



HAITI's UPR: GENDER-BASED VIOLENCE AND RIGHTS OF HAITIAN WOMEN

Haitian women face discrimination, exclusion and stigmatization in all sectors of society including by the judiciary, police and in the workplace, and lack appropriate recourse to justice.

The Haitian criminal code is antiquated and inadequate to appropriately address sexual violence, including failing to effectively define rape and prohibit sexual harassment. The government acknowledged in its response to the Committee on the Elimination of Discrimination against Women (CEDAW) in 2015 that discriminatory laws should be amended through revisions to the penal code, civil law and criminal law; but these revisions are yet to be implemented. Other proposed reforms which the government has failed to enact include proposed legislation on gender equality, gender-based violence, decriminalization of abortion, and reforming law concerning the working conditions of domestic workers.

The de-facto requirement of a medical certificate in sexual violence cases presents a serious barrier to access to justice. Further, judges and the police also often fail to adequately investigate and prosecute sexual violence and engage in victim blaming, as do health workers.

Women and children are also at risk of sexual exploitation and abuse (SEA) by UN peacekeepers and other MINUSTAH personnel. Women who fall pregnant to MINUSTAH personnel are generally abandoned, leading to economic marginalization and stigmatization for themselves and their children. The government has failed to protect victims' access to justice in these cases, including failing to investigate allegations, clarify the immunities of UN personnel, and support actions in local courts when immunity does not prevent it, including for paternity support.

Women are under-represented in education and face sexual harassment and stereotyping in the workplace. Equally, women are under-represented in political and public life. Despite a constitutional requirement that women hold 30% of elected offices, not one woman was elected in the 2015 parliamentary elections.

QUESTIONS

1. What measures has the Government taken to pass the proposed legislation on gender equality and violence against women and the revised Penal Code (still pending before Parliament); to criminalize intimate partner abuse, marital rape, and sexual harassment and to decriminalize abortion?
2. What measures has the Government taken to assure that government officials do not arbitrarily require medical certificates in sexual violence cases?
3. What measures has the Government taken to conduct joint investigations into sexual exploitation and abuse by UN personnel, to clarify and publicize the immunities of UN personnel in relation to SEA and to pursue legal proceedings against UN personnel that are within the jurisdiction of Haitian courts?



4. How has the Government encouraged women to run for elected offices? What is the Government's plan to achieve the Constitutional and legislative quota of 30% participation of women? What is the Government's plan to increase women's participation in the justice system?

RECOMMENDATIONS

1. Ensure protection of women's equality in line with CEDAW and establish a clear time frame for adopting all pending draft legislation including on gender equality, violence against women, decriminalization of abortion and working conditions of domestic workers;
2. Adopt legislation defining sexual harassment in the workplace and conduct awareness training on reporting such cases;
3. Provide further gender equality training to judges, police and health workers to improve their approach in gender-based violence cases and sanction officials who mistreat or stigmatize sexual violence victims (see Human Rights Council's 2011 recommendations 88.80, 88.82);
4. Ensure the participation of women's groups in implementation of political practices to combat and prevent rape and other forms of sexual violence;
5. Clarify and publicize the immunities of UN personnel and peacekeepers regarding SEA; conduct joint national investigations with MINUSTAH into allegations of UN SEA, as contemplated by the Status of Forces Agreement, and proactively pursue legal proceedings against UN personnel that are within the jurisdiction of Haitian courts, including paternity claims.
6. Enforce the Constitutional 30% quota regarding women's participation in political and public life.

For more information see civil society coalition reports: “*Rapport sur la situation des Droits de la femme Haïtienne*”¹ and “*Rapport Sur les abus et exploitations sexuels faits aux Femmes, Filles, et Jeunes Hommes par les agents des Nations Unies, et les violations du droit à l'accès au recours*”²

¹ Submission of a coalition of Haitian and American human rights organizations including Femmes Combattante Avisées Pour le Développement d'Haïti (FEMCADH) ; Komisyon Fanm Viktim pou Viktim (KOFVIV) ; Mouvman Òrganizasyon Fanm Aktiv Sodo ; Gender Action ; Bureau des Avocats Internationaux (BAI) ; Fanm Viktim Leve Kanpe (FAVILEK) ; Institute for Justice and Democracy in Haiti (IJDH) ; Kòdinasyon Nasyonal Ansyen Mawon Viktim Dirèk ; Kouraj ; Organisation des Femmes Actives de Rivière Canot (OFARC) ; Réalité de Femmes Pour Fort-National en Action (RFFA) ; Mouvement des Étudiants pour Libérer Haïti (MELA)

² Submission of a coalition of Haitian and American human rights organizations including Kòdinasyon Nasyonal Ansyen Mawon Viktim Dirèk (KONAMAVID); Organization des Femmes Actives de Rivière Canot (OFARC); Bureau des Avocats International (BAI); Réalité Femme Fort-National en Action (RFFA); Programme d'engagement civique de Boucan Carré; Programme d'engagement civique de Saut d'Eau; Programme d'engagement civique de commune Lachapelle; Mouvement des Étudiants pour Libérer Haïti (MELA); Fanm Viktim Leve Kanpe (FAVILEK); Kouraj; Institute for Justice & Democracy in Haiti (IJDH)