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Committee on the Elimination of Discrimination Against Women  
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Groups in Focus Section  
Human Rights Treaties Division  
Office of the United Nations High Commissioner for Human Rights  
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Dear Honorable Members of the Committee,

This letter is intended to update the Committee on issues since Haiti presented its 2006 – 2008 report at the Committee's forty-third session in Geneva on January 27, 2009. We thank you again for the opportunity to brief the commission members on these important women's rights issues. We have limited the present submission to include information and questions on our most pressing concerns under several of the articles, related to access to justice, incidences of sexual violence, gender discrimination, and women's political participation.

### **CEDAW Violations by Article**

#### **Article 2 (Policy Measures), Article 3 (Guarantee of Basic Human Rights and Fundamental Freedoms) and Article 5 (Sex Role Stereotyping and Prejudice)**

Societal Discrimination Against Women: Like many countries, Haiti has a long history of patriarchy and discrimination against women in the home, in government, at work, and in the courts. Haitian society retains a strong patriarchal structure handed down from the slave era and reinforced by conservative Christian and rural traditions. Gender discrimination in Haiti has systematically denied women the power to prevent and address injustice against them.

Culturally, boys are considered more valuable than girls in poor areas in Haiti. Boys are more likely to be sent to school, while girls help with domestic duties in the house. According to grassroots women's activist Marie Sonya Dély, child abuse and spousal abuse are common in Haiti, "especially if mom doesn't have enough money to feed everyone."<sup>1</sup> Girls see the limited professional opportunities available to women, such as street vending, nursing, and working as secretaries for male bosses, so they grow up hoping to meet a man who will take care of them.

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<sup>1</sup> Personal communication with author, February 15, 2014.

<sup>2</sup> Canada: Immigration and Refugee Board of Canada, *Haiti: Domestic violence, especially in rural areas; protection and services available for victims*, 13 June 2013, HTI104396.FE, available at



The Prevalence of Violence against Girls and Women: There is a high rate of intimate partner abuse, which is tolerated and perpetuated within Haitian society. Women complain that intimate partner abuse is committed with the full knowledge of the community, but there is often no community response. According to the women's group Fanm Deside (Women Decisive), "the habits and customs of Haitians stem from a patriarchal society, and thus society thinks that it is normal for a man to hit a woman during an argument. . . Since it is her spouse, the woman must submit to him because society considers women to be inferior to men. And for men, a husband has the right to punish or beat his wife."<sup>2</sup> In one study, 80 percent of men believed violence may be justified when women are rowdy, extravagant, disobedient, or have committed adultery.<sup>3</sup>

Although reliable statistics are difficult to collect, available statistics do show high rates of violence against women and intimate partner abuse, although the results vary widely. Reports indicate that between 25 to 70 percent of Haitian women have been victims of such violence.<sup>4</sup> Between 24 and 86 percent of cases of violence against women involved intimate partner abuse, which can include insults, death threats, blackmail, manipulation, humiliation, harassment, isolation, rape, forcible confinement, murder, and paternal irresponsibility.<sup>5</sup> Approximately 29 percent of married women experienced intimate partner abuse.<sup>6</sup>

Adolescent girls account for the highest percentage of sexual assaults, but intimate partner violence, which can include sexual assault, is more prevalent in adult women. "The women get beaten up; the younger ones get raped," according to Yolette Jeanty from the Haitian women's NGO Kay Fanm (Women's Home).<sup>7</sup> Kay Fanm reports that adult women comprise 80 percent of intimate partner abuse cases.<sup>8</sup>

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<sup>2</sup> Canada: Immigration and Refugee Board of Canada, *Haiti: Domestic violence, especially in rural areas; protection and services available for victims*, 13 June 2013, HTI104396.FE, available at <http://www.refworld.org/docid/51dd24534.html> [accessed 9 June 2015].

<sup>3</sup> Organization Des États Américain, Commission Interaméricaine Des Femmes, *Haiti, Reponses Au Questionnaire/Rapport National/Observations De L'autorite Nationale Competente (Anc)*, OEA/Ser.L/II.7.10, Jun. 24, 2008 [hereinafter OEA, Haiti Reponses].

