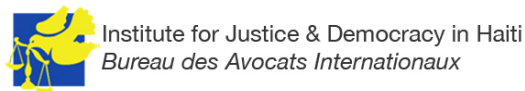




OUR BODIES ARE STILL TREMBLING:



HAITIAN WOMEN'S FIGHT AGAINST RAPE
July 2010



Our Bodies Are Still Trembling: Haitian Women's Fight Against Rape

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*The title for this Report was inspired by an article written by long-time Haiti activist and author, Beverly Bell "*Our Bodies are Shaking Now*" – *Rape Follows Earthquake in Haiti*, HUFFINGTON POST, Mar. 24, 2010, quoting a woman with the grassroots women's organization KOFIVIV (Commission of Women Victims for Victims). We dedicate this Report to that woman and others like her who continue to fight for justice against all odds.

Photographs: Frantz Etienne (BAI), Jayne Fleming (Reed Smith LLP), Philip Goldsmith (IJDH), Josue Rojas (Multimedia Reporter, Artist), David Schmidt (IJDH) and Blaine Bookey (IJDH/BAI). The photographs contained in this Report do not depict the victims interviewed in conjunction with this Report.

Cover Design: Alexa Lehman (IJDH)

Institute for Justice & Democracy in Haiti (IJDH)

Bureau des Avocats Internationaux (BAI)

Lawyers' Earthquake Response Network (LERN)

PO Box 52115

Boston, MA 02205

(617) 652-0876

info@ijdh.org

www.ijdh.org

TransAfrica Forum (TAF)

1629 K Street, NW, Suite 1100

Washington, DC 20006

(202) 223-1960

info@transafricaforum.org

www.transafricaforum.org

MADRE

121 West 27th Street, Suite 300

New York, NY 10001

(212) 627-0444

madre@madre.org

www.madre.org

University of Minnesota Law School (UMN)

Human Rights Litigation and Advocacy Clinic

95J Mondale Hall, 229-19th Avenue South

Minneapolis, MN 55455

(612) 625-7247

www.law.umn.edu/

University of Virginia School of Law (UVA)

International Human Rights Law Clinic and Human Rights Program

580 Massie Road

Charlottesville, VA 22903

(434) 924-4776

www.law.virginia.edu/humanrights/

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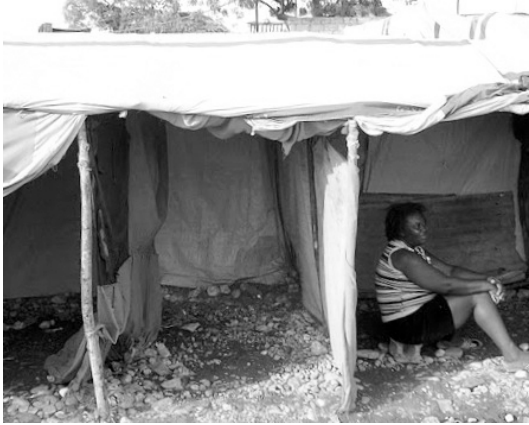
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Executive Summary



The January 2010 earthquake not only devastated Haiti's frail infrastructure, it worsened already inadequate and inequitable access to basic social services throughout Haiti. It also created a severe crisis of safety and security—especially for those living in the Internally Displaced Persons (IDP) camps—exacerbating the already grave problem of sexual violence. Women, especially poor women, have been excluded from full participation and leadership in the relief effort. Having no other options, Haitian grassroots women's groups have resorted to taking charge of their own security.

In May and June 2010, two delegations of U.S. lawyers, community researchers and a women's health specialist investigated the prevalence and patterns of rape and other gender-based violence (GBV) against IDPs in Port-au-Prince in the aftermath of the earthquake and the governmental, inter-governmental, non-governmental and grassroots responses to the violence. For firsthand knowledge of the rapes in the camps, members of the delegation interviewed over 50 survivors of rape or attempted rape since the earthquake. These women and girls were referred to the delegations by KOFIV and FAVILEK, grassroots women's organizations working in displacement camps and poor neighborhoods within Port-au-Prince.

Although this Report makes no attempt to quantify the rapes that have occurred in the camps to date, one thing is clear—rapes in the camps are dramatically underreported. In the first two months after the earthquake, KOFIV tracked 230 incidents of rape in just 15 camps in Port-au-Prince. Médecins Sans Frontières reported 68 cases of rape

in the month of April at one of their clinics in Port-au-Prince. The vast majority of the women living in camps who were interviewed reported being raped by two or more individuals, almost always armed and at night.

There is a demonstrated lack of governmental response to sexual violence occurring in the camps. This failure to act appears to have two prongs—the Haitian Government lacks both the political will and the capacity to respond. Rape survivors living in the camps told interviewers that reporting rape to the police is an exercise in futility, since they could not identify their assailant or assailants. Many women stated that when they approached the police for help, the police said that there was nothing they could do and the survivor should return when she had identified and/or captured their attacker. One survivor reported that the officer she spoke with disclaimed responsibility for trying to apprehend her rapist, telling her that it was the problem of Haiti's president, René Préval.

Conditions in the camps are bleak. Overcrowding, lack of privacy, weakened family and community structures, among other things, render women and girls particularly vulnerable to sexual violence. Women and girls live in inadequate shelter, often sleeping under nothing more than a tarp or blanket, with no means of protection and no friends close by, and bathe in public, in view of men and boys.

Preventative measures within the camps are critically lacking. In particular, the survivors we spoke with noted the following issues, a number of which were confirmed by our own visits to the camps: lack of lighting; lack of private bathing facilities; lack of tents; and even for those with tents, utter lack of security (at least one survivor stated that her attacker had used a blade to cut the side of her tent to gain access); lack of a police presence (many survivors stated that police only patrolled the perimeter of the camps and were unwilling to enter the interior, particularly at night).

When States fail to bring perpetrators to justice, they implicitly condone such violence, giving rise to impunity that facilitates further abuses and normalizes GBV. Thus, the lack of accountability leads to further endangerment for women. Furthermore, women lose faith in the justice system as prevailing gender inequalities are reinforced. The State must act with due diligence in preventing violence against women and providing justice for women who have

already suffered violence, by implementing effective measures to ensure thorough and timely investigation, prosecution and punishment, as well as by providing access to redress for victims.

We applaud the actions of the Government of Haiti (GOH), the UN, and donor States, to assist the people of Haiti in this time of crisis, and hope the findings of this Report help guide governments, international organizations, and other stakeholders in providing for even more effective protection and promotion of women's human rights in Haiti. The rebuilding process in Haiti, as in other disaster areas, presents serious challenges. However, with persistence, these challenges are not insurmountable. With improved coordination of UN agencies and aid relief coupled with the insight and expertise of the full spectrum of Haitian women leaders and NGO groups, the UN Cluster System's efforts would likely prove to be very effective and result in durable protection of women and girls' human rights.

Introduction



Since the January 12, 2010 earthquake in Haiti, women and girls living in the internally displaced persons (IDP) camps face alarming rates of rape and other gender-based violence (GBV).¹ The vast majority of rapes in Haiti have gone unpunished and the Haitian government and international community have not effectively deployed their resources to provide adequate protection. The Haitian government has only begun to prosecute a fraction of these cases. Many of the victims² are Haitian girls under the age of 18; and medical services are overwhelmed and unable to meet healthcare needs stemming from the assaults. As a result, survivors suffer from depression and are at risk for suicide.

Women, especially poor women, have been excluded from full participation and leadership in the relief effort, despite the international law mandate of UN Security Council Resolution 1325, the recommendations of the UN Guiding Principles on Internal Displacement, and other internationally recognized standards, that require a gender perspective be integrated into ongoing discussions and

¹ Gender-based violence “includes violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.” Committee on the Elimination of Discrimination against Women (CEDAW), Gen. Rec. No. 19, Violence Against Women (11th Session, 1992) ¶ 9, U.N. Doc. A/47/38, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.html> [hereinafter Gen. Rec. No. 19].

² Although the term “survivor” is often preferred to “victim” in the U.S., women in Haiti often choose to call themselves “victims.” The terms are used interchangeably throughout the Report, and it should be noted that use of the term “victim” by Haitian women or in this Report does not imply lack of agency. The word “victim” is also used here as a legal term for one who experiences a crime.

planning.³ Preventative measures—such as providing lighting, privacy, secure housing, and active police presence or other effective security (particularly at night) within the camps—are critically lacking, despite UN guidelines that highlight the prevalence of rape and other GBV in the aftermath of disaster, and provide blueprints for addressing them.⁴ Having no other options, Haitian grassroots women’s groups have resorted to taking charge of their own security, including escorting women to the bathrooms and organizing groups of men to take shifts patrolling their areas.

Humanitarian Aid Has Exacerbated Structural Inequalities

The problem of GBV in post-earthquake Haiti must be understood within the broader context of the humanitarian response. Despite billions of dollars being pledged by the international community for recovery,⁵ aid efforts have struggled to meet the basic needs of people living in IDP camps.⁶ The main causes cited for rape in the IDP camps are the lack of security in the camps, the lack of lighting at night, the lack of adequate health facilities, and tents that require women to live with strangers or the lack of shelters altogether.⁷ These conditions have given rise to an environment that reinforces the insecurity of displaced women and children, as they struggle to rebuild their lives and livelihoods.

More broadly, as one coalition of Haitian civil society groups noted, “The extent of the disaster is certainly linked to the character of the colonial and neo-colonial State our country has inherited, and the imposition of neo-liberal

³ For example, UN Sec. Council Res. 1325 on Women, Peace, and Security, (2000) UN Doc. S/RES/1325 [hereinafter SC Res. 1325]; UN Guiding Principles on Internal Displacement, available at <http://www.idpguidingprinciples.org/> [hereinafter Guiding Principles].

⁴ Inter-Agency Standing Committee, *Guidelines for Gender-Based Violence Interventions in Humanitarian Settings: Focusing on Prevention of and Response to Sexual Violence in Emergencies* (2005); UNHCR, *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons. Guidelines for Prevention and Response* (SGVB Guidelines) (2003), available at <http://www.unhcr.org/3f696bcc4.html>; World Health Organisation, *Violence and Disasters* (2005), available at http://www.who.int/violence_injury_prevention/publications/violence/violence_disasters.pdf.

⁵ Neil MacFarquhar, *Skepticism on Pledges for Haiti*, N.Y. TIMES, Mar. 31, 2010, available at <http://www.nytimes.com/2010/04/01/world/americas/01haiti.html>.

⁶ National Network of Human Rights Defense (RNDDH), *The general situation of the country four months after the earthquake of January 12, 2010* (May 12, 2010).

⁷ The Report of the Independent Expert on the situation of human rights in Haiti, Michel Forst ¶ 27 (May 3, 2010) UN Doc. A/HRC/14/44, (Rapport de l’expert indépendant sur la situation des droits de l’homme en Haïti), available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.44_f_r.pdf (last visited July 12, 2010) [hereinafter Forst].

policies over the last three decades.”⁸ This pattern has continued post-earthquake through the humanitarian response, and has shaped the way aid has been delivered to and received by Haitians, with residents of the camps being the most vulnerable to the consequences. It is not only the scale of the disaster that has prevented survivors from receiving timely and necessary relief support, but also the strategies through which this support has been provided, that have continued to contribute to the emergency.⁹

The failure to design and execute a response with the participation of Haitians living in the camps has meant that relief efforts have not only been inadequate, but have exacerbated structural inequalities that pre-date the earthquake. As a result, the most vulnerable members of Haitian society—women, children, and the poor—have become even more vulnerable following the earthquake. Months afterward, survivors continue to report a lack of access to food, shelter, water, sanitation, and medical care. Despite the implementation of high-profile/high-cost recovery efforts such as the Post-Disaster Needs Assessment (PDNA)¹⁰-sponsored “food surge,” emergency humanitarian responses to issues such as food security and medical needs have been poorly planned and fail to reach the most vulnerable populations for which they were intended.¹¹

Perhaps most traumatizing of all, many individuals living in the camps have lost parents, spouses, and others who provided support, resources, and protection.¹² This breakdown in social safety nets has had catastrophic

consequences on the ability of communities to cope with the disaster.¹³

Shelter remains a major concern in and outside of the IDP camps, particularly during the hurricane season.¹⁴ The Center for Economic and Policy Research (CEPR) reports that well over one million people have no source of shelter at all except for the tarps and tents that were distributed within the first three months after the earthquake.¹⁵ Unfortunately, according to a recent UN Shelter Cluster document, these supplies are “more likely to have reached the end of their life span and might need to be replaced.”¹⁶ Shelter conditions, coupled with a severe lack of lighting and adequate hygiene and sanitation facilities, have produced an environment in which GBV is escalating and safety has become a primary concern for women living in camps.¹⁷

Following the earthquake, which destroyed her home, A.C., a mother of four, was living in an IDP camp close to Fontamara. On January 14, A.C. saw a group of men raping a girl and she tried to intervene. They turned their attentions to her, raping and beating her and threatening her with guns. In order to keep other people in the camp at bay, the rapists repeatedly fired shots into the air. Even after the rape was over, no one came to help her because they were afraid of being killed. After the rape, A.C. became very depressed. She tried to commit suicide by drinking bleach. Her children are afraid of what she will do so they no longer visit her. As the interview concluded, we wished her a good evening. She responded that nothing good happens in the camps after it gets dark.

Lack of Security Increases Vulnerability to Rape

Though official statistics are lacking, there is overwhelming evidence that the problem of GBV—specifically, the rape of women and girls—has dramatically escalated in Haiti

⁸ Statement by the Coordinating Committee of Progressive Organizations, Port-au-Prince, Haiti: *After the Catastrophe, What Are the Perspectives?* (Jan. 27, 2010).

⁹ According to research conducted in IDP camps jointly by the Lamp for Haiti Foundation (LAMP) and the *Bureau des Avocats Internationaux* (BAI): “Time and again participants noted how aid could be distributed better despite the many obstacles imposed by the earthquake. Yet, because people in the camps have not been consulted, their suggestions have not been integrated into the aid response. Instead, aid is delivered according to plans drawn up outside the camps, with no apparent consultation with people inside the camps.” The LAMP for Haiti Foundation, et. al., *Neglect in the Encampments, Haiti’s Second Wave Humanitarian Disaster*, at 1 (Mar. 23, 2010), available at <http://ijdh.org/archives/10671>.

¹⁰ The PDNA (Post Disaster Needs Assessment) is the Haitian Government’s operative blueprint for reconstruction and national development.

¹¹ Rachel Hannah Nadelman and Stephania Louis, *Women in Haiti after the January 12, 2010 Earthquake*, at 3-4 Huairou Commission, available at www.huairou.org/assets/download/Haiti-Report.pdf.

¹² Interuniversity Institute for Research and Development (INURED), *Voices from the Shanties: A Post-Earthquake Rapid Assessment of Cite Soleil, Port-au-Prince*, at 11 (Mar. 2010).

¹³ The LAMP for Haiti Foundation, et. al., *supra* note 9 at 30.

¹⁴ Manuel Roig-Franzia, *Haiti’s rainy season could mean suffering is in the forecast*, WASH. POST, May 4, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/03/AR2010040301049.html>.

¹⁵ Center for Economic and Policy Research, *As Tropical Storms Threaten Haiti, International Community Can, and Must, Do More for Shelter* (June 17, 2010), available at <http://www.cepr.net/index.php/blogs/relief-and-reconstruction-watch/as-tropical-storms-threaten-haiti-international-community-can-and-must-do-more-for-shelter/>.

¹⁶ *Id.*

¹⁷ Deborah Sontag, *Sexual Assaults Add to Miseries of Haiti’s Camps*, NY TIMES, June 23, 2010, available at <http://www.nytimes.com/2010/06/24/world/americas/24haiti.html?scp=10&sq=haiti&st=cse>.

since the earthquake.¹⁸ In the two months following the earthquake, one grassroots women's group tracked 230 rapes in just 15 of the hundreds of camps in Port-au-Prince.¹⁹ A University of Michigan survey conducted in March found that three percent of all people in Port-au-Prince had been sexually assaulted since the earthquake; all but one of the respondents were female and half of the victims were girls under the age of 18.²⁰ Doctors Without Borders reported in an interview that they treated 68 rape survivors at one facility in Port-au-Prince in April alone.²¹

Some Haitian officials, commenting on the rise in rape since the earthquake, have underplayed the problem of GBV in the IDP camps and cited lack of information as an impediment to their response. The Director General of the Haitian Police, Mario Andresol, stated in an interview that there had been only 20 cases of rape reported to the police from January-March in the capital.²² When questioned by an Al Jazeera news correspondent about the regular reports of rape in a camp adjacent to a UN base, UN Police Spokesperson Jean-Francois Rezina discounted the women's stories, saying it simply was not true and that the UN "[did] not have any information about rapes every night."²³

One factor that has most enabled GBV in the camps is the lack of a security presence, particularly at night, provided by any formal police or military agency.²⁴ According to

¹⁸ *Id.* As Linda Basch, President of the National Council for Research on Women, wrote in an editorial in the *New York Times*, "The gender dimension of aid and security policies has only recently come under scrutiny, despite widespread occurrences of sexual assault and rape. There is neither an adequate system for documentation of these claims, nor judicial capacity to handle sex violence reports." Linda Basch, *After Haiti's Quake, Another Form of Horror*, N.Y. TIMES, July 1, 2010 (Letters to the Editor), available at http://www.nytimes.com/2010/07/02/opinion/l02haiti.html?_r=1#.

