



Lowenstein International
Human Rights Clinic
Yale Law School



Joint Statement from U.S. Human Rights Clinics in Solidarity with Human Rights Defenders in Haiti

June 27, 2022

As U.S.-based law school clinics working in solidarity with Haitian civil society, we call on the United States government to take urgent steps to address the rising insecurity and gang violence in Haiti, including threats against human rights defenders. We are deeply concerned that the United States' continued support for de facto Prime Minister Ariel Henry despite strong evidence of his government's involvement in this violence is reinforcing impunity and hindering a Haitian-led solution to the worsening political crisis. We call on the U.S. government to support Haitian-led investigation of and accountability for human rights abuses; take concrete, effective steps to enforce U.S. laws on arms trafficking; and shift support from Dr. Henry towards an inclusive and Haitian-led political process.

Today, Haiti is experiencing a level of violence [unprecedented in recent times](#). As UN [High Commissioner for Human Rights Michelle Bachelet concluded](#) in a May 17 statement, “[g]ang violence has had a severe impact on the most basic human rights of people.” Between April 24th and May 6th alone, the human rights organization Réseau National de Défense des Droits Humains (RNDDH) [documented](#) at least 148 people assassinated in gang attacks. The violence included decapitation and many incidents of rape. The gangs burned at least 51 homes to the ground. Thousands of families have [been displaced](#) because of the violence. In addition, the United Nations [recently expressed concern](#) about the recruitment of minors into the gangs, and videos that show young children wielding machine guns have been circulating over social media. It is well documented that the Parti Haïtien Tèt Kale (PHTK), which has been in power since 2011, has [close connections with some of these gangs](#).

RNDDH, the organization that is most systematically documenting gang violence and human rights abuses in Haiti, has received targeted threats. In March 2022, for example, members of the PHTK leadership reportedly [participated in a meeting to plan the assassination](#) of RNDDH Executive Director Pierre Espérance. In late April, five members of the U.S. Congress [issued a statement](#) condemning repeated threats against Mr. Espérance and calling on Haitian authorities to “take all necessary steps to ensure his safety and the safety of his colleagues.” Haitian authorities have yet to take any action, ignoring RNDDH’s request that the Direction Centrale de la Police Judiciaire (DCPJ) investigate.¹ According to RNDDH, [Krache Dife](#), one of Haiti’s most powerful gangs and a member of the [G9 gang alliance](#) that enjoys PHTK support, is now slowly taking over territory in

¹ RNDDH’s letter requesting that the DCPJ investigate is on file with authors and available upon request.

the Canapé-Vert neighborhood where RNDDH is located, raising additional concerns about the staff's safety.

Other human rights defenders and journalists in Haiti have [recently been killed or received death threats](#). Several have had to leave Haiti in response. The Committee to Protect Journalists recently deemed Haiti the [most dangerous place for journalists](#) in the Western Hemisphere.

Under the PHTK's leadership, the Haitian government has consistently fueled general insecurity in the country and enabled targeted violence against human rights defenders. The [State Department has acknowledged](#) credible evidence that the Haitian government is complicit in, if not responsible for, the rising impunity and gang violence. Under the preceding administration of President Jovenel Moïse, gangs carried out many attacks in areas where opposition to the PHTK runs strong. In at least some cases, the [massacres were planned or executed with government support](#). For example, Fednel Monchery, a former senior official in Moïse's administration, was [sanctioned](#) by the U.S. government for his participation in the [2018 La Saline massacre](#). The Haitian government has not held Monchery or others known to be responsible for the massacres to account. Further, [a recent investigation](#) by a Haitian journalist found that Haitian National Police officers who briefly arrested Monchery in 2021 received intense pressure to release him. The officer who led the arrest has since been attacked in his home and received threats that have increased in frequency under the Henry administration. Gang violence has also escalated under Dr. Henry's leadership, and some estimate that [gangs now control up to 60%](#) of Haiti's territory.

The United States' persistent support for the PHTK despite its continuous complicity in grave human rights abuses has served to reinforce the party's power and the growing impunity in Haiti. When President Moïse's mandate [expired](#) in 2021, the United States continued to support his hold on power despite his Administration's lack of constitutional mandate, its involvement in gang violence, and its [dismantling of government institutions](#) that check executive power.² These moves included, for example, [limiting judicial oversight](#), [firing the head of the financial crimes unit](#) that had reported Moïse's involvement in corruption, and [setting up a new intelligence agency](#) with sweeping powers of surveillance. The founder of the PHTK, Michel Martelly, who served as president from 2011 to 2016, [similarly undermined democratic institutions](#) and [interfered](#) with the judiciary's prosecution of his allies, many of whom are or were implicated in crimes. Many PHTK officials have been identified as participants in a [massive corruption scandal](#) involving more than \$2 billion dollars that had been earmarked for development projects.

