



**Special Rapporteur on the Situation of
Human Rights Defenders**

Professor Mary Lawlor
Office of the High Commissioner for Human Rights
United Nations
8-14 Avenue de la Paix
1211 Geneva 10, Switzerland
defenders@ohchr.org

18 November 2022

To the Special Rapporteur on the Situation of Human Rights Defenders:

This communication is submitted on behalf of Milostène Castin, a human rights activist in Haiti and the Coordinator of *Action pour la Reforestation et la Defense de l'Environnement*, an organization based in Northeast Haiti that advocates on behalf of peasants¹ against the unlawful expropriation of peasants' land; strives for the protection of the environment and biodiversity; and combats social exclusion and poverty. This communication is submitted in accordance with the Special Procedures of the Human Rights Council.

The Global Justice Clinic of New York University School of Law and Freshfields Bruckhaus Deringer US LLP respectfully request that the Special Rapporteur send an urgent appeal to the government of Haiti. We believe that such an urgent appeal is warranted in light of the death threats and attacks Mr. Castin has suffered in the last several years due to his work as a human rights activist on behalf of displaced peasants. We also request that the Special Rapporteur use her good offices to urge the government of Haiti to put an end to the persecution of land rights advocates like Mr. Castin. We further recommend that the Special Rapporteur request authorization for a visit to Haiti to further assess the issues addressed in this petition.²

¹ In this submission, the word "peasant" is used as defined in the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas, *i.e.* "any person who engages or who seeks to engage alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land." L-1, Human Rights Council Res. 39/12, annex, art. 1(1), United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (Sept. 28, 2018).

² We note that similar interventions by the Special Rapporteur have elicited meaningful responses from governments in the past. For example, Saudi Arabia released women's rights activist Loujain al-Hathloul on 10 February 2021, shortly after the Special Rapporteur published a press release calling for her immediate release.

Mr. Castin faces escalating threats to his human rights that stem from his growing prominence as a human rights defender in recent years. Specifically:

- **Haiti has failed to respect or protect Mr. Castin’s right to life.** Mr. Castin has been the target of numerous attacks by armed gangs from 2013 to the present day, including three attacks in 2020 and 2021 that caused Mr. Castin and his family to suffer physical injury, psychological harm, and property destruction. To date, the Haitian government has failed to protect Mr. Castin from such attacks; instead, government officials have often been complicit in the threats and violence that have endangered Mr. Castin’s life. Mr. Castin continues his advocacy work despite the constant threat of additional attacks.
- **Haiti has failed to respect or protect Mr. Castin’s rights to freedom of assembly, association, and expression.** Mr. Castin has faced repeated efforts to repress his civil and political rights. As with threats to Mr. Castin’s life, Haitian government officials have often been complicit in this repression. For example, in 2019, government officials ordered gang members and members of Haiti’s Ministry of the Environment to attack those participating in one of Mr. Castin’s protests. Government officials also sent a judge to wrongfully arrest Mr. Castin in 2021 to stall his advocacy efforts. Furthermore, Haiti denied police protection to Mr. Castin and his fellow protesters in 2019 and 2021, despite repeated requests for such protection.
- **Haiti has denied Mr. Castin access to an effective remedy for these human rights violations.** Although Mr. Castin has suffered repeated violations of his rights to life, freedom of assembly and association, and freedom of expression, Haiti has failed to provide Mr. Castin any remedy for these violations. For instance, following an attack on a peasants’ meeting in 2013, the police and the local judiciary refused to act on Mr. Castin’s complaint because Mr. Castin’s attackers were connected to the government. Haiti similarly failed to act following an attack on Mr. Castin at a 2019 protest. Haiti’s inaction in response to these complaints constitutes a clear disregard for its obligations under international human rights law to investigate allegations of human rights violations and provide prompt review of complaints. As the perpetrators have enjoyed impunity for their attacks on Mr. Castin and others like him, they are unlikely to moderate their actions in the future.

Regrettably, Mr. Castin’s experience is just one example of a broader pattern of abuse, harassment, and intimidation against human rights defenders in Haiti in recent years. The Haitian government’s acts and omissions violate its human rights treaty obligations, including its obligations under the International Covenant on Civil and Political Rights and the American

See IMPACT OF THE WORK OF SPECIAL PROCEDURES: PREVENTION AND/OR CESSATION OF HUMAN RIGHTS VIOLATIONS, UNITED NATIONS, <https://perma.cc/58R6-X5BU> (last visited Sept. 29, 2022). In Algeria, an urgent appeal from the Special Rapporteur led to the acquittal of Karim Tabbou, a key figure of the Hirak Movement, a popular resistance movement in Algeria, who had been convicted of crimes for political reasons. *See id.*; Supplementary Reply from the Government of the People’s Democratic Republic of Algeria Regarding Urgent Appeal No. 3/2020 dated 14 April 2020 and Concerning the Case of Mr. Karim Tabbou, HRC/NONE/2021/SP/4 (Jan 5, 2021), <https://perma.cc/7REQ-WQL5>.

Convention on Human Rights, as well as customary international law norms enshrined in the Universal Declaration of Human Rights. We respectfully request that the Special Rapporteur, pursuant to her mandate, take urgent steps to protect Mr. Castin as soon as possible.



Ellie Happel
Adjunct Professor
Global Justice Clinic
New York University School of Law
Washington Square Legal Services, Inc.
+1 212 998 6657



Lee Rovinescu
Partner
Freshfields Bruckhaus Deringer US LLP
601 Lexington Ave., 31st Floor
New York, NY 10022
+1 212 230 4634

TABLE OF CONTENTS

I.	Introduction.....	5
A.	Background to the Unlawful Forced Eviction of Haitian Farmers	8
B.	Mr. Castin is a Human Rights Defender Who Advocates on Behalf of Dispossessed Peasants	9
i.	Caracol Industrial Park Project	11
ii.	Agricultural Zone Project and Ongoing International Development Projects.....	12
C.	Mr. Castin Faces an Urgent Risk of Violence and Assassination Because of His Work as a Human Rights Defender	14
i.	Mr. Castin Has Long Faced Threats and Physical Violence Because of His Human Rights Advocacy.....	14
ii.	Mr. Castin Has Faced Escalating Threats and Physical Violence During Recent Years.....	15
iii.	The Campaign of Violence Against Mr. Castin Negatively Impacts His Quality of Life and His Human Rights Advocacy Efforts	20
D.	The Haitian Government Is Complicit in Armed Gangs’ Crimes Against Mr. Castin and Similarly Situated Individuals.....	21
III.	Haiti Violated Its International Human Rights Obligations by Failing to Respect and Protect Mr. Castin’s Human Rights	24
A.	Haiti Violated Its Obligations to Respect and Protect Mr. Castin’s Right to Life.....	27
i.	Haiti Failed to Respect Mr. Castin’s Right to Life	27
ii.	Haiti Failed to Protect Mr. Castin’s Right to Life	31
B.	Haiti Failed to Respect and Protect Mr. Castin’s right to Freedom of assembly, Association, and Expression	33
i.	Haiti Violated Mr. Castin’s Right to Freedom of Assembly and Association.....	33
ii.	Haiti Violated Mr. Castin’s Right to Freedom of Expression	35
C.	Haiti Violated Mr. Castin’s Right to an Effective Remedy	37
i.	Haiti Failed to Investigate the Violations Mr. Castin Suffered	38
ii.	Haiti Failed to Review Mr. Castin’s Complaints.....	41
IV.	Request.....	41

I. INTRODUCTION

1. Mr. Milostène Castin is a human rights defender dedicated to protecting the land rights of marginalized groups in Haiti. Since 2013, because of his advocacy work, Mr. Castin has faced repeated acts and threats of violence, which in recent years have escalated and forced Mr. Castin and his family into periods of hiding. Haitian government officials have ignored or, in some instances, have even encouraged this pattern of violence and repression.
2. In this submission, Mr. Castin seeks the assistance of the Special Rapporteur and invokes the rights and protections set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (the *Declaration on Human Rights Defenders*).³ The Declaration on Human Rights Defenders protects individuals, such as Mr. Castin, who defend human rights, including economic and social rights such as land rights and minority rights.⁴ Like other human rights defenders that work on these issues, Mr. Castin faces threats and assaults because of his human rights defense work and therefore requires the urgent assistance and support of the Special Rapporteur.
3. Haiti is engaging in ongoing violations of Mr. Castin’s human rights, which warrants an urgent appeal.⁵ The Special Rapporteur has discretion to transmit an urgent appeal in an effort to halt

³ G.A. Res. 53/144, annex, at 2, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Mar. 8, 1999), <https://perma.cc/C5L7-XRSL>.

⁴ See L-2, Hina Jilani (Special Representative of the Secretary General on the Situation of Human Rights Defenders), *Rep. Submitted by the Special Representative of the Secretary-General on the Situation of Human Rights Defenders, Addendum, Mission to Brazil*, ¶¶ 17–18, 20, U.N. Doc. A/HRC/4/37/Add.2 (Dec. 19, 2006), (recognizing pattern of violence and threats against land rights activists); see also Margaret Sekaggya (Special Rapporteur on the Situation of Human Rights Defenders), *Fourth Rep. on the Situation of Human Rights Defenders*, ¶¶ 64–70, U.N. Doc. A/HRC/19/55 (Dec. 21, 2011), <https://perma.cc/2AVX-SH83>.

⁵ *What Are Communications?*, U.N. Office of the High Commissioner for Human Rights, <https://perma.cc/9WW9-W2CE> (last visited Sept. 29, 2022) (“[O]n-going or potential human rights violation . . . can be the object of an urgent appeal.”). Amnesty International has also called for an urgent appeal on behalf of Mr. Castin. *Urgent*

ongoing human rights violations.⁶ Urgent appeals are taken in cases of “time-sensitive violations which involve loss of life, life-threatening situations or imminent or on-going damage of a grave nature that require urgent intervention to cease the violation.”⁷ The urgent appeals procedure is appropriate in cases where there are “sufficiently reliable allegations that a human rights defender’s rights might be violated and that the situation is time-sensitive in terms of loss of life, life-threatening situations, or imminent or ongoing damage of a grave nature.”⁸ As explained in further detail below, Mr. Castin is continually at risk of imminent death, bodily harm, and denial of his rights to freedom of association and expression because of his work as a human rights defender in Haiti, and the risks to Mr. Castin and his family are growing more dire as time progresses. Given the impunity enjoyed by the perpetrators for the attacks already committed against Mr. Castin and the lack of government protection or remediation, future attacks are all but assured.

4. The Special Rapporteur should exercise her discretion to transmit an urgent appeal to the government of Haiti to remind the government of its responsibilities toward Mr. Castin and to urge that all necessary interim measures be taken to halt and prevent the reoccurrence of violations of Mr. Castin’s human rights.⁹

Action: Human Rights Defender in Danger, AMNESTY INT’L (May 28, 2021), <https://perma.cc/AAH7-4HK9> (inviting the public to write letters to the president of Haiti urging that the government and the national police of Haiti “fulfil their obligation to protect Mr. Castin in accordance with his wishes so that he may feel safe and return to his home and legitimate activities as a human rights defender.”). The situation of Mr. Castin has only worsened since Amnesty International’s appeal.

⁶ *Special Procedures of the Human Rights Council: Urgent Appeals and Letters of Allegation on Human Rights Violations*, Office of the U.N. High Commissioner for Human Rights, <https://perma.cc/F63E-5AEB>.

⁷ *Special Procedures of the Human Rights Council: Urgent Appeals and Letters of Allegation on Human Rights Violations*, Office of the U.N. High Commissioner for Human Rights, <https://perma.cc/F63E-5AEB>.

