Statement of Emmanuela Douyon, Nou Pap Dòmi
Before the U.S. House of Representatives Committee on Foreign Affairs
Hearing Entitled "Policy Recommendations on Haiti for the Biden Administration"
Presented on March 12, 2021

Chairman Meeks, Ranking Member McCaul, and Members of the Committee, I want to thank you for holding this hearing during a critical moment in Haiti's history. My name is Emmanuela Douyon and I am honored to be here today on behalf of Nou Pap Dòmi, a collective of engaged Haitian citizens in the struggle against government corruption and impunity.

Political crises are recurrent in Haiti. Today is not the first time the United States Congress, or this Committee, has held a hearing to assess U.S. policy in Haiti and gather recommendations. However, we see the present situation as fundamentally different. Today, I am hopeful that the Haitian people are on the verge of a new era, one with new actors and a clear roadmap to end old practices that perpetuate crisis after crisis and that can instead lead to the real change the Haitian people deserve. In Haiti, we are hopeful that the Administration of U.S. President Joe Biden will also break with the past and listen to the voices of civil society asking for solidarity in their struggle for a renewed democracy.

This crisis must be the last breath of a rigged political and socio-economic system that can no longer renew itself. Accountability and systemic change are what the people of Haiti long for - as both are required for a new day to dawn in Haiti and for a true and sustainable democracy to finally take root.

Corruption and Impunity

A movement for accountability against corruption, led in large part by civil society and grassroots organizations, has been underway in Haiti since 2018. This strong citizen mobilization has forced the Court of auditors (*Cour des Comptes et du Contentieux Administratif)* to publish several

extremely worrisome reports[1] on the waste and misappropriation of billions of dollars from the Petrocaribe fund intended to finance development projects in Haiti.

President Jovenel Moïse, who was named throughout the Court's audit reports, was decried by the majority of the population who asked him to resign and be held accountable before our judicial system. Despite years of peaceful demonstrations and continual calls from civil society and political actors, there have been no real investigations or prosecutions of government corruption. Under the Moïse administration, the largest movement against corruption and impunity in the country's history has not yet resulted in the arrest of any individual. But impunity is about more than just corruption. There have not been any arrests in regards to the Lasaline Massacre[2] and other massacres and killings that happened during President Moïse's term including the notorious assassination last year of the president of the Bar Association of Port-au-Prince, Monferrier Dorval.[3]

It is time to satisfy the people of Hati's demand for justice. Seeing arrests of those involved in the massacres, senseless killings, and kidnappings are crucial to send a clear signal to those who are squandering state resources with impunity and those who continue to shed blood.

Authoritarian Drift

The current government is a threat to Haiti's institutions and the rule of law. Since coming to office, President Moïse has unilaterally changed the heads of the institutions involved in the fight against corruption: The Anticorruption Unit (*Unite de Lutte Contre la Corruption -ULCC) and* he Central Financial Intelligence Unit (*Unité Centrale de Renseignements Financiers -UCREF)*. In return they direct cases against their opponents while ignoring audits on the use of Petrocaribe funds. In November 2020, Moïse issued a decree to eliminate part of the control powers of the Court of Auditors, a real attack on the existence and work of this invaluable institution. Recent attacks on the judiciary system took the form of dismissal and replacement of three supreme court judges in

[1] https://www.cscca.gouv.ht/rapports_petro_caribe.php

[2] https://lenouvelliste.com/article/226377/indexe-dans-le-cadre-du-massacre-de-la-saline-fednel-monchery-arrete-puis-libere-par-la-police

[3] https://www.voanews.com/americas/killing-port-au-prince-bar-association-chief-roils-haiti

February 2021, and the imprisonment of one of them, all of which human rights organizations and lawyers deemed illegal and a violation of international human rights standards.