¹⁹ Beverly Bell, "Our Bodies are Shaking Now" -- Rape Follows Earthquake in Haiti, HUFFINGTON POST, Mar. 24, 2010, http://www.huffingtonpost.com/beverly-bell/our-bodies-are-shaking-no_b_511397.html. See also Appendix A, KOFATIV Preliminary Report on Rape (July 19, 2010).

²⁰ *Assessing Needs After the Quake: Preliminary Findings from a Randomized Survey of Port-au-Prince Households*, University of Michigan/Small Arms Survey (forthcoming 2010).

²¹ Site visit to Médecins Sans Frontiers (MSF) Delmas 31 (May 2010). MSF reported treating 212 victims of sexual violence in the 5 months following the earthquake. *Emergency Response After the Haiti Earthquake: Choices, Obstacles, Activities and Finance*, Médecins Sans Frontières (MSF), July 2010, available at https://www.msf.or.jp/info/pressreport/pdf/haiti_six_months_EN_LOW.pdf.

²² Interview with HNP Director General Mario Andresol (May 4, 2010), (on file with authors). In April, the HNP statistics note 34 rapes were reported in all ten Departments. http://www.pnh.ht/news/index.php?id_news=128 (last visited July 18, 2010).

²³ *Fault Lines – Haiti: Six Months On*, AL JAZEERA ENGLISH, July 12, 2010, available at <http://www.youtube.com/watch?v=rx2EQxZ7MXQ>.

²⁴ Amnesty Int'l, *Haiti: After the Earthquake: Initial Mission Findings* (Mar. 2010) at 8, available at www.amnesty.org/en/library/info/AMR36/004/2010/en.

Amnesty International, "thousands of women living in temporary camps around Haiti are threatened by sexual violence and have inadequate protection from any authorities. . . . The lack of measures to prevent and respond adequately to the threat of sexual violence is contributing to the humanitarian crisis."²⁵ Though there have been some reports of limited perimeter patrols around camps during the daytime, the failure to patrol when and where the majority of crimes are committed—inside

the camps and slums after dark—has meant that formal security has had little effect on deterring GBV. Military and police officials cite their own security concerns as preventing meaningful patrols.

Even where a security presence does exist, camp residents note that "security forces are not effective largely because of their lack of coordination and failure to engage in partnerships with neighborhood associations and community."²⁶ The lack of coordination and meaningful security patrols does not necessarily reflect a shortage of military personnel and resources on the ground. Better coordination with grassroots groups in developing the aid response provides a promising pathway to improving the

R.A., 15 years old, lives on her own in Place Ste. Anne camp. Her parents live in the countryside. On April 24, 2010, she was gang raped and beaten by five men. She sought help from a friend who turned her away, afraid for her own safety. After that, R.A. did not tell anyone else about the attack, nor did she seek medical care for a week following the attack. Finally driven to seek help because of pain in her abdomen, she spoke to a member of the grassroots women's group KOFATIV. The better part of the day was spent trying to locate a clinic that would see her immediately; and the facilities that were ultimately provided were sorely lacking in privacy and staff. She was accompanied to the General Hospital, where she waited for three hours before being led to a dirty cot in a public room, where a male doctor intended to conduct the exam. In the end, the midwife who accompanied her conducted the exam herself in another doctor's living quarters.

²⁵ Amnesty Int'l, *Haiti's Emergency Response must Include Protection from Sexual Violence* (Mar. 25, 2010), available at <http://www.amnestyusa.org/document.php?id=ENGUSA20100324002&lang=e>.

²⁶ INURED, *supra* note 12 at 11.

situation.²⁷ INURED writes that “relief institutions have little to no local knowledge and poor coordination with the communities.”²⁸ This lack of engagement with Haiti’s civil society and vulnerable populations has left relief organizations without valuable information and tools needed to develop an adequate response.²⁹

Fortunately, many grassroots organizations have mobilized, actively designing their own relief efforts and addressing problems that have arisen since the earthquake. Indeed, “neighborhood-based associations are capable and active in facilitating aid distribution as well as recovery efforts and fostering safety even in these challenging conditions.”³⁰ Organizations started before the earthquake continue to be active and are working to re-establish the social safety nets necessary to a meaningful recovery. Women’s organizations in particular have mobilized quickly to address the needs of their members and communities, many of whom were displaced.

The UN Cluster System’s development and aid relief has been commendable as it works to establish services and meet basic humanitarian needs. However, the international community in concert with the Haitian Government must act quickly to provide true security and protection from rape and GBV to women and girls, especially those in the most vulnerable situations, such as IDPs. It is essential to provide access to comprehensive sexual violence services that address health, safety, and psychological needs of survivors, as well as secure places to report incidents of violence. As the rebuilding process in Haiti moves forward, a coordinated and comprehensive plan that prioritizes the safety of women and girls must be implemented.

²⁷ Beverly Bell, *From Disaster Aid to Solidarity: Best Practices in Meeting the Needs of Haiti’s Earthquake Survivors* (April, 2010). See Gen. Rec. No. 19, *supra* note 1.

²⁸ INURED, *supra* note 12 at 8.

²⁹ Jesuit Refugee and Migration Service, *Haitian NGOs Decry Total Exclusion from Donors’ Conferences on Haitian Reconstruction* (Mar. 18, 2010), available at www.jrsusa.org/news/news_100330b.php/ (last visited July 18, 2010).

³⁰ INURED, *supra* note 12 at 4.

Methodology



From May 1-10, 2010, a delegation of eight U.S. lawyers, two community researchers, and a women's health specialist investigated the prevalence and patterns of rape and other GBV against IDPs in Port-au-Prince in the aftermath of the earthquake and the humanitarian response. The delegation was organized by the Lawyers' Earthquake Response Network (LERN), which is coordinated by the Institute for Justice & Democracy in Haiti (IJDH).

Prior to traveling to Haiti, the delegation conducted extensive background research and held a series of trainings with experts on conditions in Haiti and general experts on GBV. In Haiti, the delegation worked out of IJDH's Haiti-based affiliate office in Port-au-Prince, the Bureau des Avocats Internationaux (BAI) and made site visits to several IDP camps, medical clinics, and hospitals providing services to survivors of rape, Government Ministries and tribunals, and the UN Logistics Base, all of which are located in Port-au-Prince.

From June 7-9, 2010, TransAfrica Forum sent a follow-up delegation of three U.S. lawyers to the BAI. The delegation conducted a second round of interviews with rape survivors and also made site visits to IDP camps in the capital.

Collectively, the LERN delegations formally interviewed 54 survivors of rape since the earthquake from at least ten different IDP camps and neighborhoods, including: Bicentenaire, Cabaret, Champ de Mars, Fontamara, Gerard Bataille, Martissant, Place Ste. Anne, Peru, Soure, and Village de Dieu. All research followed the World Health

Organization (WHO) Ethical and safety recommendations for researching, documenting and monitoring sexual violence in emergencies (2007), ensuring the safety and confidentiality of all victims.³¹ The interviews took place at the BAI in private rooms or secluded outdoor spaces within the BAI gates. Victims were made aware of their ability to cease the interview at any time or refuse to answer questions and provided informed consent. A parent or guardian provided information about girls under 18. Two grassroots women's organizations working within Port-au-Prince, KOFIVIV and FAVILEK, referred the women and girls, and have provided follow-up care and services.

The primary purpose of these interviews was to collect evidence for pursuing legal cases in domestic and international fora through the BAI and international partners. Members of the delegations also conducted informal interviews with dozens of other rape survivors, their family members, and witnesses to rapes during group meetings or trainings held at the BAI and during visits to the camps. All interviews were conducted in Haitian Creole with English translation provided by female interpreters from the Haitian Education and Leadership Program and bilingual delegation members. Additionally, delegation members were provided with training in interviewing victims of violence, and many already had undergone such training.

The LERN delegations also held a series of meetings with leadership of grassroots women's groups, women's rights and human rights leaders, members of the judiciary and Haitian National Police, and representatives of the Women's Ministry, international agencies, and NGOs that provide legal, medical, and social GBV services.

All interviews and meetings are preserved in the form of interview notes and, where available, digital recordings. All respondents provided verbal consent to use their statements. Names and other identifiers have been removed to protect the identities of survivors and pseudonyms have replaced real names in this report.

³¹ Available at http://www.who.int/gender/documents/OMS_Ethics&Safety10Aug07.pdf.

Findings: Rape in the Displacement Camps



This Report does not attempt to provide a quantitative analysis of the prevalence of rape or GBV in the aftermath of the earthquake. Rather, it provides a qualitative analysis of the current crisis of safety and security for Haitian women and girls. These findings are based on the interviews conducted in May and June 2010 of over 50 women who had been raped since the January earthquake, and observations made while touring the camps and other areas where the attacks took place. The rape survivors interviewed ranged in age from 5 to 60. Unless otherwise indicated, this Report makes observations only with respect to the women interviewed. However, we believe they are likely applicable to the larger IDP population given the strikingly similar patterns among the testimonies that emerged.

I. Vulnerability of Haitian Women and Girls

Conditions in the IDP camps in Port-au-Prince are bleak. Overcrowding, lack of privacy, and weakened family and community structures, among other things, render women and girls particularly vulnerable to rape and other sexual violence. Women and girls live in inadequate shelter, often sleeping on the ground under nothing more than a tarp or blanket, with no means of protection and no friends close by. They bathe in public, in view of men and boys. Many young girls live alone or with friends, with no adults looking after them.³²

³² See, e.g., Interview #16 (May 3, 2010), (on file with authors).

Women reported that the earthquake destroyed their support networks and livelihoods, which further increased their vulnerability. Many women also lost adult male family members who provided physical security and a source of income.³³ Surviving women are left with the primary responsibility for the care of the most vulnerable, including infants, children, the elderly, and the thousands of newly disabled people.³⁴ Of those interviewed, very few had any source of steady income. Prior to the earthquake, most women worked as merchants in the informal market, but these activities have been hampered because many lost their supplies in the earthquake.³⁵ Ever-deepening poverty constrains women's choices about where to live, how to travel—essentially all aspects of their lives—further increasing their vulnerability to sexual assault.

II. Circumstances of Attacks/Characteristics of Perpetrators

The vast majority of the women who were interviewed reported being raped by two or more individuals, who were unknown to them and almost always armed with guns, knives or other weapons. Most of the women interviewed stated that they would be unable to recognize their attackers because: a) the rapes occurred at night,³⁶ b) the perpetrators wore masks covering their faces or sunglasses,³⁷ or c) the trauma of the event impaired memory.³⁸ Some survivors were able to recall certain identifiers of their attackers, including the color or style of their hair, stature, tattoos, and piercings; but no obvious patterns with respect to the identity of the rapists emerged.³⁹ Women most commonly identified the perpetrators as members of neighborhood gangs and escapees from prison.⁴⁰ Although the victims' perceived motivations for the rapes were not discussed in detail, the interviews indicated that the attacks are primarily to perpetrate sexual violence—there were only a few occasions where the rapes were accompanied by other crimes such as robbery.

³³ See, e.g., Interview #6 (May 3, 2010), (on file with authors).

³⁴ See, e.g., Interview #1 (May 3, 2010), (on file with authors).

³⁵ See, e.g., Interview #12 (May 5, 2010), (on file with authors).

³⁶ See, e.g., Interview #11 (May 5, 2010), (on file with authors).

³⁷ See, e.g., Interview #4 (May 5, 2010), (on file with authors).

³⁸ See, e.g., Interview #2 (May 5, 2010), (on file with authors).

³⁹ For example, a few interviewees noted that their rapists wore dreadlocks or had facial hair. See, e.g., Interview #3 (May 5, 2010); Interview #5 (May 5, 2010), (on file with authors). Others remembered their assailants had piercings affixed to various body parts including ears and penises. See, e.g., Interview #18 (May 5, 2010), Interview #45 (June 2010), (on file with authors).

⁴⁰ This was also noted by Independent Expert on the Situation of Human Rights in Haiti, Michel Forst, *supra* note 7 at ¶ 28.

The majority of rapes reported occurred at night, in the dark, between the hours of 9:00pm and 3:00am, although it is not uncommon for women to be attacked during the day. Women reported being attacked inside the IDP camps in tents and under tarps, in latrines, and on nearby streets. A few survivors stated that their attackers had used a blade to cut the tent to gain access. One woman was kidnapped from her camp and taken to a house at an undetermined location where she was gagged and gang raped by an unknown number of assailants. She was held at the house for two to three days and repeatedly beaten and raped until she was able to run away.⁴¹

Survivors interviewed also spoke of the widespread occurrence of transactional sex to obtain food aid cards, although each interviewee denied having engaged in transactional sex herself. The occurrence of coerced transactional sex—itself a form of rape—is beyond the scope of this Report, and merits an independent investigation.⁴²

III. Psychological and Physical Effects

Several members of the delegation have worked with trauma survivors in other settings and been trained in recognizing and responding to associated mental trauma. In addition, another delegation coordinated by LERN traveled to Haiti in March 2010 to identify potential applicants for humanitarian parole to the U.S., including victims of gender-based violence and those with other compelling circumstances. These delegations involved psychiatrists and trauma victim specialists. The humanitarian parole delegation conducted 69 medical evaluations of earthquake victims, several of who were victims of rape or other sexual assault, and found that 95.7% of the victims were suffering from PTSD and 53.6% were suffering from depression.⁴³

Congruent with the humanitarian parole delegation findings, many of the women interviewed appeared to show signs of post-traumatic stress disorder (PTSD), including extreme fear, nervousness, helplessness, inability to sleep, nightmares and signs of depression. Several women indicated suicidal tendencies and some had even

⁴¹ Interview #45 (June 2010), (on file with authors).

⁴² These testimonies are supported by additional reports on post-quake sexual violence. See, e.g., INURED, *supra* note 12 at 12; Amnesty Int'l, *Initial Mission Findings*, *supra* note 24 at 12.

⁴³ Victor G. Carrion, *International Psychiatry in Haiti at the Aftermath of the Earthquake*, PowerPoint Presentation, Apr. 2010, (on file with authors).

taken steps towards ending their life. At least one woman stated that she had contemplated killing herself and her children. One woman said that she wanted to end her life because “this life has gone bad.” She lost her husband and home in the earthquake. Her uncle had abused her growing up, and the attack re-traumatized her profoundly.⁴⁴

Almost all of the survivors complained of some physical discomfort, including stomach pain, headaches, difficulty walking, and vaginal infection and bleeding.⁴⁵

At least one woman became pregnant as a result of the rape.⁴⁶ Only one woman reported that her attacker wore a condom.⁴⁷ Of the few women that had been tested for HIV, results were negative. In addition to the rapes, many women and girls interviewed suffered beatings, stabbings and other injuries in the course of the attacks and had scars and other visible injuries to show. In one of the most egregious cases, several men attacked a woman in her 30s at her home in Martissant, during which one of the men stabbed her with an ice pick. Her small children witnessed the attack.⁴⁸

IV. Access to Medical Services

The majority of the women and girls interviewed had not seen a doctor or other medical professional at the time of the interview. There were several reasons for this: a) lack of knowledge of where to find services, b) lack of knowledge that services were provided free of charge,⁴⁹

M.V., 38 years old, lives with her three children, one of whom was conceived in a rape that occurred in 1994. On May 2, 2010, M.V. was walking near a police station at Rue Pavée around 7:30pm. It was dark out and she was alone. Two men demanded her purse and when they found she had no money, they pulled her away from the streetlight and took turns raping her. Despite sustaining injuries, M.V. had not yet seen a doctor eight days later because she didn't think she could afford it. She did not go to the police because “pa tap vini” – they will never come. When asked if she had recommendations for ways to prevent the rapes, she merely shook her head and said “Pa gen kadreman” – It will always happen.