⁸ *Mandate of the Special Rapporteur on the Situation of Human Rights Defenders*, INTERNATIONAL JUSTICE RESOURCE CENTER, <https://perma.cc/G2R8-W9DP> (last visited Sept. 29, 2022).

⁹ See e.g., L-3, Communication UA HTI 1/2018 at 2–3 (May 10, 2018) (requesting Haiti to provide information about investigations on and any measures taken by the State to protect from death threats, acts of intimidation and

5. This submission is structured as follows. Section II describes Mr. Castin’s background as a human rights defender and the circumstances giving rise to the present submission. Section III describes how Haiti has violated its international human rights obligations by failing to respect and protect Mr. Castin’s right to life, assembly, association, expression, and an effective remedy. Section IV contains a request for relief. In particular, Mr. Castin respectfully requests that the Special Rapporteur submit an urgent appeal to the government of Haiti to highlight the severity of the threats and harassment to which Mr. Castin has been subjected; communicate with the government of Haiti regarding potential institutional measures to curb the improper use of judicial procedures and law enforcement against the legitimate rights-based work; and request authorization to visit Haiti in order to assess the severity of intimidation, harassment, and threats against human rights defenders, as well as the expropriation of peasants’ land.

II. STATEMENT OF FACTS

6. This section describes the factual background to the present submission in four parts. Part A explains that Haitian peasants suffer from a long history of forced evictions in violation of their human rights. Part B describes Mr. Castin’s work as a human rights defender who advocates on behalf of displaced peasants, such that he falls within the Special Rapporteur’s mandate.

attacks against Mr. Pierre Espérance, a Haitian human rights defender); **L-4**, Communication UA HTI 1/2017 at 4 (Jan. 19, 2017) (requesting Haiti to provide information about investigations on and any measures taken by the State to protect from death threats, acts of intimidation and attacks against Mr. Pierre Espérance); **L-5**, Communication HTI 2/2014 at 2–3 (Aug. 21, 2014) (requesting Haiti to provide information about investigations on and any measures taken by the State to protect from death threats, acts of intimidation and attacks against Ms. Wilda Pyram, a Haitian human rights defender); **L-6**, Communication HTI 1/2014 at 2–3 (May 21, 2014) (requesting Haiti to provide information about investigations on and any measures taken by the State to protect from death threats, acts of intimidation and attacks against Mr. Pierre Espérance); **L-7**, Communication UA TKM 2/2018 at 1, 4 (Nov. 27, 2018) (urging that all necessary interim measures be taken to halt and prevent the reoccurrence of alleged reprisals against human rights defenders for their cooperation with the United Nations); *Understanding the Special Procedures*, INT’L SERV. FOR HUM. RTS. ACAD., <https://perma.cc/U997-3W4F> (last visited Sept. 29, 2022).

Part C summarizes how Haiti has retaliated against Mr. Castin for his work and put him at constant risk of violence and assassination. Part D addresses how Haiti has failed to provide any protection against or remedy for the threats and attacks Mr. Castin faces.

A. BACKGROUND TO THE UNLAWFUL FORCED EVICTION OF HAITIAN FARMERS

7. Mr. Castin has devoted his career to fighting against the forced evictions of peasants in Haiti.¹⁰ With a focus on empowering peasants in Northern Haiti, Mr. Castin’s work takes place in the context of a history of unlawful expropriation, precarious legal protections and a tenuous land registration system for small landowners, and a judicial system ill-equipped to provide proper remedies for the aggrieved.
8. Haiti’s lack of a comprehensive, operational system for recording land ownership exacerbates the problem of forced evictions. In 2010, less than five percent of Haitian land was officially accounted for in land registers.¹¹ Many land titles, especially those of subsistence peasants,

¹⁰ Forced evictions violate the right to not be arbitrarily deprived of one’s property, which is enshrined in Article 17 of the Universal Declaration on Human Rights (UDHR). G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 17, (Dec. 10, 1948), <https://perma.cc/3MLJ-NR5V>. They also violate the right to adequate housing enshrined in Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (CESCR), which protects against forced evictions. International Covenant on Economic, Social and Cultural Rights, art. 11(1), Dec. 16, 1966, 993 U.N.T.S. 3, <https://perma.cc/6CEP-WMQE>. Haiti has been a State party to the CESCR since 8 October 2013. The U.N. Committee on Economic, Social and Cultural Rights defines “forced evictions” as the “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.” **L-8**, U.N. Committee on Economic, Social and Cultural Rights, *General Comment No. 7: The Right to Adequate Housing (Art. 11.1 of the Covenant): Forced Evictions*, ¶ 3, U.N. Doc. E/1998/22 (May 20, 1997). Further, as the CESCR explained: “Owing to the interrelationship and interdependency which exist among all human rights, forced evictions frequently violate other human rights. Thus, while manifestly breaching the rights enshrined in the [CESCR], the practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.” *Id.*, ¶ 4. The right to ownership of land is also closely related to the right to adequate food enshrined in Article 11(1). See U.N. Committee on Economic, Social and Cultural Rights, *General Comment No. 12: The Right to Adequate Food (Art. 11)*, ¶ 26, U.N. Doc. E/C.12/1999/5 (May 12, 1999), <https://perma.cc/6UUP-BLT5>.

¹¹ **L-9**, Earth Institute at Columbia University, *Options for Land Tenure Dispute Management in Rural Haiti: Challenges and Opportunities in the Côte Sud*, Presented to the U.N. Environment Programme, at 8–9 (May 9, 2012) (citing Environmental Law Institute, *Land Tenure in Post-Earthquake Haiti: Challenges and Opportunities for Action* (2010)).

are transferred by verbal agreements.¹² This incomplete land registration system is “subject to manipulation, offers no guarantee of property rights, and has increasingly left property owners at the behest of a land-stealing mafia,” consisting of political and economic elites.¹³

9. Moreover, the justice system lacks the will and capacity to provide meaningful relief.¹⁴ Judicial actors are often complicit in unlawful forced evictions. For instance, during recent years, there have been reports of judicial land takings whereby a judge is bribed to order the transfer of land illegally with the aid of the police or civilian gangs.¹⁵
10. Against this backdrop, Haitian peasants struggle to protect their land rights. Both State and non-State actors repeatedly dispossess peasants of their land through fraud or force, and many people have been persecuted and killed over land disputes.¹⁶

B. MR. CASTIN IS A HUMAN RIGHTS DEFENDER WHO ADVOCATES ON BEHALF OF DISPOSSESSED PEASANTS

11. Mr. Castin began working as a human rights activist in Haiti in 2004.¹⁷ Throughout his career, he has passionately defended land rights, environmental rights, and workers’ rights; educated

¹² **L-9**, Earth Institute at Columbia University, *Options for Land Tenure Dispute Management in Rural Haiti: Challenges and Opportunities in the Côte Sud*, Presented to the U.N. Environment Programme, at 8–9 (May 9, 2012) (citing Environmental Law Institute, *Land Tenure in Post-Earthquake Haiti: Challenges and Opportunities for Action* (2010)).

¹³ **L-10**, Jacqueline Charles, *It’s Not the First Time They Tried to Take His Haiti Land. This Time He Was Left for Dead*, MIAMI HERALD, May 11, 2020.

¹⁴ *See L-10*, Jacqueline Charles, *It’s Not the First Time They Tried to Take His Haiti Land. This Time He Was Left for Dead*, MIAMI HERALD, May 11, 2020 (highlighting “[f]ailure of multiple Haitian governments” to deal with the issue of land tenure).

¹⁵ **L-10**, Jacqueline Charles, *It’s Not the First Time They Tried to Take His Haiti Land. This Time He Was Left for Dead*, MIAMI HERALD, May 11, 2020. *See also* Declaration/Affidavit of Brian Concannon Jr., ¶ 14 (February 2017), <https://perma.cc/W268-NFEN>.

¹⁶ Declaration/Affidavit of Brian Concannon Jr., ¶¶ 2, 9, 19 (February 2017), <https://perma.cc/LVK6-QW58>.

¹⁷ Decl. ¶ 1. “Decl.” refers to the Declaration Milostène Castin that accompanies this legal submission.

local peasants on their property rights, disaster prevention, climate change, and principles of the solidarity economy; and filed legal complaints contesting the forced eviction of peasants.¹⁸

12. Mr. Castin currently serves as Coordinator of the organization *Action pour la Reforestation et la Defense de l'Environnement (AREDE)*.¹⁹ Founded in 2004, AREDE is a “non-governmental, non-profit community-based organization in the Northeast Department of Haiti working to promote environmental justice, inclusive development and peasants’ rights.”²⁰ AREDE advocates against forced evictions and the displacement of peasants by the government and private business owners.²¹ It currently has 125 members.²²
13. AREDE works with communities affected by forced evictions and documents the land lost and the number of people displaced. It also seeks to rectify these injustices by organizing protests and supporting displaced individuals in demanding that the government and private businesses adequately compensate the peasants who owned the land.²³ As Coordinator of AREDE, Mr. Castin is a visible and prominent leader in these efforts.²⁴

¹⁸ Decl. ¶¶ 7, 9–13.

¹⁹ Mr. Castin has been involved in AREDE since it was founded, and he became Coordinator of the organization in 2010. Decl. ¶ 9.

²⁰ *Action Pour la Reforestation et la Defense de l'Environnement (AREDE) Profile*, NAMATI, <https://perma.cc/Z5ZE-P9VB> (last visited Sept. 29, 2022). See also Accountability Counsel, AREDE, and ActionAid Haiti, *Haitian Farmers Reach Historic Agreement with Development Bank and Government to Address Harm from Post-Earthquake Project*, ACCOUNTABILITY COUNSEL, Dec. 9, 2018, <https://perma.cc/YEL5-BWRX>.

²¹ *Action Pour la Reforestation et la Defense de l'Environnement (AREDE) Profile*, NAMATI, <https://perma.cc/Z5ZE-P9VB> (last visited Sept. 29, 2022). See also Accountability Counsel, AREDE, and ActionAid Haiti, *Haitian Farmers Reach Historic Agreement with Development Bank and Government to Address Harm from Post-Earthquake Project*, ACCOUNTABILITY COUNSEL, Dec. 9, 2018, <https://perma.cc/YEL5-BWRX>.

²² Decl. ¶¶ 1, 9.

²³ Decl. ¶¶ 9, 15, 25; Jacob Kushner, *After 10 Years, Haitian Farmers Receive Payment for Land*, CHRISTIAN SCI. MONITOR, Jan. 14, 2020, <https://perma.cc/D6QJ-4BXF>.

²⁴ Decl. ¶¶ 9–13, 15, 25–29.

14. Notably, Mr. Castin has accompanied peasants who were displaced by two high-profile real estate development projects: the Caracol Industrial Park (*CIP*) and the Agritrans S.A. Agricultural Zone Project (*Agricultural Zone Project*). These efforts have increased Mr. Castin's visibility as an advocate and made him a target of persecution.

i. Caracol Industrial Park Project

15. Following a catastrophic earthquake in 2010 that killed 316,000 and displaced 1.5 million Haitians, the international community pledged several billion dollars in aid, \$224 million of which was earmarked for the CIP in Northeastern Haiti.²⁵ To clear the land for construction, Haiti evicted more than 400 peasants and their families from a 600-acre tract of land in Caracol without providing adequate compensation.²⁶ At that time, the Inter-American Development Bank (*IDB*), which was sponsoring the Industrial Park Project, provided compensation that was below the land's value and insufficient for the families to purchase new land or establish new livelihoods.²⁷

16. In 2014, Mr. Castin began working with the peasants displaced by the CIP project to organize an association and develop a coordinated strategy to seek reparations from the government and the IDB.²⁸ Mr. Castin compiled evidence to support the peasants' claims to the expropriated land. To build support for the cause and raise awareness, he met with local political and

²⁵ Deborah Sontag, *Earthquake Relief Where Haiti Wasn't Broken*, N.Y. TIMES, July 5, 2012, <https://perma.cc/FWC5-3RC8>; Tom Brown & Joseph Guylor Delva, *Haiti Revises Quake Death Toll Up to Over 316,000*, REUTERS, Jan. 12, 2011, <https://perma.cc/Q7WW-LP9U>; Jacob Kushner, *Haiti Farmers Eager to Receive Compensation After 'Groundbreaking' Land Deal*, REUTERS, Jan. 14, 2020, <https://perma.cc/LXH3-RHH8>.