Currently in Haiti there is no check and balance on the power of the president. On January 13, 2020, President Moïse announced the end of the mandate of all the deputies and 2/3 of the Senate, including some members of parliament who had only served three years in office[4]. In a further, and deeply troubling, power grab he also replaced all locally elected officials in July 2020[5] by temporary agents accountable to him and appointed a significant number of diplomats and senior state officials outside of regular procedures.

Since then, President Moïse has taken over the power to legislate by adopting more than 120 executive orders and 41 unconstitutional decrees. Many of these decrees raise serious concerns and represent clear attempts to consolidate power. Even the U.S. Embassy in Haiti issued notes to condemn the creation of a National Intelligence Agency that poses serious threats to human rights. Further, under the guise of protecting public health, President Moïse has also issued a series of decrees that free the government of previous rules covering procurement, causing further concern over corruption and lack of accountability.

Back in December 2020, the U.S. expressed concerns over democratic backsliding but since then, we have witnessed a further authoritarian drift. This is why, despite tremendous risks, the people have been peacefully demonstrating almost every Sunday since February to denounce a dictatorship on the rise.

Constitution and Constitutional Crisis

In October 2020, Jovenel Moïse unilaterally appointed a so-called Independent Constitutional Committee to write a new constitution.[6] The final text was just released last month and Moïse plans to hold a referendum, which is contrary to Haiti's current constitution, in June. Not only is

[4] https://ayibopost.com/le-mandat-des-senateurs-est-il-vraiment-termine/
[5] https://lenouvelliste.com/article/218352/la-presidence-prend-le-controle-des-mairies
[6] https://lenouvelliste.com/article/222692/investiture-dun-comite-consultatif-independant-pour-elaborer-la-nouvelle-constitution

the process unconstitutional, Moïse's plan would significantly increase the concentration of power in the hands of the executive, including by allowing the president to handpick the electoral council. Further, the constitution would give the president widespread immunity.

It is in this context that an intense debate on the date of the end of the presidential term has been taking place for several months. While the presidential term is five years, article 134-2 of Haiti's constitution provides for instructions on the Presidential term in the event that the election is delayed. This article instructs that if an electoral process is delayed, the term of the President will be determined to have begun on February 7th following the election, regardless of the date the President took office, effectively reducing the five-year term. The majority of civil society organizations and religious sectors, as well as the Federation of Haitian Bar Associations and the Superior Council of the Judiciary all came to the same conclusion: the term of President Jovenel Moïse ended on February 7, 2021. Moïse claims to be able to remain in office until February 7, 2022.

Jovenel Moïse's argument concerning respect for constitutional time does not hold up, especially since he himself dismissed several dozen parliamentarians in 2020 using the same constitutional interpretation that he now claims does not apply to him. By staying in power, Jovenel Moïse is proving that he is above the law. It sets a terrible precedent when someone in power can use the law to get rid of opponents and ignore the same law when it applies to him. By openly supporting the extension of Moïse's mandate, the international community is complicit and further fuels his efforts to stay in power no matter the cost.

Election

As those who seek democracy, we know that only free, credible, and honest elections can guarantee us a return to constitutional order and a legal government to meet our demands. However, what we observe is that despite having a comfortable majority in the parliament up until December 2019, President Moïse failed to organize elections. Instead, his government adopted a new voter card system, awarding the contract despite an unfavorable court opinion undermining trust in the electoral process. Despite opposition from the majority of civil society organizations, as well as

the Court of Auditors and the Court of Cassation, President Moïse unilaterally set up a Provisional Electoral Council, in clear violation of constitutional procedures.

This is all the more worrisome since the process has excluded the vast majority of actors who contested the electoral council's legitimacy. Now, with power further consolidated, and with the rise in insecurity, the proliferation of gangs, and numerous kidnapping cases, it seems impossible to hold free, fair and credible elections under our current leadership. For a government to organize credible elections it needs to be open, transparent, responsive, and accountable which is the exact opposite of this government.