⁴⁴ Interview #41 (June 2010), (on file with authors).

⁴⁵ See, e.g., Interview #18 (May 5, 2010), (on file with authors).

⁴⁶ Interview #26 (June 7, 2010), (on file with authors).

⁴⁷ Interview #18 (May 5, 2010), (on file with authors).

⁴⁸ Interview #43 (June 2010), (on file with authors).

⁴⁹ See, e.g., Interview #2 (May 10, 2010), (on file with authors).

c) inability to pay for the transport to get to a clinic,⁵⁰ and d) fear of retaliation and stigma.⁵¹ For those that had sought medical care, the majority only sought general first aid care for injuries associated with the rapes and did not disclose the rape to the healthcare provider because they were embarrassed or felt uncomfortable. Rape carries a stigma in Haitian society, as it does in most places. Victims were extremely reluctant to reach out for support or to even discuss their ordeal before meeting a member of KOFIVIV or FAVILEK, in whom they had trust and could confide. When victims did reach out, they were often shunned or ignored.

Of those who had been to see a doctor, the quality and type of care varied depending on the facility and availability of supplies. Some clinics did not offer services such as HIV prophylaxis or emergency contraception. Women faced prohibitively long waits, and left without being seen by a doctor. Women also reported a lack of privacy, and limited access to female healthcare providers. Medical certificates were not routinely provided.⁵² Only two women reported receiving medical certificates; others reported that they were unaware of the importance of the certificates in documenting rape and their right to request them. In one instance, a clinic stated that they were out of certificates.⁵³ Several survivors reported treating their injuries with traditional remedies, including special teas and baths.⁵⁴

V. Access to Justice

Women reported limited access to justice in Haiti for rape and sexual assault, a result of several barriers that include lack of access to legal services, and unwillingness of police to respond. Rape survivors told interviewers that reporting rape to the police is “an exercise in futility.” In fact, of all the women we interviewed, there was only one instance where a woman reported that her assailant had been arrested and was still in jail.⁵⁵ In nearly all instances, women who reported sexual violence crimes to the police were ignored or mocked.

Women expressed frustration, noting that poor women do not find justice—“only the rich get the attention of the

police.”⁵⁶ Many women stated that when they approached the police for help, the police said that there was “nothing they could do” and the survivor should return when she had “identified and/or captured her attacker.” One survivor reported that the officer she spoke with said it was not his responsibility and that it was the problem of Haiti’s president, René Préval.⁵⁷ In another case, the police told the survivor to take her case to the camp committee, an informal leadership structure organized by camp members.⁵⁸

Where the police have taken some action, the outcome is rarely significant. For example, in March 2010, a woman who had been raped reported the crime to the police. She told interviewers that the police circled the camps with extra patrols each night for about a week after the attack, but did not find the assailants. They stopped the patrols without doing any further investigation.⁵⁹

Other barriers to reporting include fear of retaliation and stigma. In many cases, perpetrators threatened the women and girls with future harm or death if they told anyone about the rape. These threats, coupled with a low likelihood of the rapists being caught or jailed, form a considerable deterrent to reporting. Moreover, there is no witness protection available, and most women do not have the resources or ability to move, making it easy for their rapists to find them again.

Police corruption presents another obstacle to justice. On one occasion, a woman in her early 20s was gang raped by three young men. When she reported the incident to the

R.C., a mother of two, went to buy food for her children. On her way back to the Champs de Mars camp, three men caught her near her tent. They took her inside a tent, where they each raped her while holding a gun to her head. She told police on patrol what had happened shortly afterwards. The police did not get out of their jeep, nor did they accompany her to find the tent where she had been raped. Although she sought medical care the following day, she was too embarrassed to tell the male doctor what happened and, as a result, received limited treatment. R.C. continues to suffer abdominal pain and bleeding, and has moved to another part of the camp in the hope that she will feel safer.

⁵⁰ See, e.g., Interview #17 (May 7, 2010), (on file with authors).

⁵¹ See, e.g., Interview #12 (May 5, 2010), (on file with authors).

⁵² See, e.g., Interview #9 (May 3, 2010), (on file with authors).

⁵³ Meeting with SOFA (May 7, 2010), (on file with authors).

⁵⁴ See, e.g., Interview #4 (May 5, 2010), (on file with authors).

⁵⁵ Interview #54 (June 2010), (on file with authors).

⁵⁶ See, e.g., Interview #28 (June 8, 2010), (on file with authors).

⁵⁷ Interview #16 (May 3, 2010), (on file with authors).

⁵⁸ Interview #23 (June 7, 2010), (on file with authors).

⁵⁹ Interview #25 (June 7, 2010), (on file with authors).

police, they said that her family would have to pay to get a warrant. Her uncle, a lawyer, twice paid the police. However, the police did nothing, simply demanding even more money to pursue the case. On another occasion, when a victim approached the police to report a rape, they demanded that she buy them gas so they could drive to the camp, which was reportedly within walking distance. She gave cash to the police, who did nothing.⁶⁰

The lack of access to legal services is yet another barrier faced by Haitians living in the camps. There is no tradition of publicly funded legal aid in Haiti. The few organizations⁶¹ that do provide legal aid or accompaniment through the legal process report being overwhelmed and unable to meet the demand. Many women mentioned other barriers to accessing these services, such as a lack of transportation, lack of confidence or trust in such services, and lack of awareness that such services even exist.⁶²

VI. Continued Vulnerability

The survivors interviewed continue to be vulnerable to rape and other sexual abuse in the camps. Lacking other options, most remain living in the same area where they were attacked, and the attackers remain at large. None of the interviewees were aware of safe spaces or shelters where they could go. At least three of the women interviewed were raped on two separate occasions since the earthquake⁶³ and several others had been raped during previous periods of unrest.⁶⁴ In one case, the LERN delegation interviewed the grandmother of a five-year old girl who had been raped. Both the grandmother and her daughter were raped during the 2004 coup period; the daughter became pregnant with the little girl as a result. Such vulnerable populations have access to even fewer resources in the wake of the earthquake.

Individuals working in the IDP camps to assist victims of GBV are themselves susceptible to additional violence. Recently, two KOFAVIV leaders and their families were threatened at gunpoint in the camp. They fled the camp

and, with their international connections, were able to find the funds to relocate.⁶⁵

⁶⁰ Interview #7 (May 7, 2010), (on file with authors).

⁶¹ For example, two well known Haitian women's NGOs include Kay Fanm and Solidarité Fanm Ayisyen (SOFA).

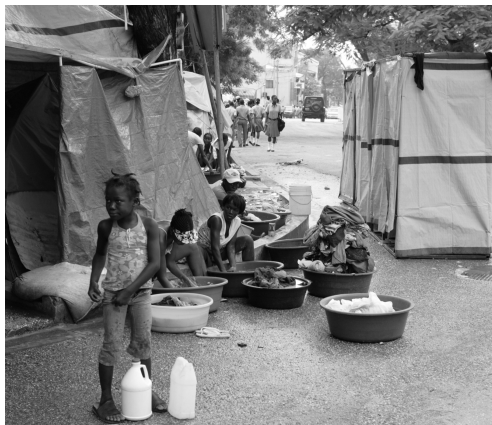
⁶² BAI is currently working on developing a greater capacity in order to pursue cases using a victim-centered approach, and to support women's empowerment groups to build a movement around justice.

⁶³ Interview #30 (June 8, 2010); Interview #37 (June 8, 2010); Interview #52 (June 2010); Interview #54 (June 2010), (on file with authors).

⁶⁴ See, e.g., Interview #2 (May 10, 2010), Interview #7 (May 3, 2010).

⁶⁵ *Rape in the Camps: Lacking Security, Women Organize to Protect Themselves*, DEMOCRACY NOW!, http://www.democracynow.org/2010/7/14/rape_in_the_camps_lacking_security.

Responses to Rape



Government of Haiti Responses

I. Pre-Earthquake Responses

Haiti is no stranger to violence against women. In the mid-1990s, under the illegal regime of General Raoul Cedras, rape and other forms of gender-based violence were used as instruments of terror. Women were targeted for abuse because of their political support for democracy, their intimate association with other activists, their class, and their gender. Gender-based violence encompasses a variety of concepts in Haiti, including the view of women as property, their roles as breadwinners and activists for women's rights, their functions as mothers and heads of households, and their involvement as advocates for civil society.

In the aftermath of the 2004 ouster of President Jean Bertrand Aristide, under the Interim Government of Haiti (IGH), rape again "became a political weapon by armed insurgents to instill fear and to punish women believed to have supported the democratic government."⁶⁶ A mortality study for Port-au-Prince published in *The Lancet* concluded that 35,000 women were raped between March 2004 and December 2006 in Port-au-Prince alone. Almost 12% of the perpetrators were identified as right-wing political actors.⁶⁷

⁶⁶ Amnesty Int'l, *Don't turn your back on girls: Sexual violence against girls in Haiti*, AI Index: AMR 36/004/2008, 23 (2008), available at <http://www.amnesty.org/en/library/info/AMR36/004/2008/en>.

⁶⁷ Athena R Kolbe and Royce A Hutson, *Human Rights Abuse and Other Criminal Violations in Port-au-Prince, Haiti: A Random Survey of Households*, *THE LANCET* (2006); 368: 864–73.

During the last several years, the Government of Haiti (GOH) undertook a number of initiatives to address violence against women, including enacting legislation enhancing penalties for rape.⁶⁸ In 2003, the GOH launched the *Table de Concertation Nationale Contre la Violence Faites aux Femmes* (National Dialogue on the Prevention of Violence Against Women), a partnership between the Ministries of Women, Health, and Justice, on the one hand, and civil society, including women's groups, NGOs and services providers, and UN agencies, on the other.⁶⁹ The *Concertation Nationale* is tasked with promoting coordination between the various actors in the fight against violence against women and to develop and implement a national plan. In 2005, Haiti adopted the 2006-2011 National Plan to Combat Violence Against Women, aimed at preventing violence and attending to victims. The Plan's objectives include putting in place a mechanism for systematic data collection, prevention of violence, capacity building through promoting a multi-sectoral approach, and other strategies. In 2008, Haiti reported to the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) for the first time since ratifying the Women's Convention in 1981.

Although progress on these laudable goals was made, many initiatives—even before the earthquake—were hampered by insufficient resources and fell short of their stated goals. As the Inter-American Commission on Human Rights (IACHR) observed last year in regards to the services provided by the State: "they are slow to be implemented and are not yet fully operational."⁷⁰ For example, during the Commission's visits to Haiti, "the Ministry of Women particularly regretted the absence of a state-run shelter for women and the lack of free legal services for indigent women victims of violence."⁷¹ Tragically, some of the Government's most committed gender-equality advocates perished in the earthquake.⁷²

⁶⁸ For more information on the history of violence against women and legal development in Haiti, see Benedetta Faedi, *The Double Weakness of Girls: Discrimination and Sexual Violence in Haiti*, 44 *STAN. J. INT'L L.* 147 (2008); INTER-AM. C.H.R., *The Right of Women in Haiti to be Free from Violence and Discrimination*, OEA/Ser.L/V/II, doc. 62 at ¶ 98 (Mar. 10, 2009) [hereinafter INTER-AM. C.H.R., *Free from Violence*].

⁶⁹ See UNFPA Haiti, *La Concertation Nationale*, <http://www.unfpahaiti.org/ConcertationNationale.htm> (last visited July 7, 2010).

⁷⁰ INTER-AM. C.H.R., *Free from Violence*, *supra* note 68, ¶ 144.

⁷¹ *Id.*

⁷² Those mourned include Myriam Merlet, Chief of Cabinet of the Ministry of Women's Condition and Rights and founder of the umbrella women's organization National Coordination for Advocacy on Women's Rights and Myrna Narcisse, Director General of the Ministry of Women's Condition. *UNIFEM Mourns the Deaths of Women's Rights Activists in Haiti* (Jan. 21, 2010), available at http://www.unifem.org/news_events/story_detail.php?StoryID=1014.

II. Post-Earthquake Responses

The lack of a meaningful response on the part of the Haitian Government to the rape crisis in displacement camps is a result of both a lack of resources and a lack of political will. Haiti's already fragile bureaucracy and civil service suffered deep blows from the earthquake, as ministry buildings were destroyed and many personnel were killed.⁷³ For example, two specialized police units inaugurated prior to the earthquake to receive reports from women victims of violence were among at least 40 police stations—in and outside of Port-au-Prince—that collapsed or were severely damaged in the earthquake.⁷⁴ More than 70 police officers died; another 60 are missing, and many others were injured.⁷⁵

The loss of officers and police stations seriously compromised the capacity of the police to maintain security and enforce the law. As of April 2010, there were only 2,261 police officers serving Haiti's population of 9 million people, a ratio of one officer per 3,981 people.⁷⁶ The UN Security Council has responded to the general need for more police units by increasing the UN police force assigned to Haiti (UNPOL) to approximately 4,400.⁷⁷ In June, women welcomed the arrival of an all-female force deployed by Bangladesh to patrol some of the camps. The effect of the Bangladeshi force has been minimal, however, because the officers speak neither Haitian Creole nor French, making meaningful communication with camp residents impossible.⁷⁸ In spite of these efforts, the number of Haitian police remains grossly inadequate in terms of the overall population.⁷⁹

⁷³ *Haiti at a Crossroads*, A Report to the Members of the Committee on Foreign Relations, 111th Congress 2d Session, S. Prt. 111-51 (June 22, 2010).

⁷⁴ See Interview with Magalie Borno, HNP Principal Inspector, Assistant Director of Women's Coordination, (May 6, 2010), (on file with authors); Forst, *supra* note 7.

⁷⁵ Amnesty Int'l, *Initial Mission Findings*, *supra* note 24 at 8.

⁷⁶ In comparison, slightly larger countries like Portugal (10.6 million) and the Czech Republic (10.5 million) each have at least 40,000 police officers, a ratio of no less than one officer for every 263 people. See email correspondence from Portuguese National Police Commissioner with Erin Krinsky (July 7, 2010), (on file with authors);

<http://www.interpol.int/public/Region/Europe/pjsystems/Czech.asp>.

⁷⁷ Barbara Crossette, "Hurricane Season Looms in Haiti as the UN Prepares for Disaster," June 23, 2010, available at <http://www.unusa.org/worldbulletin/100623/crossette> (last visited July 7, 2010).

⁷⁸ *Id.*

⁷⁹ In late April 2010, the United Nations reported that there were 10,565 uniformed personnel in Haiti, comprised of 2,261 police officers and 8,304 troops. It is important to note that Haiti disbanded its military in 1995. See, United Nations Stabilization Mission in Haiti, United Nations Peace and Security Section of the Department of Public Information in cooperation with the Department of Peacekeeping Operations, "MINUSTAH Facts and Figures," Apr. 30, 2010, available at <http://www.un.org/en/peacekeeping/missions/minustah/facts.shtml>

In February, MINUSTAH reported that UNPOL and HNP officers had established a permanent joint presence at the largest IDP camps in Port-au-Prince, the Pétienville Club and Cité Soleil.⁸⁰ These accounts have been largely contradicted by reports from camp residents who said that they rarely see police inside the camps on foot or at night.⁸¹ Moreover, to the extent that HNP and UNPOL conduct patrols, there is no strategic policing plan in place to maximize limited resources.⁸² In a positive step, on July 21, UN police arrested two men suspected of being responsible for several rapes in the camps.⁸³

Another major issue is the lack of female officers in police stations.⁸⁴ Women survivors are generally uncomfortable reporting crimes to male officers. HNP Principal Inspector Magalie Borno explained that, while all police stations do not have specialized officers to hear gender-based violence complaints, they all should have female officers to whom victims can report a crime. Moreover, Ms. Borno told LERN that the HNP was working towards recruiting and sensitizing more women officers to hear complaints, conduct patrols, and talk to camp committees about the problem of rape.⁸⁵ Nonetheless, in some instances, officials attributed the problem of rape to promiscuity and domestic violence.⁸⁶ This antipathy has a cascading effect; victims perceive law enforcement as ineffective or unsympathetic and, consequently, fail to report crimes. Government officials in turn insist that no such "epidemic" of gender-based violence exists, and allocate even fewer resources to address it.

(last visited July 6, 2010).

⁸⁰ Report of the Sec'y-Gen. of the UN Stabilization Mission in Haiti (2010), UN Doc. S/2010/200.