²⁶ Decl. ¶ 11. See Jacob Kushner, *Haiti Farmers Eager to Receive Compensation After 'Groundbreaking' Land Deal*, REUTERS, Jan. 14, 2020, <https://perma.cc/LXH3-RHH8>.

²⁷ See MICI Complaint, Ex. 3, pp. 15–25; Decl. ¶ 11.

²⁸ Decl. ¶ 20.

religious leaders, local NGOs, and governmental institutions.²⁹ From 2015 to 2017, Mr. Castin partnered with Accountability Counsel, an NGO that advocates on behalf of people harmed by internationally financed projects, to draft a complaint to the IDB's complaint body, the Independent Consultation and Investigation Mechanism (*MICI*), demanding justice and reparations for displaced peasants.³⁰

17. In 2017, the MICI determined that the IDB and the Haitian government had provided inadequate compensation for the seized land.³¹ As a result, the IDB and the Haitian government agreed to negotiate appropriate reparations for the displaced peasants.³² Mr. Castin acted as an advisor to the displaced Caracol peasants throughout the negotiations.³³ In 2018, his advocacy efforts led to a historic tripartite settlement agreement between the IDB, Haiti, and the peasants that provided for wide-ranging reparations programs, including relocation and employment, economic benefits, and educational opportunities.³⁴ Although this agreement marked an important milestone in the fight against forced evictions, it also increased Mr. Castin's visibility as a prominent human rights defender in Haiti, making him more vulnerable to repression by the economic and political elite.

ii. Agricultural Zone Project and Ongoing International Development Projects

²⁹ Decl. ¶ 20.

³⁰ Decl. ¶ 21; MICI Complaint, Ex. 3.

³¹ Decl. ¶ 22.

³² Decl. ¶ 22.

³³ Decl. ¶ 22.

³⁴ Decl. ¶ 23. *See also* Jacob Kushner, *Haiti Farmers Eager to Receive Compensation After 'Groundbreaking' Land Deal*, REUTERS, Jan. 14, 2020, <https://perma.cc/LXH3-RHH8>; Teresa Welsh, *IDB Settles Accountability Case in Haiti, Granting Land to Farmers*, DEVEX, Jan. 11, 2019, <https://perma.cc/A42E-2GD5>.

18. In 2013, the Haitian government granted over 2,400 acres of land in Trou-du-Nord to Agritrans, S.A. (*Agritrans*) to establish an export-focused agricultural zone.³⁵ Agritrans is a private company established by Jovenel Moïse, who became the president of Haiti in 2017 and remained an Agritrans shareholder throughout his presidency.³⁶ To establish the Agricultural Zone Project, the Haitian government displaced 189 peasants and eleven other families who had been living and working on the land.³⁷ Mr. Castin organized public protests against these forced evictions and filed legal complaints to prevent further evictions, despite receiving repeated threats and attacks.³⁸

19. To this day, the government continues efforts to clear the land for international development projects, evicting more than 10,000 peasants in 2020, and expropriating an additional 1,500 acres of land in Plantation Dauphin in May 2021 for the construction of a private seaport.³⁹

* * *

20. Mr. Castin regularly organizes and attends meetings with displaced peasants to coordinate resistance against unlawful seizures.⁴⁰ He also speaks out against forced evictions on the radio and in the press, with increasing frequency in recent years.⁴¹ In doing so, Mr. Castin has achieved some important redress for displaced peasants, but his efforts have come at a cost: he

³⁵ Decl. ¶¶ 11, 14.

³⁶ Decl. ¶ 11, n. 1.

³⁷ Decl. ¶ 11.

³⁸ Decl. ¶¶ 15–18.

³⁹ Decl. ¶¶ 35, 42.

⁴⁰ Decl. ¶¶ 17–18, 50, 52–54.

⁴¹ Decl. ¶¶ 19, 49, 53. *See also* Jacob Kushner, *Haiti Farmers Eager to Receive Compensation After ‘Groundbreaking’ Land Deal*, REUTERS, Jan. 14, 2020, <https://perma.cc/LXH3-RHH8>; Teresa Welsh, *IDB Settles Accountability Case in Haiti, Granting Land to Farmers*, DEVEX, Jan. 11, 2019, <https://perma.cc/A42E-2GD5>; Joshua Steckley & Beverly Bell, *Haiti’s Fraudulent Presidential Frontrunner Seizes Land for His Own Banana Republic*, NACLA, Jan. 22, 2016, <https://perma.cc/27YN-Q8KR>.

has become a visible leader who is now a constant target of violence, threats, and harassment by those whose interests are threatened by his advocacy efforts.

C. MR. CASTIN FACES AN URGENT RISK OF VIOLENCE AND ASSASSINATION BECAUSE OF HIS WORK AS A HUMAN RIGHTS DEFENDER

i. Mr. Castin Has Long Faced Threats and Physical Violence Because of His Human Rights Advocacy

21. Since 2013, Mr. Castin has faced repeated threats and severe physical violence in direct retaliation for his advocacy work on behalf of displaced peasants.
22. On 17 October 2013, armed men arrived at Mr. Castin’s house, while he was home with his wife and children, and they announced that Agritrans had sent them to “punish” Mr. Castin for interfering with Agritrans’ Agricultural Zone Project.⁴² The armed group attacked Mr. Castin’s house, throwing stones and firing guns, which caused significant property damage. During the attack, Mr. Castin called the police multiple times to seek protection, but the police did not answer his calls, leaving Mr. Castin and his family at the mercy of their attackers.⁴³
23. Two days later, on 19 October 2013, while Mr. Castin was travelling to a meeting with displaced peasants, an individual believed to be acting on behalf of Agritrans called Mr. Castin to inform him that Agritrans had a plan to decapitate him that day.⁴⁴ Fearing for his life and unable to rely on Haitian police, Mr. Castin contacted the United Nations Stabilization Mission in Haiti (*MINUSTAH*) to request protection.⁴⁵ MINUSTAH members escorted Mr. Castin and, because of their protection, he was able to attend the peasants’ meeting safely.⁴⁶

⁴² Decl. ¶ 16.

⁴³ Decl. ¶ 16.

⁴⁴ Decl. ¶ 17.

⁴⁵ Decl. ¶ 17.

⁴⁶ Decl. ¶ 17.

24. On 13 November 2013, while Mr. Castin was attending a meeting with displaced peasants in Trou-du-Nord, a group of approximately 20 armed men attacked the attendees, firing guns and physically assaulting them.⁴⁷ Mr. Castin managed to identify the attackers as members of Kosovo—a gang affiliated with Agritrans and the Haitian government.⁴⁸ Mr. Castin fled the scene and immediately filed a complaint with a local judge.⁴⁹ However, the judge refused to act on the complaint because of Kosovo’s close affiliation with the government.⁵⁰ Mr. Castin then reported the attack to the Trou-du-Nord police, but they also refused to take action against Kosovo members.⁵¹ Mr. Castin publicly spoke out against these attacks on the radio and in the local press.⁵²

ii. Mr. Castin Has Faced Escalating Threats and Physical Violence During Recent Years

25. On 16 June 2019, Mr. Castin organized a peaceful demonstration in Trou-du-Nord to demand justice and compensation for displaced peasants of that region, raise public awareness about the recent assassinations of Trou-du-Nord residents by Agritrans-affiliated gangs, and protest government corruption.⁵³ Mr. Castin duly registered the protest with the Trou-du-Nord police department.⁵⁴ Yet, shortly before the protest began, members of Kosovo and of the *Brigade de Sécurité des Aires Protégées (BSAP)*, an organized armed group under Haiti’s Ministry of

⁴⁷ Decl. ¶ 18.

⁴⁸ Decl. ¶ 18.

⁴⁹ Decl. ¶ 18.

⁵⁰ Decl. ¶ 18.

⁵¹ Decl. ¶ 18.

⁵² Decl. ¶ 19.

⁵³ Decl. ¶ 25.

⁵⁴ Decl. ¶ 25.

the Environment,⁵⁵ walked the streets with megaphones, announcing that no one would be allowed to demonstrate, and openly threatened retaliation against those who defied their orders.⁵⁶ Undeterred, Mr. Castin and his fellow demonstrators began their peaceful march.⁵⁷ Immediately thereafter, Kosovo and BSAP members interfered with and effectively stopped the protest, contending that the protestors had no right to protest.⁵⁸ Armed men stabbed Mr. Castin with a knife and violently beat one of Mr. Castin's colleagues.⁵⁹ Although Mr. Castin had requested police protection prior to the event, and a few police officers attended the demonstration, the police were unable or unwilling to provide any protection.⁶⁰ Fleeing their attackers, Mr. Castin and his colleagues sought refuge at a nearby police station.⁶¹ The attackers followed them into the precinct, however, broke into the police yard, and continued their threats.⁶²

26. Mr. Castin sustained injuries to his hand, shoulder, and foot, for which he sought medical treatment at a local hospital.⁶³ As Mr. Castin was the most seriously injured protester, he believes that the attackers specifically targeted him for his leadership role in AREDE.⁶⁴ The

⁵⁵ See AGENCE NATIONALE DES AIRES PROTEGÉES, <https://perma.cc/3BZK-X7YU> (last visited Sept. 29, 2022) (official government website of the Agence Nationale des Aires Protégées (ANAP), an agency of the Haitian Ministry of the Environment, explaining that the BSAP is an organ of the ANAP and an armed group specialized in the protection of ecological sites).

⁵⁶ Decl. ¶ 26.

⁵⁷ Decl. ¶ 27.

⁵⁸ Decl. ¶ 27.

⁵⁹ Decl. ¶ 27.

⁶⁰ Decl. ¶ 29.

⁶¹ Decl. ¶ 28.

⁶² Decl. ¶ 28.

⁶³ Decl. ¶ 31; 4 July 2019 Medical Certificate, **Ex. 5**.

⁶⁴ Decl. ¶ 31.

day after the attack, Mr. Castin filed a complaint, but the police took no steps to investigate the attack or otherwise hold Kosovo or BSAP accountable.⁶⁵

27. Because gangs operate with impunity in Haiti,⁶⁶ gang members take no precautions to hide their identities while perpetrating violence and making threats.⁶⁷ During the 16 June 2019 attack, Mr. Castin identified a personal security guard to Jacques Jean Kenand, one of President Moïse’s cousins, who is also known as the “Little President” due to the power he wields in Trou-du-Nord.⁶⁸ A member of the *Parti Haïtien Tèt Kale (PHTK)*, President Moïse’s party, informed Mr. Castin that the attack had been ordered by Woudeline Jean, the Vice-Delegate of Trou-du-Nord, Senator Wanique Pierre, and Jacques Jean Kenand.⁶⁹ Mr. Castin also noticed that the cars used in the attack belonged to Vice-Delegate Jean and Senator Pierre.⁷⁰
28. In 2020, the repression against Mr. Castin escalated into a relentless, targeted campaign of physical and psychological intimidation against him and his family.⁷¹ Taking advantage of the Covid-19 state of emergency, the government forcefully and unlawfully evicted approximately 10,000 peasants from their land in the Plantation Dauphin area of Caracol.⁷² In response, Mr. Castin organized protests and filed complaints to document the government’s damage to the peasants’ land.⁷³

⁶⁵ Decl. ¶ 33; 17 June 2019 Complaint, Ex. 7.

