important contribution, and yet the call for accountability may ring hollow; in November of 2017, UN troops secured an area in Grand Ravine while Jimmy Cherizier and others killed nine civilians.¹⁵

¹¹ The first massacre under the Moïse administration occurred in November of 2017 in Grand Ravine. It was carried out with the participation of UN forces. Nine civilians were killed; neither the government of Haiti nor the U.N. investigated the incident. <https://theintercept.com/2018/01/10/haiti-raid-united-nations-police-grand-ravine/>

¹² <https://www.aljazeera.com/news/2020/02/haiti-gunfight-protesting-police-exchange-fire-army-200224123749044.html>

¹³ <https://www.businessinsider.com/haiti-police-army-standoff-protesting-work-conditions-photos-2020-2>

¹⁴ https://www.ohchr.org/Documents/Countries/HT/Haiti_Rapport_Bel_Air.pdf

¹⁵ <https://theintercept.com/2018/01/10/haiti-raid-united-nations-police-grand-ravine/>

The Haitian Army

In part because of its history committing gross human rights violations, the Haitian army was dissolved in 1995. In 2016, President Martelly reinstated the Army.¹⁶ President Moïse has remobilized it. The last weekend in February of 2020, the army rolled through poor neighborhoods in their newly acquired tanks in a show of extravagant force.¹⁷

Protest and Violent Repression

In addition to violence, the government of Haiti has used—and been complicit in the use of—violent repression of dissent and political dissatisfaction. The UN has recognized that impunity is enabling recurrent violence in Haiti. Until those who commit violent acts are held accountable, political violence in Haiti is likely to worsen.¹⁸

The Moïse government has failed to bring those implicated in massacres and gang leaders to justice. His administration has met popular protests calling for accountability with repression and violence. Between August 2018 and February of 2019, at least 64 Haitian citizens were killed in popular protest.¹⁹ The same proportion in the United States would tally more than 1,700 protestors killed. Amnesty International used aerial footage to show police officers and other armed officials shooting indiscriminately into crowds. Their research shows the police using semi-automatic rifles and live ammunition during protests, in violation of international human rights law and standards on the use of force.²⁰

Widespread insecurity is a symptom, and it must not distract us from the underlying cause: impunity and an absence of accountability.

Corruption and Impunity

Corruption affects all human rights. It undermines rule of law and has drained the Haitian executive and other institutions of legitimacy. Corruption in Haiti is uniquely destructive. Prior to the PetroCaribe scandal—and before the devastating earthquake of 2010—Haiti was the poorest country in the western hemisphere. In a matter of seconds, the earthquake killed more than 200,000 people and wiped out 120% of Haiti's 2009 GDP.²¹ The earthquake left Haiti hamstrung in terms of response capacity: nearly 20 percent of the civil servants were killed, and 60 percent of government, administrative, and economic infrastructure was destroyed. Conditions in Haiti, while poor, had been improving in 2009, but the January earthquake shook the nation into shock and crisis.

The PetroCaribe fund was designed to provide oil at a discounted rate to the Haitian government; the money saved was meant to be invested in strengthening Haitian institutions, building critical

¹⁶ <https://www.ijdh.org/2018/07/resources/ijdh-press/haitis-army-is-making-a-comeback-20-years-after-disbanding-hbo/>

¹⁷ <https://lenouvelliste.com/article/212838/un-week-end-chaud-carnage-kidnapping-incendie-et-debandade-des-blindes-de-la-pnh>

¹⁸ https://www.ohchr.org/Documents/Countries/HT/Haiti_Rapport_Bel_Air.pdf

¹⁹ <https://www.amnesty.org/en/latest/news/2019/10/haiti-amnesty-verifies-evidence-excessive-force-against-protesters/>

²⁰ <https://www.amnesty.org/en/latest/news/2019/10/haiti-amnesty-verifies-evidence-excessive-force-against-protesters/>

²¹ https://chrgi.org/wp-content/uploads/2018/02/171025_Global-Justice-Clinic-Haiti-TPS-Report-web-version.pdf

infrastructure, and providing basic social services. Instead, Haitian politicians misappropriated a minimum \$1.7 billion in state funds from the PetroCaribe loan program.²² President Moïse is one of many Haitian politicians implicated in the PetroCaribe scandal.

Moïse's administration has obstructed investigation into the PetroCaribe scandal and failed to bring anyone implicated in corruption to justice. President Moïse fired the director of the financial crimes unit that uncovered evidence of money laundering. His administration has failed to cooperate with the Haitian Court of Auditors and stalled any progress related to judicial efforts to hold those accused of corruption to account. The president's response undermines accountability efforts of state institutions and is yet another factor that contributes to impunity.

Corruption and Haiti's Failing Economy

The economy of Haiti has taken a massive blow. The mismanagement of meager public resources, high levels of corruption, uncontrolled public expenditures²³ and an inability to collect taxes have contributed to negative economic growth. There has been a 60% depreciation in the national currency over the past two years and inflation hit 20% at the end of 2019. The UN estimates that as of this month—March 2020—1.2 million Haitians are experiencing “emergency levels” of food insecurity, and that 4.2 million Haitian people face food insecurity.²⁴ The number of families limiting themselves to one hot meal a day, if that, is growing.