⁸¹ MINUSTAH Joint Security Assessment, Mar. 30, 2010, ¶¶ 2-3. These observations are consistent with testimony heard during LERN Delegation victim interviews.

⁸² *IDP Camp Joint Security Assessment Report*, MINUSTAH Human Rights Section (Mar. 30, 2010), at 4 [hereinafter *JSA Report*]. This assessment recommended that the Government of Haiti and the UN design an "IDP Camp Strategic Policing Plan" that proposes new models for joint (HNP, UNPOL, UN military) policing to maximize available resources; schedules the maximum number of patrols, including on foot and at night; establishes a high number of static posts, possibly with UN military backing for police; includes women officers; seeks training; includes regular meetings between HNP/UNPOL and committees and other community policing aspects.

⁸³ UN Police in Haiti arrest fugitives suspected of rapes inside camps for displaced, U.N. News Svc., July 23, 2010, available at <http://www.reliefweb.int/rw/rwb.nsf/db900SID/EGUA-87MSWB?OpenDocument&RSS2=02>.

⁸⁴ These reports came from women interviewed, as well as from KOFIV and FAVILEK. A BAI staffperson visited one of the two police stations established to receive complaints from victims of GBV and confirmed the absence of female police officers.

⁸⁵ Interview with Magalie Borno, HNP Principal Inspector, Assistant Director of Women's Coordination (May 6, 2010), (on file with authors).

⁸⁶ Interview with HNP Director General Andresol, *supra* note 22.

Apart from a lack of Haitian law enforcement, police officials reported a dire lack of resources and equipment to combat GBV effectively. In an interview with the LERN delegation, HNP Director General Mario Andresol reported a lack of forensic scientists in Haiti, as well as funding, computers, cameras, and other equipment to successfully document, investigate, and prosecute criminal and legal cases.⁸⁷ MINUSTAH representatives cited a lack of transport and coordinated policing strategy as significant obstacles to successful HNP patrols. According to Director General Andresol, the HNP Commissioner for Women's Coordination, Marie-Louise Gauthier, has lamented the lack of accurate statistics on crimes against women and expressed the need for prosecutors to have a standard form to respond to cases.⁸⁸

Without a comprehensive system to track incidents of rape since the earthquake and a concerted effort to do so, police officials will remain ill equipped to understand the magnitude and nature of the problem. Criminal cases are rarely pursued through the Haitian judicial system, resulting in a culture of total impunity for rapists and criminal gangs who continue to prey on women and girls in the camps.⁸⁹

At the end of May, the Women's Ministry (MCFDF) launched a national campaign against rape, "End rape in Temporary Settlements!"⁹⁰ The campaign encourages women to come forward and report incidents to the police. This is a welcome effort. However, this campaign must coordinate with other key participants in the criminal justice system, including the police and judges, to put in place mechanisms to ensure that police follow through on their duties to investigate, and that protection is provided to victims who fear reprisal.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Impunity for perpetrators of violence against women was highlighted as one of the primary concerns of the UN Independent Expert on Human Rights in Haiti. See Forst, *supra* note 7 at ¶ 28. See also Interview with Juge d'Instruction Durin Duret (May 10, 2010), (on file with authors) (noting that he had not presided over any rape cases since the earthquake).

⁹⁰ *En finir avec le viol dans les abris provisoires!*, LE NOUVELLISTE, May 28, 2010, available at <http://www.lenouvelliste.com/article.php?PubID=&ArticleID=80049>.

United Nations (UN) Responses

I. The Role of the UN's GBV Sub-Cluster

In 2005, the UN's Inter-Agency Standing Committee (IASC) established nine "Clusters" consisting of UN agencies, NGOs, and other international organizations grouped around an issue or service provided during a humanitarian crisis. Each of the nine Clusters⁹¹ is led by a designated agency, and many contain "Sub-Clusters" working on more specific issues.

The UN Office for the Coordination of Humanitarian Affairs (OCHA) is the primary agency responsible for oversight of Haiti's Cluster system. Each Cluster is responsible to "call on all relevant humanitarian partners" to address gaps in humanitarian action.⁹² If the partners are not capable of fully addressing these needs, the Cluster is expected "to commit itself to filling the gap" insofar as its funding permits.

The Gender-Based Violence Sub-Cluster (Sub-Cluster) in Haiti is coordinated by UNFPA and UNICEF, and includes UN and NGO membership as well as the GOH; and is a part of the IASC Cluster family. The Sub-Cluster takes the lead on addressing gender-based violence in complex emergencies, natural disasters and other such situations.⁹³ The Sub-Cluster describes itself as being:

[A] mechanism for inclusive participation and engagement of all stakeholders. Sub-Cluster members also work to integrate GBV prevention and response activities across other clusters and sectors. The Sub-Cluster is comprised of technical experts, activists, and advocates who share the belief that even one case of GBV is one too many.⁹⁴

⁹¹ The nine Clusters are Protection, Camp Coordination and Management, Water Sanitation and Hygiene, Health, Emergency Shelter, Nutrition, Emergency Telecommunications, Logistics, and Early Recovery. Two additional clusters, Education and Agriculture, were later added.

⁹² U.N. One Response, <http://onerresponse.info/>.

⁹³ GBV AoR Working Group, *GBV Coordination at the Local Level*, One Response (July 4, 2010), available at <http://onerresponse.info/GlobalClusters/Protection/GBV/Pages/Gender-Based%20Violence%20Working%20Group.aspx>.

⁹⁴ Gender Based Violence (GBV) Sub-Cluster, *Haiti Response Must Address Needs of Women and Girls*, One Response (June 30, 2010), available at <http://onerresponse.info/Disasters/Haiti/Protection/Gender-Based%20Violence/Pages/default.aspx>.

Since the earthquake, the role of this Sub-Cluster has been to track what remains of Haiti's human resources and momentum of the *Concertation Nationale*, and to "support and build on prior activities."⁹⁵ The LERN delegation attended the weekly Sub-Cluster meeting on May 4, 2010, met with several representatives individually in person, and conversed with representatives via email both before and after the meeting. LERN remains in contact with the Sub-Cluster.

II. GBV Sub-Cluster Response to Rape in Haiti's Displacement Camps

Poor women report that they were not included in post-disaster needs assessments or in the planning of GBV activities, and have difficulty accessing sub-cluster activities. Failure to adequately include poor women in project planning prevents those designing and implementing projects from obtaining the information they need to create successful programs. In January 2010, the Cluster Working Group on Early Recovery released the *Guide to Gender-Aware Post Disaster Needs Assessment (the Guidelines)*.⁹⁶ Among its recommendations, the Guidelines call for (1) substantive consultation with women, girls, boys and men in the identification of their needs, priorities and interests; (2) design of gender aware recovery initiatives that are informed by, and respond to, the articulated and demonstrated needs of the affected communities and the entities serving them, and; (3) identification of spontaneous recovery activities of women, men, and marginalized communities that can be supported and strengthened. Six months after the earthquake, the Sub-Cluster still has not effectively implemented these fundamentally important steps.

a. Substantive consultation with impacted groups

A rights-based approach to protection means that those impacted should be directly involved in formulating durable solutions. This principle is clearly incorporated into the Guidelines, which articulate core principles, including: taking a "Participatory Approach" by "engag[ing] in substantive consultations with women and men, government mechanisms and NGOs working on women's, gender, and youth issues during the assessment process;

and involv[ing] [them] in the Assessment Team."⁹⁷ Furthermore, the IASC Gender Handbook in Humanitarian Action (2005) clarifies that the IASC Policy Statement on Integration of a Gender Perspective in Humanitarian Operations "commits as a priority to the participation of women in the planning, designing and monitoring of all aspects of emergency programmes."⁹⁸

The reasons supporting this approach are practical as well as ethical. The IASC emphasizes that "the active participation of people affected by crisis in identifying needs and designing and implementing relief programmes to address those needs substantially improves program effectiveness and sustainability."⁹⁹ In addition, among other things, meaningful participation: takes into account power dynamics among groups (political, social, economic, gender, etc.) with control over resources and those without; enhances accuracy of needs assessment data; helps individuals and communities to identify actions to take on their own behalf; and sets the foundation for greater self-sufficiency, safety and protection among individuals and communities, and more sustainable program results in the long-term.¹⁰⁰

The Sub-Cluster collaborates with the Women's Ministry and established human rights and women's organizations. However, the Sub-Cluster, in large part, has failed to include the voices of poor women living in the camps in planning and leadership roles. Haiti's history and the deep fissures within Haitian society between the poor majority

S.L., 18 years old, lives in Gerald Batille Camp near Mais Gâté 88. On April 28, 2010, she was taking out the trash when she found herself surrounded by six men. They dragged her to a nearby house where they each raped her, while covering her mouth and threatening her with a gun to make her stay silent. She went alone to see a doctor two days later, because she had felt too ashamed to tell anyone in her family what happened. Although she has since told her aunt and mother about the rape, she begged them not to make a fuss about it. S.L. never reported the rape to the police because she doesn't think that they will do anything. She lamented, "Someone could be getting killed and you wouldn't find anyone to help."

⁹⁵ Gender Based Violence. "Haiti Response Must Address Needs of Women and Girls," Haiti Earthquake 2010. *One Response*. 30 June 2010.

⁹⁶ U.N. Development Programme, Cluster Working Group on Early Recovery, *Guide to Gender-Aware Post-Disaster Needs Assessment* (2010).

⁹⁷ *Id.*

⁹⁸ Inter Agency Standing Committee (IASC), *IASC Gender Handbook in Humanitarian Action* (2005), ¶ 32.

⁹⁹ *Id.* at ¶ 31.

¹⁰⁰ *Id.*

and more affluent, educated classes, require attention to ensure these collaborations meaningfully include poor women. Centuries of social and economic barriers make building bridges now—particularly after the earthquake—difficult, even for well-meaning humanitarian workers.

The Sub-Cluster leadership has not yet met with several grassroots organizations operating within the IDP camps: *Fanm Viktim Koperativ*,¹⁰¹ *FAVILEK*,¹⁰² *IFKB*,¹⁰³ *KOFAVIV*,¹⁰⁴ *KONAMAVID*,¹⁰⁵ and *KONAMSI*.¹⁰⁶ Combined, these organizations represent over 3,000 women living in the camps and poor neighborhoods in Port-au-Prince. The former GBV Sub-Cluster coordinator, Lina Abirafeh,¹⁰⁷ recognized the need to meet with women leaders working on the ground. She told the LERN delegation that she had invited grassroots leaders to the Sub-Cluster meetings. When it was pointed out that such meetings are held at the UN compound, far from the camps, with no travel stipends or daycare provided, Ms. Abirafeh responded that the meetings are often difficult to coordinate and that grassroots women have communicated that they are not a good use of their time. Leaders of the grassroots groups working with the BAI did not recall ever being invited to Sub-Cluster meetings.

In a positive step, a Haiti-based staff member of the International Rescue Committee (IRC) and a member of MINUSTAH's Human Rights Section, both of which participate in the Sub-Cluster, have met with some of the grassroots leadership at the BAI office. The Sub-Cluster will relocate its meetings to the Women's Ministry on July 27, a more central location in Port au Prince, which may also help provide opportunities for inclusion.

In interviews with the LERN delegation, grassroots groups expressed appreciation for the occasional outreach efforts made by the UN and international NGOs (INGOs). However, where the initiatives do not allow for grassroots participation and benefits on an equal basis with INGOs and middle class Haitian women's NGOs, grassroots women have expressed feeling exploited. Where such

networking results in international funding for the larger NGOs, grassroots groups don't benefit institutionally. Consistent with the IASC Gender Handbook on Humanitarian Action, being mindful of these dynamics in developing programs could be transformative.

b. Design of gender aware recovery initiatives informed by needs of affected communities.

The Sub-Cluster printed and distributed referral cards providing information to survivors of sexual violence. After the earthquake, about 50,000 cards and leaflets were printed in French and Haitian Creole and distributed within the displacement camps.¹⁰⁸

An informal survey of clinics listed revealed that the card contained inaccurate information, including out-of-service phone numbers and incorrect street addresses, which could discourage survivors from attempting to access such resources. Survivors also complained that some of the clinics had neither female doctors on staff nor separate reception areas for women, inhibiting them from disclosing the rape and seeking appropriate treatment. Further, the cards urge victims to seek medical attention within 72 hours after a rape. They do not inform women that they should obtain medical attention and have the right to a medical certificate even after this period has elapsed, and even if some evidence has been lost. Moreover, the cards do not differentiate between clinics with designated women's health reception and those that provide basic first aid, more appropriate for emergency and non rape-related injuries.

The LERN delegation raised these issues in the Sub-Cluster meeting, pointing out specific inaccuracies and expressing concern about potential harms. Sub-Cluster members responded that the information on the cards is checked on a regular basis.

LERN delegation members, along with a representative of *KOFAVIV*, also brought this issue, among others, to the attention of the UN Human Rights Council (HRC) in June.¹⁰⁹ In response, the Sub-Cluster Chair issued a formal

¹⁰¹ Cooperative of Women Victims.

¹⁰² *Fanm Viktim, Leve Kanpe* or Women Victims, Get up Stand up.

¹⁰³ *Association des Femmes Victimes de Bel-Air* or Association of Women Victims of Bel-Air.

¹⁰⁴ *Komisyon Fanm Viktim Pou Viktim* or Commission of Women Victims for Victims.

¹⁰⁵ *Kodinasyon Nasyonal Viktim Direk* or National Coordination of Direct Victims.

¹⁰⁶ *Viktim Koperativ ak Ti Komes* or Victim Cooperative and Small Business.

¹⁰⁷ Lina Abirafeh was the GBV Sub-Cluster Coordinator during the LERN delegation visit to Haiti in early May. She ended her term and will leave Haiti in July 2010.

¹⁰⁸ U.N. One Response, <http://oneresponse.info/> (last visited July 22, 2010). See Appendix D, Referral Card.

¹⁰⁹ MADRE, *KOFAVIV*, the Institute for Justice & Democracy for Haiti (IJDH), and UVA School of Law Human Rights Program Statement submitted to the U.N. Human Rights Council on Sexualized Violence in Haiti's IDP Camps (May 18, 2010), <http://ijdh.org/archives/12081>. See Appendix C, Oral Intervention of Malya Villard-Appolon (June 7, 2010).

statement, stating that “referral cards are verified weekly” and that “[n]ot all telephone numbers work at all times. . . . However, the most important information on the referral cards is the physical addresses of hospitals and women’s organizations and that information has always been correctly printed.”¹¹⁰ He did not respond to the delegation’s substantive findings.

c. Support for community-driven efforts

The Sub-Cluster has not prioritized the systematic tracking of rape cases, stating that their position on data is simply “one rape is too many.”¹¹¹ In March, several weeks after arriving in Haiti, the former head of the Sub-Cluster reported that she had not heard the testimony of a single rape victim.¹¹² Yet, KOFIVV informally tracked 230 rapes in 15 camps between January 12 and March 21 (based on the findings of a few camp-based outreach workers without any transportation, other research capacity, or sometimes even cell phones, presumably reflecting only a percentage of the actual incidence).¹¹³ The data system initiated by the *Concertation Nationale* before the earthquake has yet to be revived. This knowledge and system would greatly enhance responses and directly support trusted community-driven efforts that have already proven effective.

While rape in Haiti has gained greater visibility within the UN and INGOs, and attracted more media attention, there remains a dearth of reliable data on its causes and consequences. Few domestic measures or humanitarian initiatives address root causes of violence or challenge cultural norms that promote the institutionalization of violence such as rape and domestic violence. Such data is crucial in determining effective strategies for preventing and redressing GBV. Reliable data would help ensure that scarce resources have a greater impact.

Moreover, as recently as this summer, UN officials continue to downplay the problem, impeding effective

¹¹⁰ See Appendix F, Igor Bosc, Chair Sub GBV Cluster [sic], Letter to Diana Duarte, Media Coordinator, MADRE, (June 4, 2010), in response to a statement submitted to the U.N. Human Rights Council on sexualized violence in Haiti’s IDP camps (on file with authors). The statement was submitted by MADRE, KOFIVV, IJDH, and UVA School of Law Human Rights Program.

¹¹¹ Lina Abirafeh, *Even One Rape in Haiti is Too Many*, Ms. Magazine Blog, Mar. 25, 2010, <http://msmagazine.com/blog/blog/2010/03/25/even-one-rape-in-haiti-is-too-many/>.