⁶⁶ See discussion *infra* Section II.D.

⁶⁷ See, e.g., Decl. ¶ 18.

⁶⁸ Decl. ¶¶ 27, 30.

⁶⁹ Decl. ¶ 30.

⁷⁰ Decl. ¶ 30. Delegates are representatives of the Haitian executive branch appointed directly by the President to administer a department of Haiti (here, the Nord-Est department).

⁷¹ Decl. ¶ 36–40.

⁷² Decl. ¶ 35.

⁷³ Decl. ¶ 35.

29. On 10 October 2020, a few days after one such protest, six armed men, appeared at Mr. Castin's home and lurked outside of his front door.⁷⁴ Later that night, while Mr. Castin and his family were hiding inside, the men began shooting their guns in the air and throwing stones at the windows for several hours.⁷⁵ At around 3:00 or 4:00 A.M., the attackers broke the windows, seemingly intending to enter Mr. Castin's home.⁷⁶ As he knew he was the target of the attack, Mr. Castin fled his home to protect his family.⁷⁷ He was then forced to live on the run for several months, staying in different places every night.⁷⁸ He attempted to return home several times, but the men continued to attack his house through the end of 2020.⁷⁹
30. On 31 December 2020, during one of their recurring assaults against Mr. Castin's home, the armed group attacked the house with unprecedented violence. They threw rocks and glass bottles at the windows. One of Mr. Castin's children was physically injured and had to be taken to the hospital. Mr. Castin called the police during the attack, but no one came to assist his family.⁸⁰ This last attack forced Mr. Castin's family to flee their home and move to another town.⁸¹
31. Despite these personal attacks, Mr. Castin continued his human rights work.⁸² In May 2021, President Moïse ordered the expropriation of 1,500 additional acres of farming land in

⁷⁴ Decl. ¶ 36. Mr. Castin learned that two of the men were members of Ajivite, another Haitian gang affiliated with the government. Decl. n. 6.

⁷⁵ Decl. ¶ 36.

⁷⁶ Decl. ¶ 36.

⁷⁷ Decl. ¶ 36.

⁷⁸ Decl. ¶ 37.

⁷⁹ Decl. ¶¶ 37–39.

⁸⁰ Decl. ¶ 39.

⁸¹ Decl. ¶ 40.

⁸² Decl. ¶ 41.

Plantation Dauphin for the construction of a private seaport.⁸³ On 11 May 2021, Mr. Castin visited and witnessed an armed group preparing to bulldoze the peasants' land.⁸⁴ The group claimed that then-First Lady Martine Moïse had sent them.⁸⁵ To prevent the demolition, Mr. Castin filed a request for a "constat" (a judicial report) with the Terrier-Rouge court.⁸⁶ A judge from Terrier-Rouge came to the site to investigate and document the extent of the damage.⁸⁷ A second judge then arrived from Terrier-Rouge, purportedly to conduct the same investigation.⁸⁸ Mr. Castin recognized this second judge as a notoriously corrupt member of PHTK.⁸⁹ He later learned that Delegate Donald Jean François, whom President Moïse appointed as the representative from the Nord-Est department, had sent the second judge to arrest Mr. Castin to impede his advocacy efforts.⁹⁰ However, the presence of the first judge deterred the second judge's plans, and he left the site.⁹¹ Shortly thereafter, an armed group arrived and verbally and physically assaulted Mr. Castin and the peasants.⁹² The presence of police officers, who were on site only to escort the first judge from Terrier-Rouge, fortunately deterred the armed group's attack long enough to allow Mr. Castin to escape physical harm.⁹³

⁸³ Decl. ¶ 42.

⁸⁴ Decl. ¶ 43.

⁸⁵ Decl. ¶ 43.

⁸⁶ Decl. ¶ 43.

⁸⁷ Decl. ¶ 44. *See* 12 May 2021 Judicial Report, **Ex. 10**.

⁸⁸ Decl. ¶ 44.

⁸⁹ Decl. ¶ 44.

⁹⁰ Decl. ¶ 47.

⁹¹ Decl. ¶ 45.

⁹² Decl. ¶ 45.

⁹³ Decl. ¶ 45.

Mr. Castin later learned that Delegate Jean François had sent the armed group to intimidate Mr. Castin after finding out that his arrest plot had failed.⁹⁴

32. The threats against Mr. Castin’s life did not stop. Later that day, on 11 May 2021, a member of PHTK called Mr. Castin, warning him to “be careful” because government officials wanted to kill him to end his advocacy against forced evictions.⁹⁵ On 13 May 2021, while Mr. Castin was travelling by motorcycle, an armed group stopped Mr. Castin on the side of the road and threatened him: “Castin, we will execute you, because what you are doing in this area is pissing us off.”⁹⁶ Subsequently, on 8 July 2021, after President Moïse was assassinated, Mr. Castin received an anonymous phone call and was told: “Castin, the President has been killed, but we are going to kill you no matter what.”⁹⁷

iii. The Campaign of Violence Against Mr. Castin Negatively Impacts His Quality of Life and His Human Rights Advocacy Efforts

33. The repeated and frequent death threats and physical attacks against Mr. Castin have made both his personal and professional life significantly more difficult. They have forced him to abandon his home and live long periods of time away from his family, relocate numerous times, and implement safety precautions that undermine his ability to advocate on behalf of displaced peasants.

34. Gang violence exploded in Haiti during President Moïse’s administration and has continued to persist since President Moïse’s assassination in July 2021. Due to this increased insecurity and the general impunity of gang activity, Mr. Castin remains indoors as much as possible.⁹⁸

⁹⁴ Decl. ¶ 47.

⁹⁵ Decl. ¶ 46.

⁹⁶ Mr. Castin believes Delegate Jean François sent this group to intimidate him. Decl. ¶ 48.

⁹⁷ Mr. Castin believes that this threat came from a source close to the government. Decl. ¶ 51.

⁹⁸ Decl. ¶¶ 52, 54.

Although he tries to join AREDE meetings over the phone, phone connections in Haiti are unreliable, and some peasants do not own a phone.⁹⁹ Mr. Castin takes extreme precautions when joining in-person meetings with displaced peasants, which he continues to do several times a week.¹⁰⁰ For instance, he does not take the same route more than once, he does not travel alone, and he uses different motorcycles to avoid being identified by attackers.¹⁰¹

35. After Mr. Castin’s family was forced to abandon their home, looters vandalized the property and stole all remaining possessions, rendering the house uninhabitable.¹⁰² Mr. Castin and his family are in the process of rebuilding their home and re-establishing their lives.¹⁰³ They decided to return to their home, despite the risks, to prioritize the well-being and education of their children, who have recently reintegrated into school after missing nearly a year of classes.¹⁰⁴ Nevertheless, Mr. Castin and his family continue to live in fear and to suffer from the physical and psychological consequences of previous threats and attacks.¹⁰⁵

36. Today, Mr. Castin continues to advocate on behalf of peasants by organizing meetings and raising awareness about their situation in the press and on local radio.¹⁰⁶ He remains a target for armed gangs and government actors.

D. THE HAITIAN GOVERNMENT IS COMPLICIT IN ARMED GANGS’ CRIMES AGAINST MR. CASTIN AND SIMILARLY SITUATED INDIVIDUALS

⁹⁹ Decl. ¶ 52.

¹⁰⁰ Decl. ¶ 54.

¹⁰¹ Decl. ¶ 54.

¹⁰² Decl. ¶ 40.

¹⁰³ Decl. ¶ 55.

¹⁰⁴ Decl. ¶ 55.

¹⁰⁵ Decl. ¶ 55.

¹⁰⁶ Decl. ¶¶ 49, 52–54.

37. Armed gangs have amassed significant control over impoverished neighborhoods in Haiti, facilitating the displacement of families in several communities.¹⁰⁷ For years, the Haitian government has been unable and/or unwilling to curtail gang violence, and instead has aligned itself with gang leaders to reap the benefits of forced evictions and the intimidation of human rights defenders like Mr. Castin.¹⁰⁸ Armed gangs force cooperation from communities through intimidation and violence and leverage their role as gatekeepers to government and financial assistance.¹⁰⁹
38. International experts and human rights defenders have observed clear links between the armed groups and the Haitian government. One such link is that government actors have repeatedly been involved in the commission of gang violence, including instances where government actors instigate, order, or enable the attacks for political gain.¹¹⁰ In recent years, for example, Haitian government officials have provided gangs with financial resources, weapons, police uniforms, and government equipment for use during attacks.¹¹¹ In 2020, police officers and

¹⁰⁷ Harvard Law School International Human Rights Clinic, *Observatoire Haïtien des crimes contre l’humanité, Killing with Impunity: State Sanctioned Massacres in Haiti*, at 8 (Apr. 2021), <https://perma.cc/329A-XTHD>.

¹⁰⁸ *See* Harvard Law School International Human Rights Clinic, *Observatoire Haïtien des crimes contre l’humanité, Killing with Impunity: State Sanctioned Massacres in Haiti*, at 8 (Apr. 2021), <https://perma.cc/329A-XTHD>.

¹⁰⁹ *See* Harvard Law School International Human Rights Clinic, *Observatoire Haïtien des crimes contre l’humanité, Killing with Impunity: State Sanctioned Massacres in Haiti*, at 8–9 (Apr. 2021), <https://perma.cc/329A-XTHD>.

¹¹⁰ Harvard Law School International Human Rights Clinic, *Observatoire Haïtien des crimes contre l’humanité, Killing with Impunity: State Sanctioned Massacres in Haiti*, at 24 (Apr. 2021), <https://perma.cc/329A-XTHD>; *see also* U.S. Dep’t of State Bureau of Democracy, Human Rights, and Labor, 2020 Country Reports on Human Rights Practices: Haiti, at 1–2 (Mar. 30, 2021), <https://perma.cc/HFG4-Y7LS> (“Significant human rights issues [identified in Haiti] included: reports of unlawful and arbitrary killings by gangs allegedly supported and protected by unnamed officials . . . [T]he Eyes Wide Open Foundation reported there were more than 150 active gangs in the country; it alleged active government support for the gangs.”).

¹¹¹ Harvard Law School International Human Rights Clinic, *Observatoire Haïtien des crimes contre l’humanité, Killing with Impunity: State Sanctioned Massacres in Haiti*, at 8, 10 (Apr. 2021), <https://perma.cc/329A-XTHD>; Katie Jones, *Haiti Massacres Reveal Active Gang Support from Police, Officials*, INSIGHT CRIME, May 3, 2021, <https://perma.cc/MQ4U-VEBT>; U.S. Dep’t of State Bureau of Democracy, Human Rights, and Labor, 2020 Country Reports on Human Rights Practices: Haiti, at 3 (Mar. 30, 2021), <https://perma.cc/HFG4-Y7LS> (“Press accounts and human rights advocates reported [a gang leader] had access to government vehicles and equipment and worked to unite several gangs.”).