<sup>4</sup> *Ibid.*, p. 20

<sup>5</sup> Rapport - Bilan XI des cas de violence accueillis et accompagnés dans les centres d'accueil de la Sofa: annee 2010-2011 (SOFA Dec. 2011, 15), available at <http://www.refworld.org/docid/51dd24534.html>

<sup>6</sup> Haitian Ministry of Public Health and Population, *Haiti: 2012 Mortality, Morbidity, and Service Utilization Survey (EMMUS-V)* (2012). P. 16

<sup>7</sup> Beyond Shock: Charting the Landscape of Sexual Violence in Post-quake Haiti, Anne-christine d'Adesky (2012), p. 75

<sup>8</sup> *Ibid.*



### **Haiti's Courts: Elitism and Exclusion**

Most Haitians have no access to the formal justice system. Haitian people suffer from the worst living standards in the Western hemisphere, and are systematically deprived of basic needs including nutrition, shelter, medical care, employment, education, and access to justice. Seventy-seven percent of Haitians live below \$2 USD a day,<sup>9</sup> ranking Haiti among the poorest countries in the world by several indices.

Poverty is accompanied by deep fissures within Haitian society. The most prominent divide runs between the poor majority and the very few who are wealthy. The divide is loosely correlated with other distinctions, including skin color, the ability to write and speak French, level of education, and gender.

The lack of access to education prevents major segments of Haitian society from understanding the workings of the justice system and their legal rights. Legal costs and lawyers are too expensive for the poor to pay. Legal proceedings are generally conducted in French, which most Haitians do not speak.<sup>10</sup> Elitist legal training conditions lawyers, judges and prosecutors to give preferential treatment to the wealthy and powerful, either based on class prejudice or in search of bribes, while they discount the testimonies and legal needs of the poor.<sup>11</sup> Even where judicial officials are not dishonest, the legal culture encourages elitism. The result is that the administrators of justice at all levels of the judiciary cater to the elite and operate with an elaborate system of bribes that excludes the poor.

Poor women are particularly marginalized by the limited access to the justice system due to deep-rooted gender discrimination and the added economic disfranchisement they face.<sup>12</sup> Lawyers are encouraged to “avoid” gender and class discrimination in exercising their profession,<sup>13</sup> but few efforts have been made by the lawmakers or lawyers to guarantee fair representation to women and Haiti’s poor majority.

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<sup>9</sup> <http://www.scribd.com/doc/222646575/World-Development-Indicators-2014>.

<sup>10</sup> Inter-American Commission on Human Rights, *The Right of Women in Haiti to be Free from Violence and Discrimination*, OEA/Ser.L/V/II, Doc. 64 (2009). para 126.

<sup>11</sup> Meena Jagannath, Nicole Phillips & Jeena Shah, A Rights-Based Approach To Lawyering: Legal Empowerment As An Alternative To Legal Aid In Post-Disaster Haiti, 10 NW. J. INT'L HUM. RTS. 7, 11 (2011) [hereinafter Jagannath et al, Rights-Based Approach].

<sup>12</sup> See generally, Meena Jagannath, *Barriers to Women's Access to Justice in Haiti*, 15 CUNY L. Rev. 27 (2011) [hereinafter Jagannath, Barriers to Women].

<sup>13</sup> Code de Deontologie Federation de Barreau, L'Avocat doit éviter, dans sa vie professionnelle, toute discrimination basée sur la race, la couleur, l'origine sociale et le sexe.



## Gender-Based Violence Prosecutions

**Access to Justice:** Since 2009, the rate of violence against women and girls has steadily increased, with a spike in violence after the earthquake due to the unsafe living conditions in displacement camps.<sup>14</sup> As a result of Haiti's elitist judicial system, culture of sexual discrimination and tolerance for gender-based violence, administrators of justice at all levels of the judiciary do not prioritize incidents of violence against women. Law enforcement and courts do not take women seriously, do not take account of the critical evidence to identify the culprits, and do not have respect for the victims and their families when they try to cooperate in investigations.<sup>15</sup>

Despite the criminalization of rape, reporting rape often remains "an exercise in futility" for many women who lack access to legal support.<sup>16</sup> For example, a 2012 UN Report examined sixty-two rape cases filed in Port-au-Prince during a three-month period. Over one year after they were filed with police, none of the cases had gone to trial.<sup>17</sup> Police and courts lack the resources they need to adequately respond to complaints of rape and other forms of sexual violence.<sup>18</sup> Victims often fail to report sexual assaults to police because they expect an average bribe of 1,200 gourdes (US\$28) will be expected to receive the complaint.<sup>19</sup>

**Attitudes of Law Enforcement and Judicial Officials:** Public officials in the justice system (often males) who interact with female victims of gender-based violence frequently have attitudes that perpetuate the stigma associated with rape and obstruct female victims' access to justice.<sup>20</sup> Victims and their families are often mistreated when attempting to avail themselves of judicial remedies.<sup>21</sup> In some

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<sup>14</sup> Jagannath et al, Rights-Based Approach at 1.