¹¹² *Id.*

¹¹³ Beverly Bell, *The Urgency of Housing in Haiti, A Priority in Addressing Rape*, May 5, 2010, available at <http://towardfreedom.com/home/content/view/1950/1/>.

security responses. For example, when questioned by an Al Jazeera news correspondent about the regular reports of rape in a camp adjacent to a UN base, UN Police Spokesperson Jean-Francois Rezina expressed disbelief in the women’s accounts, saying it simply was not true and that the UN “[did] not have any information about rapes every night.”¹¹⁴

According to the UN Secretary General’s study on violence against women, “It is the responsibility of States to ensure the systematic collection and publication of data, including through supporting NGOs, academics and other actors engaged in research.”¹¹⁵ The Secretary General also advised that data collection on violence against women be carried out “in consultation with a wide range of stakeholders, including data suppliers, advocates and agencies providing services to women, policymakers, legislators and researchers.”¹¹⁶

d. Interface of UN Cluster System and Government of Haiti

As part of its efforts to prevent and respond to GBV, the Sub-Cluster regularly communicates with the HNP, to report incidents of GBV, and to collaborate in the creation of separate spaces for interviewing women who have been victims of crimes.¹¹⁷ More specifically, one of the Sub-Cluster’s goals is to engage the security sector, including the HNP, to increase patrols (including on foot and at night) in areas where rape and other sexual violence are likely to occur.¹¹⁸

The Sub-Cluster also engages in capacity building with the GOH, providing sensitization training for psychosocial service workers and police officers receiving complaints about GBV.¹¹⁹ It aims to mobilize communication resources from the public and private sectors to support communications between multi-actor mobile teams addressing GBV in temporary shelters and to establish a national hotline.¹²⁰ In May, the UNFPA reported supporting the police academy, training of 725 cadets and 75 on-duty

¹¹⁴ *Fault Lines – Haiti: Six Months On*, AL JAZEERA ENGLISH, July 12, 2010, available at <http://www.youtube.com/watch?v=rx2EQxZ7MXQ>.

¹¹⁵ *Secretary-General’s study on violence against women, 61st session of the General Assembly Item 60(a) on advancement of women*, UN Doc. A/61/122/Add. 1 (forthcoming 2010).

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ GBV Sub-Cluster Update, Mar. 2010, available at https://www.cimicweb.org/cmo/haiti/Crisis%20Documents/Protection%20Cluster/GBV_sc_Update_for_PC_28_March.pdf.

¹¹⁹ *Protection Cluster Targeted Strategy*, (Mar. 24, 2010).

¹²⁰ *Id.*

police, and creating 13 safe spaces in three of Haiti's ten Departments. Included in its long-term goals, the UNFPA plans to build four police stations and clear spaces for an additional eight.¹²¹

MINUSTAH has assisted in the recovery of documents and records and worked closely with UNDP and the Ministry of Justice and Public Security to finalize a joint recovery work-plan for the period up to September 2011. Priorities are to recruit and train 30 new magistrates and to provide in-service training to current prosecutors, justices of the peace, and registrars.¹²² In addition, the UN reported that MINUSTAH and UNFPA supported the HNP in a pilot project establishing reception facilities for victims of sexual violence in two police commissariats.¹²³ Finally, as part of its monitoring mission, the Sub-Cluster plans to work with the *Concertation Nationale* to revive the system of GBV case tracking that was destroyed in the earthquake and renew usage of a pre-existing national tracking form.¹²⁴

According to an IASC study evaluating the cluster approach in Haiti pre-earthquake, coordination with the GOH suffered from redundant structures and weak capacities in practice.¹²⁵ The earthquake has made coordination all the more important to meet increased need.

III. Failure to Meet the Need for Security in Displacement Camps

In the absence of an effective government in Haiti and in light of the limited UN response to requests for systematic security in the displacement camps, grassroots women's organizations such as KOFVIV have organized their own volunteer security patrols providing women escorts to bathrooms and showers at night. Nonetheless, the Camp Coordination and Camp Management (CCCM)/Protection Cluster reported in March that the International Organisation for Migration (IOM) purchased 30,000 crank solar flashlights to be distributed in smaller sites in inner

urban areas, and coordinated with USAID the set-up of 30 5kw diesel generators supporting a series of 30-foot pole lights throughout three priority sites: Pétionville Golf Club, Parc Jean Marie Vincent, and Saint Louis de Gonzague. The World Bank reported purchasing solar lanterns to be distributed "per household;" the March 24, 2010 CCCM report indicated that 16,000 lanterns had been distributed, and another 30,000 were expected to be delivered by the end of the month.¹²⁶ In its May monthly report, the GBV Sub-Cluster reported that UNICEF was distributing solar lamps "to ensure proper lighting of latrines and camp facilities."¹²⁷

The Sub-Cluster Chair asserted in a formal statement to MADRE that the HNP "have been patrolling camps—at night, on foot, in areas that are problematic. . . ."¹²⁸ The Sub-Cluster also claims as an achievement in their six-month report that "members [of the Sub-Cluster] have worked with the security services to ensure patrols of camps are adequate and responsive to women's concerns."¹²⁹

Such claims contradict what women and girls living in the camps report as a persistent lack of security and lighting. In addition, Director General Andresol explained to LERN delegation members that the HNP did not have the capacity to patrol inside any significant number of camps on a regular basis.¹³⁰ What's more, the police have been unable to effectively identify the problem areas, given the lack of reporting and information on where and when the rapes are occurring.

In March, MINUSTAH military and police led a Joint Security Assessment (JSA) mission with the HNP, UNICEF, and UNFPA in the IDP camps.¹³¹ They concluded that: "Reports from the HNP and UNPOL of the frequency, including on foot, of their patrols rarely matched corresponding reports from IDPs who said they hardly saw police, almost never at night and then only in vehicles driving by."¹³² The JSA recommended: (1) working with communities to develop security plans and including women in the process; (2) making changes in camp spaces in line with internationally recognized principles and

¹²¹ See GBV Sub-Cluster Monthly Update, May 2010, available at <http://onerresponse.info/Disasters/Haiti/Protection/Gender-Based%20Violence/Pages/default.aspx>.

¹²² Report of the Secretary General on the United Nations Stabilization Mission in Haiti (Apr. 22, 2010), ¶ 10 ("covering major developments since . . . report of 1 September 2009 (S/2009/439) until 15 April 2010, with a focus on the period since the devastating earthquake of 12 January 2010"), UN Doc. S/2010/200 (Feb. 22, 2010) (sic) [hereinafter UNSG Report].

¹²³ *Id.* at ¶ 11.

¹²⁴ *Protection Cluster Strategy*, *supra* note 119.

¹²⁵ Andrea Binder and Francois Grunewald, *Inter-Agency Standing Committee (IASC) Cluster Approach Evaluation, 2nd Phase, Country Study: Haiti*, at 16 (Apr. 2010).

¹²⁶ CCCM Cluster Guidance and Update on Camp Security, Mar. 24. 2010.

¹²⁷ May GBV Sub-Cluster Monthly Update, *supra* note 121.

¹²⁸ Bosc letter to MADRE, June 4, 2010, *supra* note 110.

¹²⁹ *Haiti: 6 Months After*, Report released by the UN and Government of Haiti, July 12, 2010.

¹³⁰ Interview with HNP Director General Andresol, *supra* note 22.

¹³¹ *JSA Report*, *supra* note 82.

¹³² *Id.* at 2-3.

guidelines, such as providing adequate lighting; and (3) ensuring adequate community policing on a 24 hour basis and including at least one woman in every patrol.¹³³

The JSA Report noted that “[t]he responsibility for providing protection to IDPs lies with the Government of Haiti. However, MINUSTAH’s mandate and the wider responsibilities of the international community also require a reinforced effort to protect IDPs, including women and children, from their exceptionally vulnerable circumstances.”¹³⁴ In April, the Office of the UN Secretary General (UNSG) issued its semi-annual report on MINUSTAH referencing the JSA and noting that security remained a problem. The UNSG reported (and we heard from the director of the HNP) that precincts “staffed by female officers of the Haitian National Police and United Nations police have been established to encourage reporting of gender-based violence. Working in support of the HNP, United Nations police are conducting patrols 24 hours a day, seven days a week.”¹³⁵ The report does not say where, how often, or how many officers are being deployed. Nor does the report provide details on patrols or on incidents of GBV. According to interviews conducted by LERN, and corroborated in the JSA Report,¹³⁶ the police are rarely if ever inside the camps. Rather they may patrol the periphery in cars. Police officers also verified this, expressing the concern that patrolling inside the camps was dangerous to their own safety.¹³⁷

Some organizational members of the Sub-Cluster have attempted to address security issues in the camps. For instance, in April, the International Rescue Committee (IRC) performed safety audits in displacement camps Teleco, Villambetta, and Champ de Mars.¹³⁸ In May, the American Refugee Committee (ARC) requested that UNPOL provide patrols to the Terrain Acra/Delmas camp.¹³⁹ The Sub-Cluster has reported that they have been successful in providing GBV training to police officers and medical staff. Since January 12, UNFPA has completed GBV training of approximately 800 police officers¹⁴⁰ and 32 medical

personnel.¹⁴¹ These efforts are commendable, but more is needed to address the heightened need for a holistic and coordinated response to the systemic insecurity in the IDP camps.

¹³³ *Id.*

¹³⁴ *Id.* at 15.

¹³⁵ UNSG Report, *supra* note 122 at ¶ 43, ¶ 31.

¹³⁶ JSA Report, *supra* note 82 at ¶ 12.

¹³⁷ Human Rights Council Statement, *supra* note 109.

¹³⁸ Gender Based Violence (GBV) Sub-Cluster. “Preventing GBV: Security.” Monthly Update – Apr. 2010. 21 June 2010.

http://groups.google.com/group/GBVSC_Haiti.

¹³⁹ Gender Based Violence (GBV) Sub-Cluster. “Preventing GBV: Security.” Monthly Update – May 2010. 4 July 2010.

http://groups.google.com/group/GBVSC_Haiti.

¹⁴⁰ *Id.*

¹⁴¹ *Id.* Authors were unable to ascertain how many of these officers are female.

Legal Framework



Prosecuting Rape Under Domestic Haitian Law

Haiti's Constitution explicitly recognizes that "[t]he State has the absolute obligation to guarantee the right to life, health, and respect of the human person for all citizens without distinction, in conformity with the Universal Declaration of the Rights of Man."¹⁴² As discussed below, protecting against rape and other gender-based violence is included within these obligations. Moreover, Haiti is a party to the Convention on the Elimination of All Forms of Discrimination Against Women (Women's Convention),¹⁴³ which mandates changes in domestic law as needed to be consistent with the obligations of the Convention (Article 2). Until very recently, however, Haiti had a weak statutory framework for deterring violence against women. After years of persistent advocacy by Haitian women's advocates, in 2005, Executive Decree No. 60 introduced changes to existing provisions in the Haitian Penal Code, including the reclassification of rape, increasing the severity of penalties. Sentences now include 10 years of prison for the crime of rape;¹⁴⁴ 15 years if the victim was under 16 years of age. The sentence for rape by more than one person was and continues to be life in prison.¹⁴⁵

¹⁴² *Constitution d'Haiti* [Constitution] 1989, Art 19.

¹⁴³ Ratification July 20, 1981, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en.

¹⁴⁴ Under the statute, the punishment is forced labor in Haitian prisons, but this is not usually the case.

¹⁴⁵ *Le decret modifiant le regime des agressions sexuelles et eliminant en la matiere les discriminations contre la Femme* [Decree Changing the Regulation of Sexual Aggressions and Eliminating Forms of Discrimination Against Women]; Decree No. 60 of Aug. 11, 2005, Art. 2, (modifying Art. 278 of the Penal Code), Art. 3 (modifying Art. 279), Art. 4 (modifying Art. 280), *Journal Officiel de la Republique d'Haiti* [J.O.][Official Gazette of Haiti], Aug. 11, 2005, p. 1. For a more

Gaps still remain both in the laws themselves and enforcement.¹⁴⁶ Due to rampant corruption within the judicial system and the HNP, most rapes go unreported and unpunished.¹⁴⁷ Actual sentences—even where prescribed—are often lighter than what is provided for in the criminal code.¹⁴⁸

Victims seeking to prosecute perpetrators of rape face numerous procedural hurdles.¹⁴⁹ A woman's word is more likely than not to be discounted or altogether ignored—as is the case with gender-based violence in Haiti and elsewhere. Haitian judges, prosecutors and police routinely dismiss rape cases where the victim does not have a medical certificate or did not seek treatment within 72 hours, even though Haitian law does not require the certificates.¹⁵⁰ In May, Michel Forst, the UN Independent Expert on Human Rights in Haiti, reported that the General Hospital of Port-au-Prince had ceased issuing medical certificates to rape victims because it was considered a "non-essential service."¹⁵¹ While medical evidence can be important to some cases, in many cases, such as where a victim did not physically resist because the perpetrator had a gun, such evidence might not be useful. Imposing a medical certificate requirement eliminates many cases, because rape victims are often unable to find or afford medical services, or feel intimidated trying to access them. In fact, the Ministry of Justice has urged courts against dismissal.¹⁵²

detailed history of the development of Haitian law regarding violence against women and current reform efforts, see Faedi, *supra* note 68.

¹⁴⁶ See Committee on the Elimination of Discrimination against Women, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Haiti*, ¶ 24, U.N. Doc. CEDAW/C/HTI/CO/7 (Feb. 10, 2009) [hereinafter U.N., *Concluding Observations*]; INTER-AM. C.H.R., *Free from Violence*, *supra* note 68; Amnesty Int'l, *Don't turn your back on girls*, *supra* note 66. For example, laws, or lack thereof, on sexual harassment, conjugal violence and provisions on abortion still discriminate against women. U.S. Dep't. of State, 2008 Human Rights Report: Haiti, 7 (Feb. 25, 2009); U.N., *Concluding Observations* at ¶ 24; INTER-AM. C.H.R., *Free from Violence*, *supra* note 68 at ¶ 98; Thony Belizaire, *The List: The Worst Places to be a Woman*, FOREIGN POLICY (May 2008); Library of Congress, Federal Research Division, *Country Profile: Haiti* (May 2006).

¹⁴⁷ INTER-AM. C.H.R., *Free from Violence*, *supra* note 68 at ¶ 109.

¹⁴⁸ *Id.* at ¶ 115.

¹⁴⁹ In an interview, former Judge Patrick Pélassier (currently with MINUSTAH's Human Rights section) told us that women face hurdles such as corruption in the justice system and societal discrimination. (May 4, 2010), (on file with authors).

¹⁵⁰ In 2007, doctors and hospitals began issuing (free) medical certificates to survivors of rape, as evidence of the assault. These certificates are intended as evidence to support the victim. U.S. Dep't. of State, 2007 Human Rights Report: Haiti (Mar. 11, 2008); INTER-AMERICAN DEVELOPMENT BANK, GENDER AND DIVERSITY UNIT, SOCIAL SECTOR, *A Response to Violence Against Women in Haiti: A Study on Domestic and Sexual Violence* 24 (May 2008).

¹⁵¹ Forst, *supra* note 7 at ¶ 9.

¹⁵² U.S. Dep't. of State, 2008 Human Rights Report: Haiti, *supra* note 146; Faedi, *supra* note 68 at 191.

The failure to effectively prosecute denies victims justice, normalizes gender violence and provides prospective perpetrators assurance of impunity. Prosecuting cases in Haitian court presents challenges, but with adequate support, training and capacity building for the GOH, they are not insurmountable.

Obligations Under International Law to Address and Prevent GBV

International human rights law expressly and implicitly addresses GBV by, among other things, prohibiting discrimination on the grounds of sex, protecting the right to bodily integrity, and guaranteeing the right to be free from torture or cruel, inhuman or degrading treatment or punishment. The Government of Haiti has ratified various international human rights instruments that have direct bearing on women's human rights, including the right to be free from rape and other GBV. These include: the Women's Convention, International Covenant on Civil and Political Rights (ICCPR), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and Convention on the Rights of the Child (Children's Convention).¹⁵³ In the Latin American and Caribbean region, Haiti is a member of the Organization of American States (OAS), and has ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, known as the Convention of Belém do Pará, as well as the American Convention on Human Rights (ACHR).¹⁵⁴

According to the Haitian Constitution, upon approval and ratification, international treaties become part of domestic law and abrogate any conflicting laws.¹⁵⁵ Moreover, as noted above, Article 19 of the Haitian Constitution recognizes the State's "absolute obligation" to guarantee certain human rights (i.e., "the right to life, health, and respect of the human person for all citizens without distinction").¹⁵⁶

¹⁵³ Haiti ratified CERD in 1972, CEDAW in 1981, ICCPR in 1991 (by accession) and the Children's Convention in 1995. See, the UN Treaty Collection Databases, Status of Ratifications, available at <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>.