State officials were implicated in “numerous, coordinated attacks against marginalized communities,” which were carried out “as a tool of political repression at the behest of the current government.”¹¹² Armed gangs control neighborhoods with large polling stations and use violence to influence elections or otherwise manipulate the political system.¹¹³

39. Moreover, former and current members of the Haitian state security apparatus have been observed to be part of these armed gangs or acting alongside them. For example, Kosovo is one of the “[v]arious armed groups consisting of members of the former state security apparatus ... based in the Northeast department.”¹¹⁴ In Trou-du-Nord, Kosovo reportedly acts as the “de facto security force” with assistance from “about 14 former members of the [then-disbanded but still armed] Haitian military.”¹¹⁵ In addition, members of the Haitian National Police have directly participated in gang violence and reportedly facilitate travel for and ensure the safety of some gang members during criminal activities.¹¹⁶

40. The ties between the government and armed gangs seem to have grown stronger during former President Moïse’s tenure, when armed gangs began orchestrating state-sanctioned attacks against civilians in Haiti.¹¹⁷ There is close affiliation between the police in Trou-du-Nord and

¹¹² Alexandra V. Filippova, *Answers to the Questionnaire for Civil Society by the UN Special Rapporteur on the Situation of Human Rights Defenders*, at 4 (Aug. 2020), <https://perma.cc/6ELX-UVEA>.

¹¹³ Harvard Law School International Human Rights Clinic, *Observatoire Haïtien des crimes contre l’humanité, Killing with Impunity: State Sanctioned Massacres in Haiti*, at 8 (Apr. 2021), <https://perma.cc/329A-XTHD>.

¹¹⁴ *Armed Conflicts Report – Haiti*, PROJECT PLOUGHSHARES (Jan. 2009), <https://perma.cc/VY5M-9UY2>.

¹¹⁵ *Haiti: Security Vacuum in the North*, HUM. RTS. WATCH (Mar. 21, 2004), <https://perma.cc/X7DV-5UDJ>.

¹¹⁶ Harvard Law School International Human Rights Clinic, *Observatoire Haïtien des crimes contre l’humanité, Killing with Impunity: State Sanctioned Massacres in Haiti*, at 25 (Apr. 2021), <https://perma.cc/329A-XTHD>; Katie Jones, *Haiti Massacre Reveal Active Gang Support from Police*, INSIGHT CRIME, (May 3, 2021), <https://perma.cc/MQ4U-VEBT>.

¹¹⁷ Harvard Law School International Human Rights Clinic, *Observatoire Haïtien des crimes contre l’humanité, Killing with Impunity: State Sanctioned Massacres in Haiti*, at 3 (Apr. 2021), <https://perma.cc/329A-XTHD>.

the ruling political party, as former President Moïse’s cousin, Jacques Jean Kenand, asserts enormous power over the police establishment in the north.¹¹⁸

41. Haiti suffers from a culture of impunity.¹¹⁹ In June 2020, the UN Secretary General took note of how impunity for the 2019 Bel-Air Massacre, the 2018 La Saline Massacre, and the 2017 Grand Ravine Massacre was “creating an enabling environment for further violence.”¹²⁰ In part, this culture persists because senior government officials directly implicated in the massacres remain free, and some still hold official roles in the administration.¹²¹ The UN recognized this culture of impunity as a key factor contributing to the rise in gang attacks throughout 2020.¹²² This culture affects Mr. Castin’s safety and ability to continue his work as a human rights defender.

III. HAITI VIOLATED ITS INTERNATIONAL HUMAN RIGHTS OBLIGATIONS BY FAILING TO RESPECT AND PROTECT MR. CASTIN’S HUMAN RIGHTS

¹¹⁸ Decl. ¶ 29.

¹¹⁹ U.N. Integrated Office in Haiti, *Report of the Secretary-General*, ¶¶ 35–40, U.N. Doc. S/2021/828 (Sept. 27, 2020), <https://perma.cc/ML3X-4F5J> (“The human rights situation has continued to deteriorate. Much of the degradation was the result of an increase in gang violence in the Port-au-Prince metropolitan area... In addition, no effective action has been taken to ensure accountability in emblematic cases, which include several massacres.”); *see also* *Haiti: Events of 2021* (2022), HUM. RTS. WATCH, <https://perma.cc/5ZTU-VKEV> (last visited Sept. 26, 2022) (“Demonstrations increased again in 2021, against Moïse’s government and his proposed constitutional referendum. Police responded with excessive force. Impunity for gang and police violence continued.”); *Report: Haiti 2021* (2022), AMNESTY INTERNATIONAL, <https://perma.cc/6CTU-KQXD> (last visited Sept. 26, 2022) (in 2021, “Human rights defenders and journalists were at heightened risk, impunity remained endemic”); Harvard Law School International Human Rights Clinic, *Observatoire Haïtien des crimes contre l’humanité, Killing with Impunity: State Sanctioned Massacres in Haiti*, at 8 (Apr. 2021), <https://perma.cc/329A-XTHD>; U.S. Dep’t of State Bureau of Democracy, Human Rights, and Labor, 2020 Country Reports on Human Rights Practices: Haiti, at 2 (Mar. 30, 2021), <https://perma.cc/HFG4-Y7LS> (“Insufficient steps were taken to apprehend or prosecute gang members, including at least one former police officer, accused of orchestrating killings, rapes, and destruction of property.”); Katie Jones, *Haiti Massacres Reveal Active Gang Support from Police, Officials*, INSIGHT CRIME (May 3, 2021), <https://perma.cc/MQ4U-VEBT> (“Such government support . . . has led the gangs to grow to the point where they can no longer be reined in, allowing criminality to explode.”).

¹²⁰ U.N. Integrated Office in Haiti, *Report of the Secretary-General*, ¶ 56, U.N. Doc. S/2020/537 (Jun. 15, 2020), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/140/37/PDF/N2014037.pdf?OpenElement>.

¹²¹ Snayder Pierre Louis, *Qui sont ces officiels de l’administration de Jovenel Moïse accusés dans les massacres de la Saline?* AYIBOPOST, Dec. 23, 2019, <https://perma.cc/W5PQ-FRL7>.

¹²² *See supra* note 119.

42. Haiti has the duty under international law to respect and protect human rights, including those of human rights defenders.¹²³ This principle is enshrined in various international legal instruments, including (i) international human rights treaties to which Haiti is a party, particularly the International Covenant on Civil and Political Rights (*ICCPR*) and the American Convention on Human Rights (*American Convention*),¹²⁴ (ii) the Universal Declaration on Human Rights (*UDHR*),¹²⁵ and (iii) other international texts,¹²⁶ such as the Declaration on Human Rights Defenders.¹²⁷

¹²³ Margaret Sekaggya (Special Rapporteur on the Situation of Human Rights Defenders), *Rep. on the Situation of Human Rights Defenders*, ¶ 30, U.N. Doc. A/65/223 (Aug. 4, 2010), <https://perma.cc/FAK7-59JF>; see also **L-11**, U.N. Human Rights Committee, *General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶¶ 2–4, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 29, 2004). While States Parties to the ICCPR may under strict circumstances derogate from certain guaranteed rights in times of public emergency, to avail themselves of that right to derogate, they must immediately inform the other State parties to the ICCPR through the Secretary-General of the United Nations of which specific provisions they intend to derogate from. International Covenant on Civil and Political Rights arts. 4(1), 4(3), Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH>. It is worth noting that Haiti has not exercised this right to derogate, such that it remains bound to fully comply with its human rights obligations under the ICCPR. In any event, the right to life guaranteed under Article 6 is non-derogable. International Covenant on Civil and Political Rights art. 4(2), Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH>.

¹²⁴ The ICCPR entered into force in 1976 and Haiti acceded to the covenant in 1991. See *Status of Ratification — Interactive Dashboard*, U.N. Office of the High Commissioner for Human Rights, <https://perma.cc/S5NV-4PQN> (last visited Sept. 29, 2022). Haiti ratified the American Convention in 1977, and it entered into force in 1978. See *Basic Documents — Ratifications of the Convention*, INTER-AM. COMM’N ON HUM. RTS., <https://perma.cc/A9A5-FJCG> (last visited Sept. 29, 2022).

¹²⁵ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, Preamble (Dec. 10, 1948), <https://perma.cc/T3R8-TBMN>. The UDHR was adopted by the UN General Assembly in 1948. Haiti was among the 48 States (out of 58 then-existing States) that voted in favor of its adoption. See *Details — Universal Declaration of Human Rights*, U.N. Digital Library, <https://perma.cc/LVD5-JWLW> (last visited Sept. 29, 2022). The UDHR is generally accepted as reflecting customary international law. See, e.g., **L-12**, JAMES CRAWFORD, *BROWNLIE’S PRINCIPLES OF PUBLIC INTERNATIONAL LAW* 612 (9th ed. 2019) (stating that the UDHR contains “many [. . .] provisions reflect[ing] general principles of law or elementary considerations of humanity.”); see also *United States Diplomatic and Consular Staff in Tehran (U.S. v. Iran)*, Judgment, 1980 I.C.J. 3, ¶ 91 (May 24, 1980), <https://perma.cc/7Z98-XFFD> (referring to the “fundamental principles enunciated in the Universal Declaration of Human Rights”).

¹²⁶ See, e.g., generally, John Ruggie (Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises), *Rep., Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, U.N. Doc. A/HRC/17/31, annex (Mar. 21, 2011), <https://perma.cc/XXG7-HY5M> (reaffirming States’ existing obligations to respect, protect, and fulfil human rights).

¹²⁷ The Declaration on Human Rights Defenders reflects a consensus view and “contains a series of principles and rights that are based on human rights standards enshrined in other international instruments that are legally binding, such as the International Covenant on Civil and Political Rights.” **L-13**, Mary Lawlor (Special

43. Article 2(1) of the ICCPR imposes both negative and positive obligations on States Parties.¹²⁸

First, States Parties have a negative obligation to *respect* human rights, *i.e.*, to “refrain from violat[ing] the rights recognized by the [ICCPR].”¹²⁹ Second, they have a positive obligation to *protect* individuals “not just against violations . . . by [state] agents, but also against acts committed by private persons or entities.”¹³⁰ Thus, the obligation to protect human rights defenders requires that Haiti protect them even from persons or entities whose conduct is not attributable to Haiti.¹³¹ This includes protecting human rights defenders from “threats by criminals, organized crime or militia groups, ... and foreign corporations operating within their territory or in areas under their jurisdiction,” as well as investigating and prosecuting non-State actors that engage in human rights abuses.¹³² These obligations are echoed in the Declaration on Human Rights Defenders.¹³³

Rapporteur on the Situation of Human Rights Defenders), *Rep., Final Warning: Death Threats and Killings of Human Rights Defenders*, ¶ 24, n. 19, U.N. Doc. A/HRC/46/35 (Dec. 24, 2020).

¹²⁸ International Covenant on Civil and Political Rights, art. 2(1), Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH> (“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”); L-11, U.N. Human Rights Committee, *General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶ 6, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 29, 2004).

¹²⁹ L-11, U.N. Human Rights Committee, *General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶ 6, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 29, 2004).

¹³⁰ L-11, U.N. Human Rights Committee, *General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶ 8, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 29, 2004).

¹³¹ Margaret Sekaggya (Special Rapporteur on the Situation of Human Rights Defenders), *Rep. on the Situation of Human Rights Defenders*, ¶¶ 38–44, U.N. Doc. A/HRC/13/22 (Dec. 30, 2009), <https://perma.cc/7DC6-9S59>.

¹³² L-13, Mary Lawlor (Special Rapporteur on the Situation of Human Rights Defenders), *Rep., Final Warning: Death Threats and Killings of Human Rights Defenders*, ¶¶ 29, 31 U.N. Doc. A/HRC/46/35 (Dec. 24, 2020).

¹³³ G.A. Res. 53/144, annex, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, art. 2(1) (Mar. 8, 1999), <https://perma.cc/Y8UE-6UDZ>. The Declaration on Human Rights Defenders provides that “[e]ach State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.”