The current crisis is deep and multi-dimensional. The failing economy is creating deeper levels of poverty and famine. The mismanagement of public resources combined with increased repression are adding more fuel to the political crisis. The need for a locally defined consensus out of the impasse is the only viable path for Haiti today.

The Path Forward

The international community, led by the United States government, must support Haitian demands. One role U.S. actors can play is to promote a range of Haitian actors to come to the table. Dialogue will be most productive when it includes non-political actors in Haiti.

Elections

Instead of rushing to call for elections, the United States, the OAS, and other international actors should support Haiti to build a civil registry system and other election infrastructure that Haitian people view as credible. The climate must be conducive to voting, meaning that violence and insecurity must decrease significantly and Haitian people must perceive that their votes will count. Restoring faith in the vote and holding credible elections are more important than the timeline.

²² http://www.ijdh.org/wp-content/uploads/2019/09/IJDH-BAI-Declaration-IACHR-Thematic-Hearing-September-2019_final.pdf

²³ See testimony of Pierre Esperance: <https://docs.house.gov/meetings/FA/FA07/20191210/110326/HMTG-116-FA07-Wstate-EspranceP-20191210.pdf>

²⁴ <https://news.un.org/en/story/2019/12/1054441>

Accountability and Corruption

The Moïse Government is backed by the Trump Administration which has been only mildly critical of corruption and accountability concerns. Congress can—and should—hold the State Department and other U.S. institutions to account to have structural concerns about accountability and corruption at the forefront of all discussions with the Haitian government. The Haiti Accountability Bill (H.R. 5586)²⁵ provides guidance. Among other things, the Bill requires the Secretary of State to submit reports on corruption—including an investigation of any U.S. ties—and post-natural disaster aid to Congress.

The Bill provides that the Secretary of State and USAID must conduct consultations with Haitian communities to build important relationships and to generate factual information. The Department of State cannot rely on the Moïse administration for an honest or accurate description of opportunities and challenges in Haiti. And, members of Congress cannot similarly not rely on the State Department.

In addition to the points presented in the Haiti Accountability Bill, Congress should consider investigating the movement of arms into Haiti, and the role, if any, of U.S. manufacturers and individuals. Despite a U.S. arms embargo, there are an estimated 500,000 illegal arms circulating in Haiti.²⁶ Getting guns off of the streets should be a priority of all actors who have played a role in making them accessible.

CODELS

Congress should organize CODELs to Haiti to meet with political and non-political actors. Haitian civil society organizations are best placed to support such visits, which will ensure that a broader range of actors and voices in Haiti are heard, and that future actions are informed by many perspectives.

Temporary Protected Status

The Department of Homeland Security designated Haiti for Temporary Protected Status (TPS) shortly after the earthquake in 2010. Haiti remains unable to safely repatriate its nationals.²⁷ Further, the Haitian economy depends on remittances from its diaspora: Haitian TPS beneficiaries working in the United States support an estimated 250,000 of their relatives in Haiti.²⁸

The Call for Transition

The Moïse Government is backed by the Trump Administration which has been only mildly critical of corruption and accountability concerns.

²⁵ <https://www.congress.gov/bill/116th-congress/house-bill/5586/text?r=39&s=1>

²⁶ <https://www.miamiherald.com/news/business/tourism-cruises/article237335964.html>

²⁷ https://chrgj.org/wp-content/uploads/2018/02/171025_Global-Justice-Clinic-Haiti-TPS-Report-web-version.pdf

²⁸ Estimates based on email exchange with Dr. Manuel Orozco, Director, Migration, Remittances and Development, Inter-American Dialogue (Aug. 18, 2017) (on file with authors). Haiti is the most remittance-dependent nation in the world. See Manuel Orozco, Remittances to Latin America and the Caribbean in 2016, at 16 (Appendix) (Feb. 10, 2017) <http://www.thedialogue.org/wp-content/uploads/2017/02/Remittances-2016-FINAL-DRAFT.pdf>

A transitional government is likely the next step in Haiti, even if Moïse finishes his term. Ms. Emmanuela Douyon of *Nou Pap Dòmi* explained in her December testimony that President Moïse has alienated the population, and that dialogue—or elections—under his leadership are destined to fail. She continued:

“The U.S. has been recommending dialogue since 2018, but it has not worked for several reasons. The implication of so many high-level officials in and close to this government in acts of corruption and human rights violations has thwarted their legitimacy to lead national dialogues. President Moïse has lacked a popular mandate from the beginning of his term and he has only further alienated Haitians through economic mismanagement and violent abuses of authority. The Haitian society is calling for an inclusive National Conference, which would include all sectors of society and be facilitated by the transitional government. This is not a political crisis between those who won the last election and those who did not; this crisis goes beyond political opposition. The demand of the Petro challengers and the population is for systemic change dialogues.”

Congress has an essential role to play. Congress—and the State Department—must engage in conversation with Haitian civil society organizations to understand their demands. Although the path forward that begins to repair the social contract between the state and its people may be slow, it is in the long-term interest of all actors. Slow and even painful progress is better than the status quo, which the United States government and other international actors must cease to perpetuate.