Following President Moïse's assassination in July 2021, Dr. Henry assumed power, not as a result of a Haitian process, but at the [urging](#) of the United States and other foreign governments. In the days after the assassination, Haiti's [leadership was contested](#). President Moïse had been [ruling by decree](#) after he [failed to hold Parliamentary elections](#) and Parliament was dissolved in January of

² See, e.g., Jacqueline Charles, *Slew of Presidential Decrees Have Some Wondering if Haiti Is on the Road to Dictatorship*, Miami Herald (Dec. 21, 2020), <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article247954080.html>; *L'instabilité politique menace l'année 2021, selon les observateurs*, Ayibo Post (Jan. 3, 2021), <https://ayibopost.com/linstabilite-politique-menace-lannee-2021-selon-les-observateurs/>. In July, the mandates of municipal leaders expired. The President issued a decree converting these locally elected leaders into "municipal commissions," which can be removed or replaced at any time by the executive branch. See Robenson Geffrard, *La présidence prend le contrôle des mairies*, Le Nouvelliste (July 8, 2020), <https://lenouvelliste.com/article/218352/la-presidence-prend-le-controle-des-mairies>.

2020. Further, the [head of the Supreme Court, who should fill a presidential vacancy, had died](#) and not been replaced. Thus, [the Constitution did not provide a clear succession path](#). The Core Group,³ within which the United States plays an influential role, threw its support behind Dr. Henry and urged him to form a government and assume the role of Prime Minister. The United States has continued to support Dr. Henry even though he lacks constitutional authority or a popular mandate and despite his alleged involvement in serious crimes. Dr. Henry's government has failed to address growing insecurity, and reports suggest that his administration may be [intentionally under-resourcing the police](#) and authorizing gang advances in opposition neighborhoods. The [chief prosecutor in Port-au-Prince, Bed-Ford Claude, said that evidence links](#) Dr. Henry to [the assassination of President Moïse](#). Dr. Henry subsequently replaced Mr. Claude. During Dr. Henry's administration, [judges](#) and their [clerks](#) who are charged with overseeing the investigation of the murder of President Moïse have [received death threats](#). The investigation is now stalled.

Many in Haiti believe that [continued U.S. government support for de facto Prime Minister Henry](#) keeps him in power and is [preventing a Haitian-led solution](#) to the political crisis. For example, the United States is [insisting that the PHTK must be part of any transitional government](#). This effectively removes incentives for Dr. Henry to engage in dialogue aimed at restoring democracy and has contributed to political deadlock. Moreover, President Biden's recent welcoming of Dr. Henry to the Summit of the Americas, while [excluding](#) other regional leaders that the United States deemed to "not respect democracy," further reinforces Dr. Henry's legitimacy on the international stage.

Recommendations to the U.S. Government

It is time for the United States to prioritize support for human rights and rule of law over support for the PHTK. Accordingly, we call on the U.S. Government to take the following steps:

Encourage Haitian Authorities to Investigate Threats Against Human Rights Defenders

Many of Haiti's key human rights defenders are facing risks to their lives. The brave human rights defenders who continue to do their work under these conditions have a right to protection. While the United States has encouraged investigation into massacres, [including La Saline](#), it has been relatively silent in response to credible threats facing prominent human rights defenders like Pierre Espérance. The U.S. government should strongly urge Haitian authorities to ensure their protection and to publicly report on progress in investigating and prosecuting those responsible for the threats and violence against human rights defenders.

Provide Thorough and Timely Reporting on Accountability for High-Profile Killings, Massacres, and Corruption

The Haitian government has failed to conduct robust investigations into and prosecute those responsible for high-profile killings, including the [assassinations of journalists](#), [human rights defenders](#), the [president of the Port-au-Prince Bar Association](#), and former President Moïse. The

³ The Core Group is composed of the Special Representative of the United Nations Secretary-General, the Ambassadors of Brazil, Canada, France, Germany, Spain, the European Union, the United States of America, and the Special Representative of the Organization of American States.

government has also failed to thoroughly investigate the massacres of civilians, including in [La Saline](#), [Bel Air](#), and [Martissant](#).