44. As set forth below, Haiti has violated both its obligation to *respect* Mr. Castin’s human rights (through acts performed by its agents) and its obligation to *protect* his human rights against violations by non-State actors. Through its acts and omissions, Haiti has not respected or protected (A) Mr. Castin’s right to life, (B) his right to freedom of association, assembly, and expression, (C) nor his right to an effective remedy. As a result, Mr. Castin has suffered physical injury, property destruction, and threats to his life and the safety of his family.

A. HAITI VIOLATED ITS OBLIGATIONS TO RESPECT AND PROTECT MR. CASTIN’S RIGHT TO LIFE

45. The right to life constitutes “the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death.”¹³⁴ It is guaranteed by Article 6 of the ICCPR, which provides that “no one shall be arbitrarily deprived of [their] life.”¹³⁵ The right to life is non-derogable.¹³⁶ States have an obligation to respect the right to life and to protect individuals’ right to life from violations by third parties.

i. Haiti Failed to Respect Mr. Castin’s Right to Life

46. To comply with its obligation to respect the right to life, Haiti must refrain from arbitrarily killing or threatening individuals’ lives.¹³⁷ This obligation extends to “reasonably foreseeable

¹³⁴ **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: right to life*, ¶ 3, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019).

¹³⁵ International Covenant on Civil and Political Rights art. 6(1), Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH>; *see also* American Convention on Human Rights, art. 4(1), Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, <https://perma.cc/9ZG5-S3AC>; G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 3 (Dec. 10, 1948), <https://perma.cc/AY7A-PPWR>; *Konstitisyon Ayiti* [CONSTITUTION] Mar. 29, 1987, art. 19 (Haiti), <https://perma.cc/N6XL-7YAU>.

¹³⁶ International Covenant on Civil and Political Rights, art. 4(2), Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH>; **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶¶ 67–68, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019)

¹³⁷ **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶ 7, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019)

threats and life-threatening situations that can result in loss of life.”¹³⁸ In other words, there may be a violation of the right to life “even if such threats and situations do not result in loss of life.”¹³⁹ The use of potentially lethal force by a State constitutes an arbitrary deprivation of life unless it is “strictly necessary in order to protect life or prevent serious injury from an imminent threat.”¹⁴⁰ Haiti failed to *respect* Mr. Castin’s right to life by arbitrarily using potentially lethal force on at least two occasions.

47. *First*, on 16 June 2019, during a protest against forced evictions that Mr. Castin had organized, armed members of Kosovo, a government-affiliated group, and members of BSAP, an armed wing of Haiti’s Ministry of the Environment, threatened protesters and stabbed Mr. Castin.¹⁴¹ The use of potentially lethal weapons constituted a “life-threatening situation” that could have resulted in loss of life within the scope of Article 6.¹⁴²
48. Moreover, this threat to Mr. Castin’s life was arbitrary because it was not strictly necessary to protect life or prevent serious injury from an imminent threat, which is the relevant standard under Article 6 of the ICCPR.¹⁴³ As stated above, Mr. Castin had duly registered the

¹³⁸ **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶ 7, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019)

¹³⁹ **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶ 7, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019)

¹⁴⁰ **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶ 12, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019) (“The use of potentially lethal force for law enforcement purposes is an extreme measure that should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat. It cannot be used, for example, in order to prevent the escape from custody of a suspected criminal or a convict who does not pose a serious and imminent threat to the lives or bodily integrity of others. The intentional taking of life by any means is permissible only if it is strictly necessary in order to protect life from an imminent threat.”).

¹⁴¹ Decl. ¶¶ 26–27.

¹⁴² International Covenant on Civil and Political Rights, art. 6, Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH>; **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶ 7, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019).

¹⁴³ *See supra* note 137.

demonstrations with the local police department, and the protest was lawful.¹⁴⁴ The protesters peacefully exercised their right to protest; they were unarmed and posed no threat to life. As such, the use of potentially lethal force was not “strictly necessary” to protect life or prevent serious injury, and it was, therefore, arbitrary.¹⁴⁵ Mr. Castin believes the armed men recognized him and targeted him because of his leadership role in AREDE.¹⁴⁶

49. The acts of BSAP, a government agency, are attributable to the Haitian State under Article 4(1) of the Articles on the Responsibility of States for Internationally Wrongful Acts (*Articles on State Responsibility*).¹⁴⁷ The acts of the Kosovo armed group, while not a State organ, may also be attributable to the State under Article 8 of the Articles on State Responsibility if the group acted under the instructions of members of the Haitian executive and legislative branches.¹⁴⁸ Mr. Castin believes that the attack was ordered by government officials—

¹⁴⁴ Decl. ¶ 25.

¹⁴⁵ L-14, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶ 12, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019).

¹⁴⁶ Decl. ¶ 31.

¹⁴⁷ International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, art. 4(1), (2001), Supplement No. 10 (A/56/10), <https://perma.cc/DSW2-8ZWF> (“The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State.”). *See id.* cmt. (1) (“The reference to a ‘State organ’ covers all the individual or collective entities which make up the organization of the State and act on its behalf.”).

¹⁴⁸ International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, art. 8 (2001), <https://perma.cc/DSW2-8ZWF> (“The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.”). The acts of Senator Pierre and Vice-Delegate Jean are themselves attributable to the Haitian State under Article 4(1) of the Articles on State Responsibility. *See id.*, art. 4(1), cmt. (1) (Jan. 28, 2002) (“The reference to a ‘State organ’ covers all the individual or collective entities which make up the organization of the State and act on its behalf.”). The Kosovo gang is famously affiliated with former President Moïse and his allies. *See e.g., Haiti/Insécurité: - 7 morts et 15 Maisons incendiées au Trou-du-Nord*, GAZETTE HAITI, May 14, 2018, <https://perma.cc/JEL2-7DNH> (stating that the Kosovo gang, involved in criminal acts in Trou-du-Nord supported President Moïse’s candidacy and is protected by Senator Wanique Pierre.); *Lame Kosovo : Des militants Tet Kale exhument des morts et les traînent dans les rues de Trou du Nord*, REZO NÒDWÈS, Mar. 6, 2018, <https://perma.cc/C8JF-J7ET> (referring to Kosovo members as allies of President Moïse and close to Senator Pierre). Moreover, many members of BSAP appear to be members of Kosovo as well. *See La Mission cachée des agents armés de B.S.A.P. dévoilée : Protéger les sous-*

specifically by Woudeline Jean, the Vice-Delegate of Trou-du-Nord¹⁴⁹ and Senator Wanique Pierre¹⁵⁰—because a local official informed him of such an order and the attackers drove to the protest in cars belonging to Vice-Delegate Jean and Senator Pierre.¹⁵¹

50. *Second*, on 13 May 2021, an armed group, believed to have been sent by Delegate Donald Jean François (the administrator of the Nord-Est department of Haiti, directly appointed by the executive), stopped Mr. Castin as he traveled from Terrier-Rouge to Fort-Liberté to attend a meeting with displaced peasants.¹⁵² Members of the group threatened his life, stating: “Castin, we will execute you, because what you are doing in this area is pissing us off.”¹⁵³ Mr. Castin was able to escape physical harm by driving away.¹⁵⁴
51. Since the group was armed and proffered express and specific death threats against Mr. Castin, this assault constituted a threat to Mr. Castin’s life. Mr. Castin was unarmed and posed no threat and, as such, the threat to his life was arbitrary for purposes of Article 6 of the ICCPR.¹⁵⁵ Finally, because the attack was ordered by a member of the executive, it is attributable to the

sols des terrains du Nord-Est répartis en coupes réglées ; Julien Ebel menace un journaliste de radio OuanaVision, REZO NODWES, Nov. 22, 2020, <https://perma.cc/QE4S-Y4HT> (reporting that the agents of BSAP are members of the Kosovo gang).

¹⁴⁹ Decl. ¶ 30. See U.N. Office of the Coordination of Humanitarian Affairs, *Liste de Contact des Humanitaires* (Mar. 13, 2017), <https://perma.cc/SG95-9D4P> (listing Woudeline Jean as vice-delegate). Vice-delegates are representatives of the Haitian executive appointed directly by the President to administer a department of Haiti (here, the Nord-Est department).

¹⁵⁰ See *Haiti - FLASH: Results of elections 1/3 senate, complementary legislative . . .*, HAITI LIBRE, May 12, 2016, <https://perma.cc/5445-STM3> (announcing that Wanique Pierre was elected as senator of the North East in the first round of elections).

¹⁵¹ Decl. ¶ 30.

¹⁵² Decl. ¶ 48.

¹⁵³ Decl. ¶ 48.

¹⁵⁴ Decl. ¶ 48.

¹⁵⁵ See **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶¶ 11–12, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019).

Haitian State under Article 8 of the Articles on State Responsibility and therefore constitutes a violation by Haiti of Mr. Castin’s right to life as enshrined in Article 6 of the ICCPR.¹⁵⁶

ii. Haiti Failed to Protect Mr. Castin’s Right to Life

52. In addition to *respecting* the right to life, States must take “reasonable, positive measures” to protect individuals from “reasonably foreseeable threats to life” and life-threatening situations instigated by private persons and entities, such as organized criminal or armed groups (*i.e.*, the obligation to *protect* the right to life).¹⁵⁷ This duty requires States Parties to take “special measures of protection,” such as effective police protection, for persons “whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence.”¹⁵⁸ The Human Rights Committee expressly noted this includes human rights defenders, who are subject to elevated risk due to their work.¹⁵⁹

53. Mr. Castin has suffered numerous attacks and threats related to his work as a human rights defender, but he has not received any assistance from the government despite being publicly known as a human rights defender.¹⁶⁰ In fact, even when Mr. Castin specifically requested

¹⁵⁶ See G.A. Res. 56/83, annex, Responsibility of States for Internationally Wrongful Acts, art. 8 (Jan. 28, 2002), <https://perma.cc/8RXV-D4TL>.

¹⁵⁷ **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶ 21, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019); see also *Sawhoyamaya Indigenous Community v. Paraguay*, Merits, Reparations and Costs, Judgment, Inter-Am Ct. H.R. (ser. C) No. 146, ¶¶ 152–55 (Mar. 29, 2006), <https://perma.cc/8WSK-6B9S> (“In order for this positive obligation to arise, it must be determined that . . . the authorities knew or should have known about the existence of a situation posing an immediate and certain risk to the life of an individual or of a group of individuals, and that the necessary measures were not adopted within the scope of their authority which could be reasonably expected to prevent or avoid such risk.”).

¹⁵⁸ **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶ 23, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019).

¹⁵⁹ **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶¶ 23, 53, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019).

¹⁶⁰ See Decl. ¶¶ 29, 33, 54 (“To date, the police have failed to initiate any investigations or make any arrests in connection with any of the incidents I have described in this declaration.”).

protection, the government generally failed to protect Mr. Castin against foreseeable threats to his life in connection with his human rights work.¹⁶¹

54. For example, on 17 October 2013, an armed group violently attacked Mr. Castin's home, announcing that Agritrans sent them to punish Mr. Castin for interfering with the Agricultural Zone Project.¹⁶² Although Mr. Castin called the police multiple times, they did not respond.¹⁶³

Mr. Castin even contacted the Directorate-General of the Police, but no one responded to protect Mr. Castin or his family.¹⁶⁴

55. From October 2020 to the end of that year, armed men regularly visited Mr. Castin's home while his wife and children were there, firing guns and throwing rocks and glass bottles through the windows.¹⁶⁵ During a particularly violent attack while Mr. Castin was away from home, Mr. Castin called the police after being alerted to the attack by his family, but the police did not respond.¹⁶⁶ As a result of police inaction, one of Mr. Castin's children was taken to the hospital with injuries sustained during the attack.¹⁶⁷

56. The Haitian police were notified of these armed attacks against Mr. Castin and his family on multiple occasions but did nothing to prevent them.¹⁶⁸ Given that the attackers carried weapons and specifically targeted Mr. Castin for his human rights defender status, those attacks

¹⁶¹ See Decl. ¶¶ 25, 33 (Mr. Castin filed a formal complaint with the Trou-du-Nord court regarding the attack at the 16 June 2019 protest; however, there have been no investigations or arrests to date).