¹⁵⁴ Haiti ratified the Convention of Belém Do Pará in 1997 and the ACHR in 1977. See, <http://www.cidh.oas.org/Basicos/English/Basic.TOC.htm>.

¹⁵⁵ "Les Traités, ou accords internationaux, une fois sanctionnés et ratifiés dans les formes prévues par la Constitution, font partie de la Législation du Pays et abroge toutes les Lois qui leur sont contraires." Haitian Const. Art. 276-2, *supra* note 142.

¹⁵⁶ *Id.* at Art. 19.

I. The Prohibition of Gender-Based Violence Under International Law

In General Recommendation No. 19 (1992), the CEDAW Committee took the lead in addressing gender violence as a form of discrimination against women, thereby dispensing with the need to compare the treatment of men and women, and outlining state responsibility to prevent violence against women.¹⁵⁷ General Recommendation No. 19 explains that the definition of discrimination against women in Article 1 of the Women's Convention includes gender-based violence, defined as "violence that is directed against a woman because she is a woman or that affects women disproportionately."¹⁵⁸ It includes acts of physical, mental, or sexual harm or suffering; threats of such acts, or coercion. Further it clarifies that gender-based violence may breach other provisions of the Convention, even if those provisions do not expressly mention violence.

Furthermore, General Recommendation No. 19 recognizes that "gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men."¹⁵⁹ The CEDAW Committee notes the "close connection between discrimination against women, gender-based violence, and violations of human rights and fundamental freedoms."¹⁶⁰ Gender-based violence therefore constitutes both a direct violation of women's human rights and contributes to their inability to enjoy the full range of civil, political, economic, social and cultural rights that are guaranteed under international law.

The UN Declaration on the Elimination of Violence against Women, adopted by the General Assembly in 1993, serves as an important milestone in women's human rights because it makes specific reference to violence against women in both the public and private domain.¹⁶¹ Inspired by the UN Declaration, the Organization of American States (OAS) adopted the Convention of Belém do Pará as a binding treaty on June 9th, 1994 to affirm "that violence against women constitutes a violation of their human rights and fundamental freedoms, and impairs or nullifies the

¹⁵⁷ Gen. Rec. No. 19, *supra* note 1.

¹⁵⁸ *Id.* at ¶ 6.

¹⁵⁹ *Id.* at ¶ 1.

¹⁶⁰ *Id.* at ¶ 4.

¹⁶¹ United Nations Declaration on the Elimination of Violence against Women. (1993), Art. 4, "States should condemn violence against women and . . . should pursue by all appropriate means and without delay a policy of eliminating violence against women . . ."

observance, enjoyment and exercise of such rights and freedoms.”¹⁶² States parties “agree to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate such violence and undertake,” among other things, to adopt new legal and administrative measures, amend or repeal existing legislation, and establish fair and effective legal procedures, to address the various forms that GBV takes.¹⁶³ States Parties also agree to “undertake progressively specific measures, including programs: (i) to foster international cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.”¹⁶⁴ The Convention also includes a series of measures and programs in which States Parties agree to undertake and implement the needs of particularly vulnerable groups of women.¹⁶⁵

UN Security Council Resolution 1325, which constitutes binding international law, calls for the equal participation of women in all levels of peace processes, protection from sexual violence, and the prevention of conflicts.¹⁶⁶ Other internationally recognized standards also address gender discrimination, including the UN Guiding Principles on Internal Displacement.¹⁶⁷ These Principles reflect and are consistent with international human rights law and humanitarian law. They are designed to provide guidance to States that are faced with the phenomenon of internal displacement.

For example, Principle 11 explains that, “Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against: (a) Rape . . . and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault.”¹⁶⁸ According to Walter Kälin, Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, gender-specific violence is understood under the Guiding Principles “as an act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering on account of one’s gender, including threats of such acts, coercion or arbitrary deprivation of liberty, whether

¹⁶² Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women “Convention of Belém do Pará,” preamble June 9, 1994, 33 I.L.M. 1535.

¹⁶³ *Id.* at Art. 7.

¹⁶⁴ *Id.* at Art. 8(i).

¹⁶⁵ *Id.* at Arts. 7-9.

¹⁶⁶ U. N. Sec. Council Res. 1325, *supra* note 3.

¹⁶⁷ *Guiding Principles, supra* note 3.

¹⁶⁸ *Id.* at ¶ 2.

occurring in public or in private life.”¹⁶⁹ This definition follows the 1993 UN Declaration on the Elimination of Violence against Women and the Inter-American Convention of Belém do Pará.

A large number of victims of gender-based violence in Haiti are girls. International law prohibits sexual violence against children, notably through the Children’s Convention.¹⁷⁰ For instance, the Children’s Convention specifies that States Parties shall “take all appropriate national, bilateral and multilateral measures to prevent. . . the inducement or coercion of a child to engage in any unlawful sexual activity.”¹⁷¹ A failure and unwillingness to protect female children from sexual violence and to prosecute their perpetrators violates Haiti’s obligations under international and regional law, as well as that of other nations.¹⁷²

II. Addressing Rape in Haiti’s IDP Camps Through Due Diligence

Over the years, international law has increasingly recognized that States have positive obligations with regard to rights, notably, to act with due diligence to prevent, investigate and punish acts of violence against women whether perpetrated by State or private actors, and to adopt and revise domestic laws that protect victims of violence,¹⁷³ especially for women living in dangerous situations, including internal displacement camps.

A “fundamental principle connected to the application of the due diligence standard is that of non-discrimination, which implies that States are required to use the same level of commitment in relation to prevention, investigation, punishment and provision of remedies for violence against women as they do with regards to the other forms of violence.”¹⁷⁴ The due diligence obligation must be implemented in good faith.¹⁷⁵

¹⁶⁹ Walter Kälin, *Guiding Principles on Internal Displacement Annotations*, Studies in Transnational Legal Policy, No. 38, The American Society of Int’l Law, Washington, DC (2008).

¹⁷⁰ Convention on the Rights of the Child, Arts. 16, 19, 34 G.A. Res. 44/25, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/Res/44/25 (1989), *reprinted*, 28 I.L.M. 1448.

¹⁷¹ *Id.* at Art. 34.

¹⁷² *Id.* at Art. 19.

¹⁷³ Yakın Ertürk, *The Due Diligence Standard as a Tool for the Elimination of Violence Against Women*, ¶ 25, E/CN.4/2006/61 (2006), available at <http://www.unhcr.org/refworld/pdfid/45377afb0.pdf> [hereinafter Ertürk, *The Due Diligence Standard*].

¹⁷⁴ *Id.* at ¶ 35.

¹⁷⁵ *Id.* at ¶ 36.

What is more, it triggers States' responsibility to prevent third-party interference with or harm of women's rights to non-discrimination and to be free from violence.¹⁷⁶ Article 9 of the Convention of Belém do Pará, for example, explicitly recognizes that States Parties must "take special account of the vulnerability of women to violence by reason of among others . . . their status as migrants, refugees, or displaced persons . . . [or because they are] of minor age, . . . socio-economically disadvantaged, affected by armed conflict or deprived of their freedom."

CEDAW General Recommendation No. 19 affirms that the duty of States not to engage in acts of gender-based violence extends to the liability for failure to act with due diligence to prevent, investigate and punish acts of violence. International instruments that are concerned with racial violence have imposed similar due diligence obligations on States. The CERD Committee has applied a standard of due diligence with regard to the State's positive obligation to address private racially motivated violence. In the case of *L.K. v the Netherlands*,¹⁷⁷ the CERD Committee held that when threats of violence are made, the State has a responsibility to exercise due diligence and investigate such threats.

Under General Comment No. 31 on Article 2 of the ICCPR, the UN Human Rights Committee asserts that if a State party permits or fails to take appropriate action to exercise due diligence to prevent, punish, investigate or redress the harm caused by private persons or entities, they may be in violation of Article 2(3).¹⁷⁸ The Committee explains that "[a]ll branches of government . . . and other public or governmental authorities, at whatever level—national, regional or local—are in a position to engage the responsibility of the State party"¹⁷⁹ to abide by Article 2 of the Covenant. When taken in conjunction with Article 3 that requires States to work to ensure the equal rights of men and women, Haiti is obligated to prevent GBV, which constitutes a form of discrimination.

In 1999, then UN Special Rapporteur on Violence Against Women, Radhika Coomaraswamy developed a list of considerations for determining State compliance with obligations of due diligence, including: ratification of

international human rights instruments; constitutional guarantees of equality for women; the existence of national legislation and/or administrative sanctions providing adequate redress for women victims of violence; policies or plans of action that deal with the issue of violence against women; the gender-sensitivity of the criminal justice system and police; accessibility and availability of support services; the existence of measures to raise awareness and modify discriminatory policies in the field of education and the media, and the collection of data and statistics concerning violence against women.¹⁸⁰

Thus, international law requires States, including Haiti, to implement additional or special measures that are specifically designed to ensure due diligence, including preventative measures that address the causes of such violence. With respect to violations of bodily integrity in particular, the Haitian government has a duty to prevent, investigate and prosecute such abuses, including when the perpetrator is a private citizen. Where the State does not prohibit GBV or routinely fails to respond to evidence of rape or assault of women, it sends a message of impunity—that such attacks are justified or, at a minimum, will go unpunished. In this way, the GOH fails to take the minimum steps required under international law to protect women's rights to bodily integrity and, in some cases, to life.

III. Obligations of Donor States

Under international law, the primary responsibility for the protection of human rights falls to the government of the individual State. However, this principle does not exempt foreign states and international organizations from sharing this responsibility when donating to and operating within a particular receiving state.¹⁸¹ When the devastation is such

¹⁸⁰ Ertürk, *The Due Diligence Standard*, *supra* note 174 at ¶ 32.

¹⁸¹ It is worth noting that OAS member states have explicit obligations to one another to ensure the protection of human rights beyond their own national boundaries. Under the OAS Charter, member states "agree[] to promote by cooperative action, their economic, social and cultural development" (Art. 2(f)), and "the fundamental rights of the individual without distinction as to race, nationality, creed or sex" (Art. 3(m)). Just after the earthquake, the Inter-American Commission on Human Rights reminded the Haitian government, the international community, and implementing organizations on the ground of "the importance of respecting international human rights obligations in all circumstances, in particular non-derogable rights and the rights of those most vulnerable." INTER-AM. C.H.R., Press Release No. 11/10, IACHR Stresses Duty to Respect Human Rights During the Emergency in Haiti (Feb. 2, 2010), *available at* <http://www.cidh.org/Comunicados/English/2010/11-10eng.htm>. Under Article 8(i) of the Convention of Belém Do Pará, "States Parties agree to undertake progressively specific measures, including programs: (i) to foster international

¹⁷⁶ ACHR, Art. 1.1; Belém do Pará, Arts. 3-6.

¹⁷⁷ Communication No. 4/1991 (1993), U.N. Doc. A/48/18 at 131.

¹⁷⁸ ICCPR, General Comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, Art. 32, 175 ¶ 8 (2004) U.N. Doc. A/59/40.

¹⁷⁹ *Id.* at ¶ 4.

that the government of the receiving state cannot adequately perform its core functions, donor states must pursue a course that protects human rights in partnership with the government of the receiving state. Key aspects of a human rights approach are accountability and monitoring of donor assistance.

In recent years, the international community has agreed upon important principles for how foreign aid can be more effective, and these principles have increasingly adopted a gender focus. The Millennium Development Goals (MDGs), some of which are considered to have reached the status of customary international law,¹⁸² specifically identify gender equality and empowerment as a pivotal goal.¹⁸³ The UN Millennium Project Task Force on Education and Gender Equality outlined an operational framework of gender that prioritizes combating violence against women and girls, particularly in the poorest countries, and in conflict and post-conflict settings.¹⁸⁴

The linkage between an internationalized responsibility for meeting the MDGs, and the effectiveness of third party humanitarian intervention in the aftermath of natural disaster and situations of conflict lies in an integrative human rights approach.¹⁸⁵ The Task Force on Education and Gender Equality notes that violence against women is an important development constraint.¹⁸⁶ They note, further, that while “the international community has rallied to address other epidemics (such as HIV and tuberculosis), it has not responded in the same way to the epidemic of violence against women.”¹⁸⁷

The Organization for Economic Co-operation and Development (OECD) developed Guiding Principles for Aid

cooperation for the exchange of ideas and experiences and the execution of programs aimed at protecting women who are subjected to violence.”

¹⁸² Philip Alston, *A Human Rights Perspective on the Millennium Development Goals*, ¶ 42, available at http://hurilink.org/tools/HRsPerspectives_On_the_MDGs—Alston.pdf [hereinafter Alston, *A Human Rights Perspective*].

¹⁸³ See <http://www.un.org/millenniumgoals/gender.shtml>. “Development policies and actions that fail to take gender inequality into account or to enable women to be actors in those policies and actions will have limited effectiveness and serious costs to societies. The reverse is also true: the achievement of Goal 3 depends on the extent to which each of the other goals addresses gender-based constraints and issues. See Caren Grown, Geeta Rao Gupta and Aslihan Kes, *Taking Action: Achieving Gender Equality and Empowering Women*, Millennium Project, London: Earthscan (2005) at 1-2, available at <http://www.unmillenniumproject.org/documents/Gender-complete.pdf> [hereinafter Grown, *Achieving Gender Equality and Empowering Women*].

¹⁸⁴ *Id.* at 2-17, see especially 3-4.

¹⁸⁵ Alston, *A Human Rights Perspective*, *supra* note 183.

¹⁸⁶ Grown, *Achieving Gender Equality and Empowering Women*, *supra* note 184 at 111.

¹⁸⁷ *Id.* at 119.

Effectiveness, Gender Equality and Women’s Empowerment¹⁸⁸ to harmonize approaches to support for gender equality and endorse using global agreements and conventions such as the Women’s Convention and the 2008 Accra Agenda for Action¹⁸⁹ to assess whether the goals of gender equality and women’s empowerment are being met.¹⁹⁰

Donor States must work in concert with the GOH to swiftly address the security crisis afflicting Haitian women in the camps and uphold the human rights of women and girls.¹⁹¹

¹⁸⁸ *DAC Guiding Principles for Aid Effectiveness, Gender Equality and Women’s Empowerment, Gender equality: empowering women so that development is effective* (2008), available at <http://www.oecd.org/dataoecd/14/27/42310124.pdf>. The Development Assistance Committee (DAC) (www.oecd.org/dac) is an international forum where donor governments and multilateral organizations come together to help partner countries reduce poverty and achieve the MDGs.

¹⁸⁹ *Accra Agenda for Action* (2008), available at <http://siteresources.worldbank.org/ACCRAEXT/Resources/4700790-1217425866038/AAA-4-SEPTEMBER-FINAL-16h00.pdf>.

¹⁹⁰ *Id.*

¹⁹¹ See Appendix E, Letter from 12 U.S. Senators to USAID Administrator Rajiv Shah (2010) (urging prioritizing security for women and girls).

Conclusions and Recommendations



The Government of Haiti has an obligation to **promote equality between men and women as well as to provide a legal framework that protects women’s human rights, including preventing violence against women.** The UN Secretary General’s study on violence against women concludes that States are not only responsible for directly addressing violence against women but also for “identifying patterns of inequality that could result in violence and taking steps to overcome them.”¹⁹²

When States fail to bring perpetrators to justice, they implicitly condone such violence, giving rise to impunity that facilitates further abuses and normalizes GBV. Thus, the lack of accountability leads to further endangerment for women. Furthermore, women lose faith in the justice system as prevailing gender inequalities are reinforced. Guaranteeing that perpetrators of violence against women are held accountable requires more than increasing penalties for their actions. The State must **act with due diligence in preventing violence against women and providing justice for women** who have already suffered violence **by implementing effective measures to ensure thorough and timely investigation, prosecution and punishment,** as well as by **providing access to redress for victims.** The standard of due diligence is clear in CEDAW General Recommendation No. 19.¹⁹³

¹⁹² Secretary-General’s study on violence against women, 61st session of the General Assembly Item 60(a) on advancement of women, U.N. doc. A/61/122/Add. Para. 1 (forthcoming 2010).

¹⁹³ Additionally, the CAT Committee made it clear in its General Comment No. 2 that States must exercise due diligence to prevent, investigate, prosecute and punish gender violence. CAT/C/GC/2 (Jan. 24, 2008).