Over the past ten years, poor elections funded in large part by the U.S. and international community, have caused instability and led to massive violations of the rights of the Haitian people. In our last presidential election, only about 20 percent of voters turned out or were able to participate. Further, the economic performances of the last two years are the worst since the earthquake of 2010. The upcoming elections are simply too important to go forward under the current circumstances, be badly organized, and result in a weakened democracy. We simply cannot afford another crisis.

For credible elections in Haiti needs:

1. A non-partisan, non-corrupt, consensus-based team of civil society and political actors capable of ensuring the governance of the country and filling the institutional void at the head of the country since the end of President Moïse's constitutional mandate on February 7, 2021. This transitional leadership must respect the quota for women's participation.
2. A provisional electoral council (CEP) that enjoys legality and legitimacy, constituted according to the prescriptions of the constitution.
3. An audit of the current civil registry system and of the new voter identification cards as well as improvement of the country's electoral infrastructure, including new electoral laws and regulations.
4. Strengthening of the judicial system, particularly to ensure independence in the arbitration of electoral disputes.
5. Enough time to avoid rushing or backtracking. Hastily organized elections in a chaotic situation would not solve any problems, only create them.

6. A break with the anti-democratic practices, corruption, and impunity that are rooted in public administration.
7. Restoration of a climate of security and peace conducive to the smooth functioning of institutions and the development of citizens. The police should inspire trust after repeated scandals involving alleged police officers.

Policy Recommendations

We believe that the Biden Administration and the U.S. Congress should take the following actions:

1. The U.S. should recognize the situation in Haiti today as a struggle by the Haitian people to take ownership of their government and build democracy, not simply a fight between politicians for power. The U.S. Government should seek advice from legitimate and representative Haitian civil society regarding recommendations on a way forward through the current crisis, human rights violations, and corruption.

2. Rather than take sides in a constitutional dispute, it will be more helpful to listen to and offer solidarity with the Haitian people, who no longer recognize Jovenel Moïse as their president.

3. The U.S. should not be supporting Jovenel Moïse's recent unconstitutional acts, including:
    a. Preparation for a constitutional referendum in violation of the amendment process set forth in the Constitution.
    b. The appointment by decree of a provisional electoral council (CEP), whose members are not sworn in as legally required.
    c. The recent dismissal and subsequent replacement of three Supreme Court judges.

4. The Secretary of the Treasury, Attorney General, and Secretary of State should put US Law Enforcement and human rights institutions to work to investigate money laundering, arms trafficking, human rights abuses, and other illegal acts by Haitian officials and private sector leaders. The U.S. should apply individual sanctions under the Global Magnitsky Act where applicable.

5. The U.S. Government should recognize that in the current context —with state sponsored gang violence, human rights abuses, increasing authoritarianism, an unconstitutional and illegal provisional electoral council (CEP), and the failure to register voters — free and fair elections cannot be safely conducted within a year. The recurrent electoral crises and subsequent political crises have eroded citizens' faith in their governments. It's time we show people that democracy works by not letting corrupt, incompetent, and authoritarian officials stay in power in the name of democracy when they are only taking advantage to sabotage democracy

7. The U.S. should recognize that past foreign-led attempts aimed to strengthen democracy in Haiti have not led to progress, and have even been counterproductive, the U.S. Government and international community should instead follow the lead of Haitian civil society in determining when to support elections in Haiti.

8. The United States should support Haitian civil society's calls for the immediate release of those arrested on February 7, 2021 and not give credence to the government's narrative given the lack of credible evidence of a coup attempt. The Supreme Court Judge Dabresil was released, but the others remain in detention, despite the fact that human rights organizations that investigated the case reported that their detention was arbitrary and may have been politically motivated.

While there is insufficient information on the status of the case at this stage, it is nevertheless necessary to call for the immediate release of the detainees, given the lack of credible evidence, the risks of COVID-19 in detention, and the inhumane conditions of pre-trial detention.

To conclude, I want to state clearly that the people of Haiti are resolute in their desire for a true democracy that works for all and need to be able to count on the support of their friends and partners, including the U.S. Government, in this pursuit. Thank you and I look forward to your questions.