¹⁶² Decl. ¶ 14.

¹⁶³ Decl. ¶ 16.

¹⁶⁴ Decl. ¶ 16.

¹⁶⁵ Decl. ¶¶ 36, 38–39.

¹⁶⁶ Decl. ¶ 39.

¹⁶⁷ Decl. ¶ 39.

¹⁶⁸ See Decl. ¶¶ 16, 18, 29, 39, 54.

constituted foreseeable threats to Mr. Castin’s life. By neglecting its duty to prevent such threats, Haiti failed to comply with its obligation to protect Mr. Castin’s right to life.¹⁶⁹

B. HAITI FAILED TO RESPECT AND PROTECT MR. CASTIN’S RIGHT TO FREEDOM OF ASSEMBLY, ASSOCIATION, AND EXPRESSION

57. By restricting Mr. Castin’s right to protest and advocate on behalf of peasants, Haiti has violated Mr. Castin’s right to peaceful assembly,¹⁷⁰ his right to freedom of association,¹⁷¹ and his right to freedom of opinion and expression.¹⁷² As the Human Rights Committee has noted, full protection of each of these individual rights can only be achieved through the protection of the entire overlapping set of rights.¹⁷³

i. Haiti Violated Mr. Castin’s Right to Freedom of Assembly and Association

¹⁶⁹ See **L-14**, U.N. Human Rights Committee, *General comment No. 36 on Article 6: Right to life*, ¶¶ 23, 53, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019).

¹⁷⁰ International Covenant on Civil and Political Rights, art. 21, Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH>; Organization of American States, American Convention on Human Rights art. 15, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, <https://perma.cc/TNV5-ENMT>; G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 20(1), (Dec. 10, 1948), <https://perma.cc/B3C2-W55P>; G.A. Res. 53/144, annex, arts. 5(a), 12, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Dec. 9, 1998), <https://perma.cc/U2K2-8FGR>; *Konstitisyon Ayiti* [CONSTITUTION], June 20, 2012, art. 31 (Haiti), <https://perma.cc/NR3U-NYU4>.

¹⁷¹ International Covenant on Civil and Political Rights, art. 22(1)–(2), Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH>; Organization of American States, American Convention on Human Rights, art. 16, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, <https://perma.cc/U5DQ-AFNM>; G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 20(1), (Dec. 10, 1948), <https://perma.cc/8SL3-ZCCX>; G.A. Res. 53/144, annex, art. 5, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Dec. 9, 1998), <https://perma.cc/89Y4-5AAV>; *Konstitisyon Ayiti* [CONSTITUTION], June 20, 2012, art. 31 (Haiti), <https://perma.cc/3QDN-QLXK>.

¹⁷² International Covenant on Civil and Political Rights arts. 19(1)–(2), Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH>; Organization of American States, American Convention on Human Rights art. 13, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, <https://perma.cc/JTS2-HYYR>; G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 19, (Dec. 10, 1948), <https://perma.cc/C3K3-UF3S>; G.A. Res. 53/144, annex, art. 6, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Dec. 9, 1998), <https://perma.cc/SA99-JVH7>.

¹⁷³ See **L-15**, U.N. Human Rights Committee, *General comment No. 37 (2020) on Article 21: The Right of Peaceful Assembly*, ¶ 9, U.N. Doc. CCPR/C/GC/37 (Sept. 17, 2020).

58. The right to freedom of peaceful assembly and association, protected under ICCPR Articles 21 and 22, allows individuals to express themselves collectively and work toward shaping their societies.¹⁷⁴ “Participating in an ‘assembly’ entails organizing or taking part in a gathering of persons for a purpose such as expressing oneself, conveying a position on a particular issue or exchanging ideas.”¹⁷⁵ The right to freedom of association and assembly is “an individual right that is exercised collectively” and requires States Parties to “respect and ensure its exercise without discrimination.”¹⁷⁶ Therefore, provided that assemblies are non-violent,¹⁷⁷ States Parties must not interfere and must “protect participants from all forms of discriminatory abuse and attacks.”¹⁷⁸ Mr. Castin’s human rights advocacy work falls within the scope of protection of the rights to freedom of association and assembly in ICCPR Articles 21 and 22 because he often organizes peaceful protests and gatherings to advocate against forced evictions.

59. Haiti has failed to respect Mr. Castin’s right to freedom of assembly and association. As discussed in Section III(c), Mr. Castin organized and registered a peaceful protest in Trou-du-Nord on 16 June 2019 to demand justice for displaced peasants and to condemn government corruption.¹⁷⁹ Haiti violated its obligation to respect Mr. Castin’s right to freedom of association and assembly when government officials—Woudeline Jean, the Vice-Delegate of Trou-du-Nord, Senator Wanique Pierre, and Jacques Jean Kenand—ordered Kosovo and

¹⁷⁴ **L-15**, U.N. Human Rights Committee, *General comment No. 37 (2020) on Article 21: The Right of Peaceful Assembly*, ¶ 1, U.N. Doc. CCPR/C/GC/37 (Sept. 17, 2020).

¹⁷⁵ **L-15**, U.N. Human Rights Committee, *General comment No. 37 (2020) on Article 21: The Right of Peaceful Assembly*, ¶ 12, U.N. Doc. CCPR/C/GC/37 (Sept. 17, 2020).

¹⁷⁶ **L-15**, U.N. Human Rights Committee, *General comment No. 37 (2020) on Article 21: The Right of Peaceful Assembly*, ¶¶ 4–8, U.N. Doc. CCPR/C/GC/37 (Sept. 17, 2020).

¹⁷⁷ **L-15**, U.N. Human Rights Committee, *General comment No. 37 (2020) on Article 21: The Right of Peaceful Assembly*, ¶ 15, U.N. Doc. CCPR/C/GC/37 (Sept. 17, 2020).

¹⁷⁸ **L-15**, U.N. Human Rights Committee, *General comment No. 37 (2020) on Article 21: The Right of Peaceful Assembly*, ¶¶ 8, 25, U.N. Doc. CCPR/C/GC/37 (Sept. 17, 2020).

¹⁷⁹ *See Decl.* ¶ 25.

BSAP members to attack the protesters and interfere with their protest.¹⁸⁰ This attack constituted a violation of Haiti's duty to refrain from interfering with peaceful assemblies and its duty to protect participants in an assembly from attack. Indeed, it amounted to unjustified and violent repression of Mr. Castin's right to freedom of association and assembly.

60. During the 16 June 2019 protest, Haiti failed to provide any kind of police protection against armed attackers, despite the fact that Mr. Castin specifically requested police protection for the event.¹⁸¹ Then, on 11 May 2021, during Mr. Castin's visit to Plantation Dauphin, an armed group attacked Mr. Castin and the peasants for whom he was advocating in retaliation for their protest against the expropriation by President Moïse of 1,500 acres of farm land.¹⁸² Once again, Haiti provided no protection to Mr. Castin. Haiti's inaction during the attacks on these peaceful gatherings violated its duty to protect assembly participants.

ii. Haiti Violated Mr. Castin's Right to Freedom of Expression

61. The right to freedom of expression, protected by ICCPR Article 19, includes the right to seek, receive, and impart information and ideas, including political discourse, commentary on public affairs, and discussion of human rights.¹⁸³ Therefore, the right to freedom of expression

¹⁸⁰ Decl. ¶¶ 26–28, 30.

¹⁸¹ Decl. ¶¶ 28–29.

¹⁸² Decl. ¶ 42, 45. A police presence was on site to escort the judge from Terrier-Rouge conducting a site visit. While this may have prevented the attack from escalating to physical violence, it did not stop the armed group from threatening Mr. Castin and attempting to attack him.

¹⁸³ U.N. Human Rights Committee, *General comment No. 34 on Article 19: Freedoms of opinion and expression*, ¶ 11, U.N. Doc. CCPR/C/GC/34 (Sept. 12, 2011), <https://perma.cc/5STN-VZX2>. Furthermore, Haiti is bound to comply with the object and purpose of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (*Escazú Agreement*), formally adopted on March 4, 2018, and entered into force on April 22, 2021. Haiti is an original signatory of the Escazú Agreement, having signed the Agreement on September 27, 2018, and as such is bound to refrain from acts which would defeat its object and purpose. *See* Vienna Convention on the Law of Treaties, art. 18(a), *opened for signature* May 23, 1969, 1155 U.N.T.S. 331 (*entered into force* Jan. 27, 1980), <https://perma.cc/AU4B-NNJR>. The object and purpose of the Escazú Agreement is to protect and promote the rights of environmental human rights defenders in the Latin American and Caribbean region. Therefore, States Parties must guarantee a safe and enabling environment for persons, groups, and organizations that defend environmental human rights. *See*

protects the right to protest. The right to protest is also specifically protected by The Declaration on Human Rights Defenders, which provides that “[e]veryone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.”¹⁸⁴

62. Haiti failed to respect Mr. Castin’s right to freedom of expression, and in particular his right to participate in peaceful activities against violations of human rights. On 11 May 2021, Mr. Castin visited land belonging to peasants that the Haitian government had recently expropriated to gather information in his capacity as a land rights advocate.¹⁸⁵ This activity constitutes expression for purposes of Article 19 of the ICCPR.¹⁸⁶ That day, Delegate Donald Jean François sent a judge to the peasants’ land to arrest Mr. Castin and thwart his advocacy efforts.¹⁸⁷ As the judge was a member of the Haitian State’s judicial power, this arbitrary arrest attempt is directly attributable to Haiti, and thus constitutes an unlawful infringement on Mr. Castin’s freedom of expression.¹⁸⁸

Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean, art. 9, *opened for signature* Sept. 27, 2018, LC/PUB.2018/8/-* (*entered into force* Apr. 22, 2021), <https://perma.cc/4NDY-MB5W>.

¹⁸⁴ G.A. Res. 53/144, annex, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, art. 12(1) (Dec. 9, 1998), <https://perma.cc/93G5-YP48>.

¹⁸⁵ Decl. ¶ 43.

¹⁸⁶ U.N. Human Rights Committee, *General comment No. 34 on Article 19: Freedoms of opinion and expression*, ¶ 11, U.N. Doc. CCPR/C/GC/34 (Sept. 12, 2011), <https://perma.cc/6CP9-7Q3G>.

¹⁸⁷ Decl. ¶¶ 44, 47.