The State must also **review, revise, and remove discriminatory laws against women.** In situations of conflict, post-conflict and internal displacement, where women are particularly vulnerable to violence, additional measures of protection should be put in place. Moreover, **women affected by these issues should be involved in all stages of planning** as required by UN Security Council Resolution 1325¹⁹⁴ and other internationally recognized standards. International law requires that **a gender perspective be integrated into ongoing discussions and planning.** Such a human rights-based approach is mandated by international law and crucial to addressing and preventing the sexual violence women living in displacement camps face.

More specifically, the UN Guiding Principles on Internal Displacement call on **donor governments to consult with Haitian women and ensure their participation in decisions that impact their lives.** Effective consultations enable participants to actually influence outcomes and are anchored in formal partnerships with Haitian women’s groups (particularly local grassroots groups), who are empowered and resourced to take public leadership in the process of reconstruction.¹⁹⁵ These Principles include:

Participation:¹⁹⁶ Haitian women are both disproportionately impacted by the crisis and key to their country’s recovery. Haitian women’s organizations should therefore be consulted and included in needs and damage assessments, and the design, implementation, monitoring and evaluation for addressing and preventing sexual violence as well as all relief and reconstruction programs. Representatives of grassroots women’s organizations must be materially compensated for time spent working on relief and recovery efforts and offered childcare, transportation and other support to enable their full and equal participation.

¹⁹⁴ SC Res. 1325, *supra* note 3, affirming “the important role of women in the prevention and resolution of conflicts and in peace-building, and stressing the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security” (Resolutions 1880, 1888, and 1889 reaffirming).

¹⁹⁵ One methodology is available in the UNHCR Tool for Participatory Assessment in Operations, *available at* <http://www.unhcr.org/450e963f2.html>.

¹⁹⁶ Guiding Principles, *supra* note 3 at 18(3) and 23; also reflected in the Accra Agenda for Action, 21(b), *supra* note 190.

Non-discrimination:¹⁹⁷ Reproductive health services must be provided to women, and measures to protect women from sexual violence must be implemented. These include safe access to storm-resistant temporary shelters, adequate street lighting, and safe spaces where women can organize and access culturally appropriate psychological counseling and other services. Communities must be rebuilt in ways that are safe and inclusive of women and uphold women's property rights.

Capacity Development:¹⁹⁸ Provide resources and facilitate technical assistance for women's organizations to rebuild and enhance their capacity. Such programs should meet needs identified by women's organizations themselves and be implemented by grassroots and other women's groups when feasible. Economic recovery programs must be geared towards women who work in the informal sector and who are single heads of households, offering them a full range of training, credit and business support services.

Accountability:¹⁹⁹ In order to ensure accountability, it is critical to establish fair and transparent systems with the active engagement of all sectors of Haitian government and civil society, including women's groups. Accountability is crucial to fulfilling national and international gender equality commitments made by Haiti at all levels of governance and reconstruction efforts. Reform aid mechanisms, consistent with Haitian sovereignty, to strengthen democratic governance and build the national economy to reflect the rights and priorities of Haiti's poor majority.

Transparency:²⁰⁰ Every new pledge toward the recovery and reconstruction of Haiti should require that international assistance to the country's public and private sectors integrate gender equality issues and concerns, including through the participation of women in the decision-making processes relating to the distribution of international financial assistance. Governments and aid agencies should provide funding and training to enable women's

organizations themselves to develop mechanisms to hold governments and non-State actors accountable to their commitments. Such aid must also require open and transparent systems of accountability, so that the implementation of the commitment to gender equality may be monitored.

We respectfully call upon donor States, UN agencies, NGOs, the GOH, and all civil society stakeholders to affirm these principles and follow the Report recommendations in the planning for Haiti's national relief and reconstruction throughout the PDNA process and beyond. Additionally, we urge all stakeholders in Haiti to:

1. Immediately provide for increased security and lighting in the camps;
2. Invite the UN Special Rapporteur on Violence Against Women to visit Haiti;
3. Guarantee women's full participation and leadership in all phases of the reconstruction of Haiti as mandated by UN Security Council Resolution 1325 and other internationally recognized standards;
4. In collaboration with civil society organizations, enact a systematic collection of data that documents the prevalence and incidence of all forms of violence against women in the IDP camps; and
5. Act with due diligence to prevent, investigate and punish acts of violence and promote the full protection and promotion of women's human rights.

We applaud the actions of the GOH, the UN, and donor States to assist the people of Haiti in this time of crisis, and hope the findings of this Report help guide governments, international organizations, and other stakeholders in providing for even more effective protection and promotion of women's human rights in Haiti. The rebuilding process in Haiti, as in other disaster areas, presents serious challenges. However, with persistence, these challenges are not insurmountable. With improved coordination of UN agencies and aid relief coupled with the insight and expertise of the full spectrum of Haitian women leaders and NGO groups, the UN Cluster System's efforts would likely prove to be very effective and result in durable protection of women and girls' human rights.

¹⁹⁷ Guiding Principles, *supra* note 3 at 4, 11(2)(a); 19(2).

¹⁹⁸ *Id.* at 4(2), 18, 22, 23(3), 28, 29; also reflected in the Accra Agenda for Action, *supra* note 190.

¹⁹⁹ Guiding Principles, *supra* note 3 at 27; also reflected in the Accra Agenda for Action, *supra* note 190.

²⁰⁰ *Id.*

Addressing the right to be free from violence goes hand-in-hand with rebuilding Haiti. As UN Special Rapporteur on Violence Against Women, Rashida Manjoo stated:

If we are to secure women's rights and their freedom from violence, it is imperative that we adopt an integrated human rights perspective that stresses the equal importance of civil and political rights and economic and social rights. Unless women can develop their capabilities and achieve economic independence, the human rights they are promised will not be realized.²⁰¹

²⁰¹ Statement by Rashida Manjoo, Special Rapporteur on Violence Against Women, Its Causes and Consequences, to the UN Commission on the Status of Women, 54th Session, Mar. 3, 2010, available at http://www.un.org/womenwatch/daw/beijing15/general_discussion/SPECIAL%20RAPPORTEUR%20ON%20VIOLENCE%20AGAINST%20WOMEN.pdf.

Acknowledgments

Overall Editor and Coordinator

Blaine Bookey, Esq., Institute for Justice & Democracy in Haiti (IJDH)/*Bureau des Avocats Internationaux* (BAI)

Report Authors

Blaine Bookey, Esq., IJDH/BAI

Lisa Davis, Esq., MADRE

Jennie Green, Esq., University of Minnesota School of Law

Deena Hurwitz, Esq., University of Virginia School of Law

Royce Murray, Esq., Independent Consultant

Kasia Paprocki, Goldin Institute

Erica Richards, Esq., Morrison & Foerster LLP

Additional Research and Writing

Flynn Coleman, Esq.

Roxane Dimanche, Av., École Supérieure Catholique de Droit de Jérémie

Amanda Gray, JD Candidate, University of Virginia School of Law

Christel Green, Esq., U.S. Committee for Refugees and Immigrants

Christina Ashie Guidry, JD Candidate, University of Virginia School of Law

Danya Harnett-Robinson, JD Candidate, Columbia University School of Law

Meghan Heesch, JD Candidate, University of Minnesota School of Law

Erin Krinsky, JD Candidate, Emory University School of Law

Jessica Lopez, JD Candidate, Emory University School of Law

Tania Rose, Esq.

Amy Senier, Esq., Foley Hoag LLP

Investigative Teams: Lawyers' Earthquake Response Network

May 2010

Anne-Carmene Almonord, Esq., Morrison & Foerster LLP

Blaine Bookey, Esq., IJDH/BAI

Tamara Brown, Esq., Independent Consultant

Lisa Davis, Esq., MADRE

Betsy Freeman, Certified Nurse Midwife

Tamara Gaw, Esq., TransAfrica Forum

Deena Hurwitz, University of Virginia School of Law

Colleen McLaughlin, Goldin Institute

Royce Murray, Esq., Independent Consultant

Kasia Paprocki, Goldin Institute

Erica Richards, Esq., Morrison & Foerster LLP

June 2010

Rachel L. Jensen, Esq., Robbins Geller Rudman & Dowd LLP

Jennifer Lai, Esq., Robbins Geller Rudman & Dowd LLP

Nicole Lee, Esq., TransAfrica Forum

Translation Team: Haitian Education & Leadership Program

Anne Martine Augustin, Faculte de medecine et de pharmacie (Universite d'Etat d'Haiti)

Michel Ange Dagrain, Ecole Superieure Infotronique d'Haiti

Nemdia Daceny, Quisqueya

Emmanuella Delsoin, Faculte des sciences (Universite d'Etat d'Haiti)

Appendix A



KOFAVIV Camp Security Report

Port au Prince, Haiti

18 July 2010

KOFAVIV (Committee of Women Victims for Victims) is a grassroots women's group that has members living and operating in camps throughout Port au Prince and has been working with victims of sexual violence since 2004. We have 25 agents (*ajan*) in different camps that provide support for victims and document rape. We have found that the problem of insecurity in the camps is still unresolved. Contrary to

the recent UN report that claims security has been provided in problem areas, people living in many camps are forced to provide their own security through banding together, forming informal security patrols or "brigades," and using whistles as a deterrent for rape with little resources. Each night, there are groups of armed men who come to harass camp dwellers. There is no police protection. There have been some camps including Stad and Fomekredi Meranata that have received electricity during the evening to increase visibility and safety. However, those camps do not have official or unofficial security patrols to augment those improvements, resulting in a continued lack of security. Several women reported that they were aware of at least two camps that have adequate and more consistent lighting as well as informal security, which has resulted in decreasing levels of rape and other violence against women. Informal security efforts, which have demonstrated success should be supported with resources. For example, flashlights, salaries, telephones, t-shirts and small salaries would be of little cost and go a long way towards making women and girls safer.

The following list describes the current security situation in the camps, as measured by lighting and informal security, as documented by KOFAVIV in the camps where our agents operate:

| CAMP SECURITY LIST | | | | |
|--------------------|-------------|-------------------|------------|---|
| Camp Name | Electricity | Informal Security | Rape Cases | Comments |
| Kafoufey | Yes | Yes | No | This is an example where the coupling of lighting with informal security has had a positive effect. |
| Stad | Yes | No | Yes | Improved lighting, even though only on the perimeter, has appeared to decrease the number of cases. Camp managers have issued an identification cards for people who live in the camp to control entry, but it has not been entirely effective without other resources. |
| Kasim Matisam | No | No | Yes | |
| Kanaren 2 | No | No | Yes | |
| Fomekredi Meranata | Yes | No | Yes | |
| Mon Jn Pije | No | No | Yes | There were two rapes between July 11-17 reported to KOFAVIV. |
| Fils Pye Lwi | No | Yes | Yes | There is security during the day, but there is no security during evening. |
| Sant Pilot 1 | No | No | Yes | |
| Sant Pilot 2 | Yes | Yes | No | |
| Reji Site Soley | No | No | Yes | |

| | | | |
|-------------------|-----|----|-----|
| Plas Petion (CDM) | Yes | No | Yes |
| Matisan 2B | No | No | Yes |
| Mozele 7 | No | No | Yes |
| Tiplas Kanzo | No | No | Yes |

In addition to sexual assault, there have been other security concerns, such as robbery.

| | | | |
|-----------------------|-----|----|-----|
| Soley 17 | Yes | No | Yes |
| Plas St Ann | No | No | No |
| Plas Dessalines (CDM) | No | No | Yes |

| | | | |
|-----------|----|----|----|
| Sit CSDSM | No | No | No |
|-----------|----|----|----|

KOFAVIV started an informal brigade of local residents to help provide security.

| | | | |
|----------------------------|-----|----|-----|
| Krwa De Bouke (Duval 30) | No | No | Yes |
| Krwa De Bouke, Lyse St Jak | No | No | Yes |
| La Hochel – suplas | No | No | Yes |
| La Hochel – de uzin | Yes | No | |

Camp residents have started an informal committee for security.

| | | | |
|-------------------|----|----|-----|
| Petion Ville Club | No | No | Yes |
|-------------------|----|----|-----|

KOFAVIV has documented at least 15 rape cases here since the earthquake.

Some flashlights have been distributed, but that is not a substitute for security alone. The informal brigades and committees that camp community members created for security cannot do their job without proper resources including lighting. Because of the continuing insecurity, people cannot leave their tents at night, and instead are obliged to stay inside their tent and must remain awake because they are scared of violence.

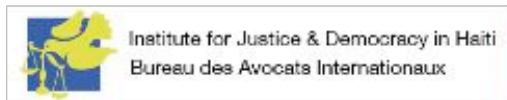
There have been several cases of younger girls who are victims of rape. Children are often left unaccompanied, either because they have no parents or their parents must leave in search of food or work. KOFAVIV also reported that young girls have been lured away by one man to a secluded area where 10 more will be waiting to gang rape her. Because water is not provided to a camp, young people must leave to search for water for the family, which puts them at a greater risk for rape.

KOFAVIV has a presence in these camps where our members live. These are the facts on the ground in the camps as we experience them daily. As mentioned previously, there are some camps that have electricity in the evening as well as informal security patrols. Those camps do not have problems of violence against women and rapes, and we hope that more camps can receive these services now.

For more information, please contact:

Malya Villard-Appolon or Eramithe Delva
 Co-Coordannatrice
 fanmkofaviv@yahoo.fr
 (509) 3453-0081 / 3450-5053 / 2515-7020

Appendix B



For Immediate Release

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Contacts:

Blaine Bookey, Institute for Justice & Democracy in Haiti (IJDH),
(415) 515-8956; blaine@ijdh.org

Lisa Davis, MADRE
(212) 627-0444; lisadavisnyc@gmail.com

Deena Hurwitz, Professor of Law, University of Virginia School of Law
(434) 924-4776; deena@virginia.edu

U.S. Delegation Finds Inadequate Response, and “Victim-Blaming” Approach to Rapes in Haitian Displacement Camps

Lawyers collect rape survivor accounts and plan legal strategy

PORT-AU-PRINCE (May 17, 2010) – In over a week of on-site interviews and exploration, a delegation of U.S. lawyers, health professionals, and community activists found continued alarming rates of rape and other gender-based violence (GBV) in the displaced persons camps throughout Port-au-Prince since the Haitian earthquake in January. Expressed sentiments on the part of some Haitian government officials that victims are somehow to blame for the rapes is outrageous to human rights attorneys and community members, who find that women face a grave lack of security necessary to prevent and respond to the sexual violence crisis. Medical services are overwhelmed and unable to meet women’s healthcare needs stemming from the assaults.

“It is critical that we dispel the myth that these rapes are a result of promiscuity,” said Blaine Bookey, an attorney with the Institute for Justice & Democracy in Haiti (IJDH), and coordinator of the delegation. “These are violent crimes being perpetrated by strangers in the dark of night and they merit the attention of the police and other groups helping organize the camps.”

The vast majority of the women and girls reported being raped by groups of armed, unknown assailants who often beat them in the course of the attack, and threatened them with further violence if they reported the rape. Perpetrators often attack at night, when women are asleep beside their children; or when they go to the latrines, men wait for them in the dark stalls. “It is totally unacceptable for these rapes to continue to go unpunished,” said Mario Joseph, Managing Attorney at the Bureau des Avocats Internationaux (BAI), which hosted the delegation at its office in Port-au-Prince. “We are now building strong legal cases to hold rapists accountable and bring these women the justice they deserve.”

Women who report rapes to the police describe being turned away, not taken seriously, or told to notify the police if they see the rapists again. "Pa tap vini" or "They never would have come," described one woman as to why she did not report her rape. These experiences foster the perception that reporting to the police is futile, especially if the survivor cannot identify her assailants. "If we are going to overcome a culture of complete impunity for rapists, we must create environments in which survivors are able to report these crimes and be taken seriously" said Lisa Davis, an attorney with MADRE. "Haiti's political and economic crises both before and as a result of the earthquake still do not relieve the authorities of the responsibility to protect women from sexual assault," said Deena Hurwitz, associate professor and director of the International Human Rights Law Clinic at the University of Virginia School of Law.

Information regarding medical and legal services for survivors of rape is largely unavailable, and where available, it is generally incorrect and incomplete. Where services exist, women face prohibitively long waits, lack of privacy, and limited access to female healthcare providers. "I accompanied a 15-year-old rape survivor to the General Hospital, where we waited for three hours before being led to a dirty cot in a public room, where a male doctor was to conduct the exam. I ended up conducting the exam myself in another doctor's living quarters," said Betsy Freeman, women's health specialist on the delegation. Medical certificates, instrumental in documenting cases of rape, are not reliably issued.