The [Haiti Development, Accountability, and Institutional Transparency Act](#) (“the Act”), passed as part of the Appropriations Bill of 2021, includes language that can increase transparency and pressure for accountability. The Act mandates that the State Department report on major acts of corruption in Haiti, the identification of individuals responsible for corruption, and the Haitian government’s responses to corruption and allegations of human rights violations. It also requires the Secretary of State to urge Haitian authorities to investigate the La Saline and Bel Air massacres. By providing detailed and robust briefing on the Haitian government’s progress, the United States can contribute to transparency and follow-through in Haitian investigations.

Ensure Transparency in Any U.S.-Based Investigations into the Assassination of Former President Moïse

Combatting impunity requires a thorough and transparent investigation into the murder of former President Moïse. For the assassination of a sitting president to go unsolved constitutes a severe blow to the rule of law and trust in institutions in Haiti. Threats against multiple judges and their staff involved in the investigation have marred the process and sent an ominous message to judicial personnel. As the [United States moves forward](#) on investigating and prosecuting U.S.-based links to the assassination, the [U.S. government should ensure transparency by declassifying information](#) crucial to the Haitian investigation. In April, a U.S. District Court [judge in Miami agreed to seal evidence in the assassination case](#) in the interest of U.S. national security. However, the Act requires the State Department to provide a detailed report on the assassination, including “a description of whether any foreign persons previously employed by or who served as a contractor or informant for the United States Government were involved in the assassination.” Given [reports of FBI and DEA](#) informants’ involvement in the assassination, such public reporting is necessary, not only to seek justice for the Moïse family and for Haitian people more broadly, but to build the credibility of U.S. government institutions with the Haitian people.

Increase Enforcement Action to Halt the Trafficking of U.S. Arms to Haiti

The United States has a responsibility to enforce its own laws on arms trafficking. The 1991 arms embargo [requires](#) that the export of weapons and ammunition to Haiti have permission from the State Department. The National Disarmament Commission in Haiti [estimated in 2019 that there were more than 500,000 firearms in circulation in the country, with only 20,300 registered](#). Because the United States has been found to be a [major source](#) of these weapons, the exponential growth in gun violence in Haiti has likely been fueled by the U.S. government’s failure to adequately monitor the export to Haiti of weapons and ammunition [manufactured in the United States](#). Congress should seek and disclose information about what actions the FBI and other Justice Department entities are taking to prevent and prosecute arms trafficking. Based on its findings, Congress should make recommendations to prevent and prosecute weapons flow to Haiti.

Stop Propping Up De Facto Prime Minister Ariel Henry

Haitian people are [demanding](#) that the U.S. government stop propping up de facto Prime Minister Henry and [refrain from meddling](#) in political negotiations, in order to create space for a Haitian-led

transition towards democracy. Over the past 11 years, the PHTK has systematically dismantled Haiti's democracy, and the party lacks both a formal and a popular mandate to lead. Meanwhile, violence has worsened under PHTK rule. Pervasive impunity for those responsible for human rights violations, collusion with gangs, and corruption fuels the violence that is destroying Haitians' lives. Many [warn that impunity is likely to reign unless and until there is a political shift](#). The calls for the United States to step out of Haitian politics have strong support in U.S. law. The [Haiti Development, Accountability, and Institutional Transparency Act](#) states that it is U.S. policy to "support the sustainable rebuilding and development of Haiti" in a way that recognizes "Haitian independence, self-reliance, and sovereignty." The Act calls on the United States to support inclusive political dialogue and anti-corruption efforts. In addition, Haiti was recently designated as one of [five pilot partners for the Global Fragility Act](#), which requires the United States to "encourage and empower local and national actors to address the concerns of their citizens." In Haiti, this means that [the U.S. government must stop propping up](#) de facto Prime Minister Henry and shift course towards supporting a Haitian-led solution to the political crisis.

For more information, please contact:

Ellie Happel, Haiti Justice and International Accountability Project Co-Director
Global Justice Clinic, New York University School of Law
206-816-0544
ellie.happel@nyu.edu

Margaret Satterthwaite, Professor of Clinical Law & Director
Global Justice Clinic, New York University School of Law
347-277-5035
satterth@exchange.law.nyu.edu

Beatrice Lindstrom, Clinical Instructor
International Human Rights Clinic, Harvard Law School
617-495-1654
blindstrom@law.harvard.edu

James Silk, Binger Clinical Professor of Human Rights
Allard K. Lowenstein International Human Rights Clinic, Yale Law School
203-432-1729
James.silk@ylsclinics.org

The Clinics' statement does not represent their respective law school's institutional views, if any.