¹⁸⁸ Under Article 19(3) and Article 22(2) of the ICCPR, the right to freedom of association, assembly, and expression may be restricted in certain narrow circumstances, but such narrow circumstances are not present here. Restrictions on the exercise of these rights must satisfy three cumulative requirements: (1) the restriction must be prescribed by a law that is not overly broad or vague; (2) the restriction must be defined to solely protect the legitimate aim of national security or public safety, public order, public health or morals, or the rights and freedoms of others; and (3) the restriction must be necessary and proportionate to the pursuance of the legitimate aim. States “cannot loosely interpret international obligations to restrict the right to freedom of association.” International Covenant on Civil and Political Rights, arts. 19(3), 21, 22(2), Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH>; U.N. Human Rights Committee, *General comment No. 34 on Article 19: Freedoms of opinion and expression*, arts. 33–34, U.N. Doc. CCPR/C/GC/34 (Sept. 12, 2011),

C. HAITI VIOLATED MR. CASTIN'S RIGHT TO AN EFFECTIVE REMEDY

63. The Declaration on Human Rights Defenders provides that the right to an effective remedy is composed of, *inter alia*: (i) the obligation for the State to investigate allegations of human rights violations, and (ii) the right to have a complaint promptly reviewed.¹⁸⁹ The right to an effective remedy is also guaranteed in the ICCPR,¹⁹⁰ the American Convention,¹⁹¹ and the UDHR.¹⁹² Although it is intrinsically related to the violation of other rights, “[a] failure by a

<https://perma.cc/W7ZF-CPFM>; Maina Kiai (Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association), *Rep. of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, ¶ 30, U.N. Doc. A/HRC/23/39 (April 24, 2013), <https://perma.cc/AQ25-X2DM>. None of the restrictions on the exercise of Mr. Castin’s right to freedom of assembly or expression were made pursuant to the aforementioned requirements. Thus, Haiti’s infringements on Mr. Castin’s freedom of assembly, freedom of association, and freedom of expression constitute violations of these protected rights.

¹⁸⁹ G.A. Res. 53/144, annex, art. 9, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Dec. 9, 1998), <https://perma.cc/T7CG-SZ32> (“1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights. 2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person’s rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay . . . 5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction”).

¹⁹⁰ International Covenant on Civil and Political Rights art. 2(3), Dec. 16, 1966, 999 U.N.T.S. 171, <https://perma.cc/KQ7P-4UQH> (“Each State Party . . . undertakes: [t]o ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; [and] to ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy.”).

¹⁹¹ Organization of American States, American Convention on Human Rights, Nov. 22, 1969, art. 25, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, <https://perma.cc/QA8M-3RMP> (“1. Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties. 2. The States Parties undertake: a. to ensure that any person claiming such remedy shall have his rights determined by the competent authority provided for by the legal system of the state; b. to develop the possibilities of judicial remedy; and c. to ensure that the competent authorities shall enforce such remedies when granted.”).

¹⁹² G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 8, (Dec. 10, 1948), <https://perma.cc/YJ4N-DRTS> (“Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.”).

State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the [ICCPR],”¹⁹³ as could the “failure to bring to justice perpetrators of such violations.”¹⁹⁴

64. Haiti failed to comply with its obligation to provide an effective remedy for human rights violations. As set forth in the previous sections, Mr. Castin suffered repeated violations of his right to life, his right to freedom of association and assembly, and his right to freedom of expression. However, to date, Haiti has failed to provide any kind of remedy to Mr. Castin for those alleged violations.

i. Haiti Failed to Investigate the Violations Mr. Castin Suffered

65. The right to an effective remedy entails an obligation for the State “to investigate allegations of violations promptly, thoroughly and effectively through independent and impartial

¹⁹³ **L-11**, U.N. Human Rights Committee, *General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶ 15, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (Mar. 29, 2004). The Special Rapporteur agrees with that interpretation. See U.N. Special Rapporteur on the Situation of Human Rights Defenders, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, at 89–90 (July 2011), <https://perma.cc/2UWK-Z5ES> (“Concerning investigations, the mandate concurs with the opinion of the Human Rights Committee that ‘failure by a State Party to investigate allegations of violations could in and of itself give rise to a separate breach of the International Covenant on Civil and Political Rights. Cessation of an ongoing violation is an essential element of the right to an effective remedy.’ States should also investigate threats committed against families and relatives of human rights defenders.”).

¹⁹⁴ **L-11**, U.N. Human Rights Committee, *General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶ 18, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (Mar. 29, 2004).

bodies”¹⁹⁵ when the State is “aware or should have been aware of [such violations].”¹⁹⁶ The UN Human Rights Committee has consistently held that “criminal investigation and consequential prosecution are necessary remedies for violations of human rights, such as those protected by article 6 of the [ICCPR].”¹⁹⁷ Investigations must be “[prompt], effective, thorough, independent, impartial, and transparent.”¹⁹⁸ States are also required to “[p]rovide

¹⁹⁵ **L-11**, U.N. Human Rights Committee, *General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶ 15, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (Mar. 29, 2004). *See also* **L-14**, U.N. Human Rights Committee, *General Comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life*, ¶ 27, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019); (“An important element of the protection afforded to the right to life by the Covenant is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute . . . such incidents, including . . . allegations of excessive use of force with lethal consequences. The duty to investigate also arises in circumstances in which a serious risk of deprivation of life was caused by the use of potentially lethal force, even if the risk did not materialize. This obligation is implicit in the obligation to protect and is reinforced by the general duty to ensure the rights recognized in the Covenant, which is articulated in article 2[, paragraph 1], when read in conjunction with article 6[, paragraph 1], and the duty to provide an effective remedy to victims of human rights violations.”). The Inter-American Court of Human Rights in its seminal *Velásquez-Rodríguez v. Honduras* case similarly interpreted the obligation of States to “ensure” the “free and full exercise” of the rights recognized in the American Convention as to obligate States to “prevent, investigate and punish any violation of [those] rights.” *Velásquez-Rodríguez v. Honduras*, Merits, Judgment, Inter-Am. Ct. H. R. (ser. C) No. 4, ¶ 166 (Jul. 29, 1988), <https://perma.cc/ESJ6-GT4Y>; *see also id.* at ¶ 176 (“The State is obligated to investigate every situation involving a violation of the rights protected by the Convention. If the State apparatus acts in such a way that the violation goes unpunished and the victim's full enjoyment of such rights is not restored as soon as possible, the State has failed to comply with its duty to ensure the free and full exercise of those rights to the persons within its jurisdiction. The same is true when the State allows private persons or groups to act freely and with impunity to the detriment of the rights recognized by the Convention.”); Organization of American States, *American Convention on Human Rights*, Nov. 22, 1969, art. 1(1), O.A.S.T.S. No. 36, 1144 U.N.T.S. 123, <https://perma.cc/62ER-ZCB8> (“The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.”); G.A. Res. 53/144, annex, art. 9(5), *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms* (Dec. 9, 1998), <https://perma.cc/N672-UQ5S> (“The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.”).

¹⁹⁶ **L-16**, U.N. Human Rights Committee, *Views Adopted by the Committee Under Article 5 (4) of the Optional Protocol, Concerning Communication No. 3076/2017*, ¶ 9.4, U.N. Doc. CCPR/C/128/D/3076/2017 (June 2, 2020).

¹⁹⁷ **L-16**, U.N. Human Rights Committee, *Views Adopted by the Committee Under Article 5 (4) of the Optional Protocol, Concerning Communication No. 2707/2015*, ¶ 8.3, U.N. Doc. CCPR/C/128/D/2707/2015 (May 26, 2020).

¹⁹⁸ **L-16**, U.N. Human Rights Committee, *Views Adopted by the Committee Under Article 5 (4) of the Optional Protocol, Concerning Communication No. 2819/2016*, ¶ 10, U.N. Doc. CCPR/C/128/D/2819/2016 (Sept. 30, 2020).

those who claim to be victims of a human rights . . . violation with equal and effective access to justice.”¹⁹⁹ Here, Haiti has failed to conduct any kind of investigation or make any arrest in relation to any of the violations perpetrated against Mr. Castin, despite having reason to know of the violations.²⁰⁰

66. This inaction is particularly troubling as it allows perpetrators of human rights violations to operate with impunity in Haiti, and, as observed by the Human Rights Committee, impunity significantly contributes to the recurrence of human rights violations.²⁰¹ Mr. Castin has had to respond to this risk at great cost to himself and his family—he temporarily fled his home, withdrew his children from school, and has taken extreme safety precautions that impede his work as a human rights defender.²⁰² Haiti’s failure to investigate and punish the violations committed against Mr. Castin encourages both State and non-State actors to repeat them in the future, thereby creating a particularly hostile environment for human rights defenders.

67. Moreover, Haiti’s failure to investigate and punish those who intimidate and attack human rights defenders, like Mr. Castin, threatens to exacerbate human rights abuses in Haiti by deterring those who would otherwise come forward to help Haitians enforce their rights. The threats and attacks against Mr. Castin are happening alongside serious intimidation campaigns targeting other human rights defenders. If allowed to continue with impunity, such threats and

¹⁹⁹ G.A. Res. 60/147, annex, Principle II(3)(c), Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Dec. 16, 2005) <https://perma.cc/75NJ-HEZV>.

²⁰⁰ See sections above. Decl. ¶ 54.

²⁰¹ **L-11**, *General Comment No. 31 [80], The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, ¶ 18, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (Mar. 29, 2004). See also U.N. Special Rapporteur on the Situation of Human Rights Defenders, *Commentary to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, at 89 (July 2011), <https://perma.cc/DX5W-ELY4> (“Failure to provide such a remedy often leads to further attacks against human rights defenders and further violates their rights.”).

²⁰² Decl. ¶¶ 36–38, 41, 54.

harassment are likely to have a chilling effect on human rights work. In the current sociopolitical moment, when many Haitians are experiencing severe economic and social hardship, this should be of great concern.

ii. Haiti Failed to Review Mr. Castin's Complaints

68. The right to an effective remedy entails a right to have a complaint “promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law.”²⁰³

69. Haiti failed to promptly review and adjudicate Mr. Castin's complaints. On 13 November 2013, after members of Kosovo attacked Mr. Castin during a peasants' meeting, Mr. Castin immediately filed a complaint with a local judge and with the local police.²⁰⁴ However, both the judge and the police refused to act on the complaint, explaining that they could not act due to Kosovo's affiliation with the government.²⁰⁵ Similarly, Mr. Castin filed a complaint after the 16 June 2019 violent repression of a peaceful peasants' protest, but the State took no action in response.²⁰⁶ Haiti's failure to act on these complaints constitutes a clear disregard for its obligation to provide prompt review of complaints.²⁰⁷

IV. REQUEST

²⁰³ G.A. Res. 53/144, annex, art. 9(2), Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, (Dec. 9, 1998), <https://perma.cc/F7EL-KETV>.

²⁰⁴ Decl. ¶ 18.

²⁰⁵ Decl. ¶ 18.

²⁰⁶ Decl. ¶ 33; 17 June 2019 Complaint, Ex. 7.

²⁰⁷ G.A. Res. 53/144, annex, arts. 9(2), 9(3), Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, (Mar. 8, 1999), <https://perma.cc/F7EL-KETV>.

For the reasons set forth above, and acknowledging the ongoing resistance from the Haitian government to address the insecurity in Haiti and protect human rights defenders, we respectfully request that the Special Rapporteur take the following actions pursuant to her mandate:

- Submit an urgent appeal to the government of Haiti to highlight the severity of the threats and harassment to which Mr. Castin has been subjected; in this appeal, urge the government of Haiti to fulfill its responsibility to investigate, to punish those responsible, and to take all appropriate measures to prevent any further occurrence of such threats and harassment; and encourage the government to publicly denounce the threats made against human rights defenders;
- Use her good offices to communicate with the government of Haiti in upcoming general forums and bilateral meetings regarding potential institutional measures to curb the improper use of judicial procedures and law enforcement against the legitimate rights-based work of human rights defenders; and
- Request authorization for a visit to Haiti to assess the severity of the situation of intimidation, harassment, and threats against human rights defenders as well as the unlawful expropriations of peasants' land that such human rights defenders combat.

Respectfully submitted,



Ellie Happel
Adjunct Professor
Global Justice Clinic
New York University School of Law
Washington Square Legal Services, Inc.
+1 212 998 6657



Lee Rovinescu
Partner
Freshfields Bruckhaus Deringer US LLP
601 Lexington Ave., 31st Floor
New York, NY 10022
+1 212 230 4634