Based on these findings, the Port-au-Prince based BAI and the Lawyers' Earthquake Response Network, LERN, call on the government of Haiti, UN agencies, donor nations, and nongovernmental organizations (NGOs) working in Haiti to immediately improve services for rape survivors, and take concrete steps to reduce rape in the camps. Police patrols must increase to include all camps, and officers must patrol inside the camps, not just around the perimeter. Patrols should, where possible, include female officers. Police stations must have female officers who can help victims file reports, and all officers should have training to sensitively take women's reports.

About the Organizations

Coordinated by the IJDH-organized Lawyers' Earthquake Response Network (LERN), the delegation included representatives from MADRE, the University of Virginia School of Law, TransAfrica Forum, the ABA Section of International Law, and the law firm of Morrison and Foerster. Members met with grassroots women's organizations, including KOFVIV and FAVILEK, and larger NGOs including Kay Fanm and SOFA.

LERN now has over 360 lawyers and law students responding to various post-earthquake needs. IJDH and BAI fight for human rights and justice in Haiti and for fair and just treatment of Haitians in the United States.

###

Appendix C

Oral Intervention of Malya Villard-Apollon
Human Rights Council 14th Session – June 7, 2010

1. Council Members, thank you for the opportunity to speak with you today.
2. My name is Malya Villard-Apollon. I am a leader of KOFAVIV, a grassroots women's organization that works with victims of sexual violence. I, myself, was a victim of rape in 1992 and again in 2003. We work with several partners including MADRE, the Institute for Justice & Democracy in Haiti and the law firm Morrison & Foerster.
3. Conditions in the displacement camps, following the January 12 earthquake, have exacerbated women's vulnerability to rape. Women and girls live in constant fear for their safety.
4. I live in a tent in a camp. I have witnessed violence against women and girls. And, I have also witnessed the completely inadequate government response. KOFAVIV has recorded at least 242 cases of rape since the earthquake. But, we have yet to see a case prosecuted.
5. The violence is occurring in the camps because:
 - a. There is no education around sexuality and women's rights,
 - b. Security is inadequate;
 - c. There is a lack of secure housing;
 - d. And, aid distribution is ineffective and aid agencies fail to consult grassroots groups, which deepens poverty and fosters violence.
6. Although violence against women is common, rape survivors like myself refuse to believe that it cannot be stopped and neither should the members of the Council.
7. I respectfully urge the Council recommend that the International Community work with the Government of Haiti to do the following:
 - a. Provide human rights education, including gender sensitivity training for men and police, and know your rights trainings for women;
 - b. Immediately provide security and lighting in the camps;
 - c. Remind donors that the 'UN Guiding Principles on Internal Displacement' implore governments to consult with Haitian women and ensure their participation in decisions that impact their lives;
 - d. And, finally, all member States should condition funding on meeting these basic requirements to uphold women's rights.
8. Voices like mine are often not heard in forums like these, thank you again for your attention.

Appendix D

Si yon moun ou konnen oswa ou menm ta sibi kadejak, oswa lòt kalite vyolans, ou pa koupab.

Fòk ou siyale sa pou pita sou 3 jou (72è). Lè sa a ou ka sove la vi pa-w, oswa lavi pa zanmi an tou.

Nou pare pou bay tout sipò ou bezwen yo, san lòt moun pa konnen.

Si quelqu'un que vous connaissez ou vous même aviez subi un viol ou une autre forme de violence, vous n'êtes pas coupable.

Il faut que vous rapportiez les faits dans au moins 3 jours (72 :00 heures). Cette démarche peut sauver la vie de l'amie ou la votre.

Vous pouvez tout de suite recevoir une assistance en toute confidentialité.

Pou akonpayman ak sipò kontakte:

- Centre Deuvanjeu, bureau SOFA (Solidarite Fanm Ayisyen) 9 rue Villermenay, Port au Prince Tel 3455-4924, 3455-4922
- Centre Deuvanjeu, Martissant 3 rue Nemours, Martissant #7 Tel 3455-4915
- Kay Fanm 11 Rue Armand Holly Tel 3455-4927, 3455-4930

Genyen 72è (3 jou) pou reyaji apre yon kadejak. Moun nan dwe wè yon doktè nan sant sante sa yo:

- Centre GESKHIO 33 Blvd Harry Truman Tel 2222-6031, 2222-2241
- Hôpital Bernard Mevs Village Solidarite – Rte de l'Aéroport Tel 3402-9095, 3508-1835
- SOFA (Solidarite Fanm Ayisyen) Fontamara 45 #31 Tel 3455-4918
- Hôpital de la Paix Delmas 33 Prolongé (en Face Henfrasa)
- Médecins Sans Frontiers (MSF) Rue Capois, Champs de Mars (pres de l'ambassade de France)
- Clinique GAPSI (SOE/Uramel) 75 Rue Lamarre Tel 3710-0767
- APROSIFA 122 Route des Dalles (Carrefour Feuilles) Tel 3557-5987, 3824-8191



Pour être soutenue, contactez:

- Centre Deuvanjeu, bureau SOFA (Solidarite Fanm Ayisyen) 9 rue Villermenay, Port au Prince Tel 3455-4924, 3455-4922
- Centre Deuvanjeu, Martissant 3 rue Nemours, Martissant #7 Tel 3455-4915
- Kay Fanm 11 Rue Armand Holly Tel 3455-4927, 3455-4930

Dans les 72 heures, il vous faut recevoir des soins médicaux à:

- Centre GESKHIO 33 Blvd Harry Truman Tel 2222-6031, 2222-2241
- Hôpital Bernard Mevs Village Solidarite – Rte de l'Aéroport Tel 3402-9095, 3508-1835
- SOFA (Solidarite Fanm Ayisyen) Fontamara 45 #31 Tel 3455-4918
- Hôpital de la Paix Delmas 33 Prolongé (en Face Henfrasa)
- Médecins Sans Frontiers (MSF) Rue Capois, Champs de Mars (pres de l'ambassade de France)
- Clinique GAPSI (SOE/Uramel) 75 Rue Lamarre Tel 3710-0767
- APROSIFA 122 Route des Dalles (Carrefour Feuilles) Tel 3557-5987, 3824-8191



Appendix E

United States Senate

WASHINGTON, DC 20510

May 12, 2010

The Honorable Rajiv Shah
Administrator
U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
Washington, DC 20523

Dear Administrator Shah,

We are writing to express our concern about the protection and safety of women and girls in Haiti following the devastation of the January 12, 2010 earthquake. While we recognize the tremendous list of needs in Haiti, we ask that you make the safety and wellbeing of women and girls a high priority throughout relief assistance efforts in Port-au-Prince and throughout the country.

Unfortunately, women and young girls throughout Haiti are increasingly vulnerable to gender-based violence. As you know, gender-based violence and rape were often used to intimidate and establish authority by the military de facto regime that controlled Haiti from October of 1991 to September of 1994. The lawlessness during this time period bred a cycle of violence against women within the Haitian culture that has been hard to eliminate. While Haiti struggled with gender-based violence and human trafficking issues prior to the earthquake, the ensuing lawlessness has increased vulnerability to and the occurrence of gender-based attacks. In addition, many of the programs and shelters established to halt such violence and exploitation were destroyed.

As Haiti focuses on rebuilding efforts, the United States, and other donor nations, should provide funding specifically for gender-based violence programs and services that will protect women and allow them to earn a living, increasing economic stability in Haiti. In many developing countries, including Haiti, women are often the primary income earners and caretakers of their families. Women living in a safe environment are better able to care for their families, properly feed and educate their children, and contribute to the local economy. The safety of women is important and their unique perspective should be consulted in efforts to combat trafficking and gender-based violence.

The protection of women and girls must be integrated throughout relief assistance efforts in Haiti. Among the immediate needs of food, shelter, cooking fuel and water, women need protection to be able to use latrines and bathe privately. Health services and secure places to report incidents of attacks and exploitation within these local communities are essential, as is access to comprehensive gender-based violence services that provide adequate referral information and address the health, safety and psychological needs of survivors.

Additionally, as the rebuilding process moves forward, a coordinated and comprehensive security plan should be created that prioritizes the safety of women and girls. The layouts of camps and settlements need to take safety concerns into account, including good lighting to minimize the risk of violence. Those who are charged with providing security should understand the particular needs of survivors of gender-based violence. Training on sexual exploitation, abuse, violence and human trafficking should be provided for the United Nations Stabilization Mission in Haiti (MINUSTAH) forces as well as the national police and local communities. Also, a zero tolerance policy for the sexual exploitation of women and girls should be established among MINUSTAH forces.

Without a doubt, the road to rebuilding Haiti will be challenging. We appreciate the work you and your counterparts have undertaken to provide assistance. We urge you to continue to work with President Rene Prval and other Haitian government officials to establish long-term services throughout Haiti that provide for the safety and wellbeing of women and girls as well as to ensure that women are included in gender-based violence programming decisions.

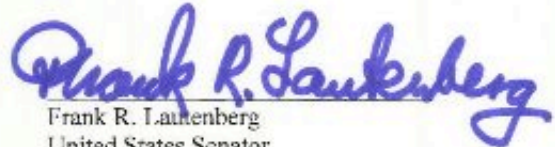
Thank you for your consideration.

Sincerely,

cc: The Honorable Hillary Rodham Clinton
Secretary of State



Mike Johanns
United States Senator



Frank R. Lautenberg
United States Senator



Sam Brownback
United States Senator



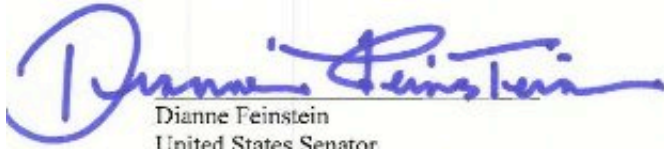
Tim Johnson
United States Senator




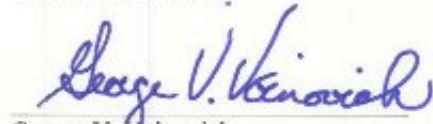
Richard J. Durbin
United States Senator



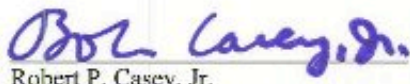
Olympia J. Snowe
United States Senator


Dianne Feinstein
United States Senator


Charles E. Schumer
United States Senator


George V. Voinovich
United States Senator


Benjamin L. Cardin
United States Senator


Robert P. Casey, Jr.
United States Senator


Kristen E. Gillibrand
United States Senator

Appendix F



PRO/301/GENDER
10/066

04 June 2010

Dear Ms. Duarte,

The Haiti Gender-Based Violence (GBV) Sub-Cluster, a coordination mechanism with 350 members seeking to support coordination in the humanitarian context between Government, NGOs and UN in the fight against GBV, received the statement on violence against women in Haiti sent out by the organizations of the MADRE coalition. The coordination group appreciates the interest of the MADRE coalition and agrees with the concerns it raises. In the aftermath of the earthquake, there is an even greater need for support for women and girls. We believe that current response to gender-based violence does not meet existing demand. The Sub-Cluster is pleased to work together with MADRE in efforts advocating for improved response and increased protection of women and girls, especially those in the over 800 sites and other affected areas.

The Haiti GBV Sub-Cluster agrees with point 14 of MADRE's statement about the need for continuous and increased coordination, especially between the Haitian government and national and international actors. It also reiterates its collective will to upscale the response against GBV through the implementation of the National Plan To End Violence Against Women 2006-2011. The harmonization of the data collection system is a key part of the National Action Plan, and supporting the plan will indeed facilitate case registration in affected areas. Concerning UN Security Council Resolution 1325 and a possible visit of the UN Special Rapporteur on Violence Against Women to Haiti, members of the Sub-Cluster, and in particular UNFPA, UNIFEM and UNICEF fully support the idea and any proposal advocating for respect, compliance and monitoring of international conventions and standards.

The Sub-Cluster would like to share additional information and provide some clarifications regarding ongoing efforts to respond to and prevent GBV in Haiti.

Following the earthquake, immediate actions are focused on responding to incidences of GBV by ensuring that women and girls have access to the services they need – medical, police, legal, and psychosocial protection. Most of these services available were discontinued after the earthquake. Mapping what remains – and helping women access it – has been an enormous challenge. This involves informing existing structures – police, humanitarian organizations, medical facilities, and many others – on how to refer cases appropriately, and to respond in a way that prioritizes the needs of the survivor above all.

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Ms. Diana Duarte
Media Coordinator
MADRE

UNIFEM supports Kay Fanm and SOFA in an innovative initiative to respond to the challenges that women and girls face in 49 sites. Specially trained psychosocial support teams sensitize the general population, women and girls in particular, and camp managers on GBV. The teams work with women and girls on how to protect themselves and prevent acts of violence; and teams play an essential role by contacting, listening to, and accompanying survivors of violence to Kay Fanm, SOFA, and the others referral sites where they receive medical, psychosocial and legal support. Other national and international organizations such as APROSIFA and CARE have benefited from the first round of training and also begun to provide proximity services in the sites where they are working. Other national and international partners are also demonstrating an increased focus on addressing the risks of GBV to women and girls in the aftermath of the earthquake.

While GBV is under-reported everywhere – even in countries with well-functioning, high-quality services – efforts are underway to re-establish monitoring, reporting and coordination mechanisms by strengthening the national response and by building the capacity of public institutions. The “Concertation Nationale Contre les Violences Faites aux Femmes”, a taskforce comprised of government, international agencies including UNFPA, UNIFEM and UNICEF, and national organizations, has been working for many years to put in place a system and structures for preventing, responding to, and tracking GBV. This process was completed in December – less than a month later the earthquake decimated three of the four data collection units. Efforts are being made to revive the use of the National Form and to re-establish the process that existed prior to the earthquake.

Following the earthquake, the law enforcement capacity of the Haitian National Police and the justice system were severely compromised as most of its infrastructure has collapsed and many officials remain unaccounted for. This is an unfortunate loss for this institution that, in close collaboration with the Concertation Nationale and UNFPA, had made concrete steps in the last year for improved services to GBV survivors, framed by a protocol signed between the Ministère a la Condition Feminine et aux Droits des Femmes (MCFDF) and the Ministry of Justice. Systematic training of police cadets and officers and the establishment of adequate physical spaces to receive GBV survivors in pilot police stations are tangible examples of this progress.

While insecurity remains an issue in displaced camps, those addressing GBV are also being proactive about prevention and protection. Incidences of violence can be prevented by ensuring that women are not at risk because of the construction or layout of camps and settlements, or as a result of the methods and modalities for distribution of humanitarian assistance. Engaging the security sector – particularly the Haitian National Police – has been a positive strategy. They have been patrolling camps – at night, on foot, in areas that are problematic – and this serves as a deterring force.


Regarding the justice sector’s response to GBV, since the passage of a law in 2005 that criminalizes rape, efforts have been made to strengthen the justice response and inform judges throughout the country on relevant national laws and international conventions. As an example of the progress made, in 2008 18 rape cases brought before the justice system have resulted in penalties of 3-15 year prison sentences through the support of UNIFEM to the organization Kay Fanm. Other landmark rulings were also made in the North and the South East. In the aftermath of the earthquake, strengthening the response capacity of the justice system is a priority.

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The creation and distribution of cards providing referral information for survivors of GBV is an initiative of the GBV Sub-Cluster. In the immediate aftermath, nearly 50,000 cards and leaflets were printed in French and Kreyol to ensure that women and girls, as well as agencies who make referrals, have access to information on where to seek assistance. The referral cards provide vital information to survivors of GBV and the contact information for the referral centers are verified weekly by members of the GBV Sub-Cluster. Not all telephone numbers work at all times and many organizations listed are under-staffed, under-resourced, and lack the capacity to respond adequately to existing demand. However, the most important information on the referral cards is the physical addresses of hospitals and women's organizations and that information has always been correctly printed. While all clinics do not always have a supply of anti-retroviral prophylaxis, a system is in place to accompany survivors from a clinic lacking ARVs to a clinic that has the drugs available. It is important to note that it is not unusual for such problems to exist in emergency contexts. Mobile phones have been distributed to psychosocial support teams and to support the referral process. Further, work is also being done to revitalize a national hotline number to field calls for all types of emergencies, including sexual violence. The challenges are great – but much work is underway. The GBV Sub-Cluster feels that the current challenge is in providing survivors with access to safe spaces and shelters and adequate case management.

We hope that these small clarifications will be received as contributions to the great challenges that you are raising and we believe that the collective effort will improve the effective protection of women and girls of Haiti.

Sincerely,



Igor Bosc
Chair
Sub GBV Cluster