<sup>15</sup> Inter-American Commission on Human Rights, *The Right of Women in Haiti to be Free from Violence and Discrimination*, OEA/Ser.L/V/II, doc. 64 para. 127 (2009) [hereinafter IACHR, The Right of Women].

<sup>16</sup> *Annual Report On The Inter-American Commission On Human Rights 2010: Follow-Up Report On The Situation Of Human Rights In Haiti* 594 (Apr. 15, 2011), IACHR, available at <http://reliefweb.int/report/haiti/annual-report-inter-american-commission-human-rights-2010-follow-report-situation-human>.

<sup>17</sup> United Nations Stabilization Mission in Haiti and U.N. Office of the High Commissioner for Human Rights, *Bi-Annual Report on Human Rights in Haiti January - June 2012*, para. 33 (2012), available at [http://www.ohchr.org/Documents/Countries/HT/MINUSTAH-OHCHRJanuaryJune2012\\_en.pdf](http://www.ohchr.org/Documents/Countries/HT/MINUSTAH-OHCHRJanuaryJune2012_en.pdf).

<sup>18</sup> Stuart Smith, *No Prosecution for Haitian Rape Cases*, Impunity Watch, (Jul. 2, 2012), available at <http://impunitywatch.com/no-prosecution-for-haitian-rape-cases/>.

<sup>19</sup> Athena R. Kolbe Et Al., *The Economic Costs Of Violent Crime In Urban Haiti: Results From Monthly Household Surveys* (2012), available at [http://www.hicn.org/wordpress/wp-content/uploads/2012/08/economic\\_costs\\_violent\\_crime\\_in\\_urban\\_haiti.pdf](http://www.hicn.org/wordpress/wp-content/uploads/2012/08/economic_costs_violent_crime_in_urban_haiti.pdf).

<sup>20</sup> Jagannath, *Barriers to Women* at 38.

<sup>21</sup> IACHR, *The Right of Women* at para. 10.



instances, police officers have asked female complainants what they had done or what they were wearing to have provoked the sexual assault, or whether they had already had previous sexual relations with the accused.<sup>22</sup> This abuse further inhibits women and girls from reporting their assault.

Police, prosecutors and judges often ignore the testimony of female victims and place undue weight on arbitrary facts and factors. For example, Haitian judges, prosecutors and police routinely dismiss rape cases when the victim does not receive a medical certificate from a doctor within 72 hours of the attack, even though medical certificates are not legally required to sustain a conviction.

**The Misuse of Medical Certificates:** The over-reliance on medical certificates represents one of the most important obstacles to justice. Where best practices are followed, a medical certificate is a comprehensive document that evaluates a patient's mental, physical and reproductive health.<sup>23</sup> It should be issued within 72 hours after an incident of sexual assault, and should provide detailed information about the circumstances of the assault. Though medical certificates are not required by law to prosecute rape cases,<sup>24</sup> judges will often not pursue a case where a medical certificate has not been issued, or where the certificate in question did not provide sufficient detail.<sup>25</sup>

Placing this undue significance on medical certificates poses several problems for prosecuting incidents of sexual violence. First, medical certificates may not always provide sufficient information to determine whether an incident of sexual violence has occurred, as many incidents do not leave injuries indicating the use of force that would be noted in a medical certificate. Despite this reality, if the medical certificate does not show the use of force, which is often the case if the victim was not a virgin when assaulted, judges and prosecutors will often dismiss the case for lack of evidence of force.

In one recent case now pending before the Haitian Supreme Court, the prosecutor and appellate court relied on an inconclusive medical certificate that found no evidence of force rather than the victim's detailed testimony that she was bound, beaten and raped twice.<sup>26</sup> Rather than being regarded as supplementary evidence,

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<sup>22</sup> Jagannath, *Barriers to Women* at 38.

<sup>23</sup> *Ibid.*, p. 13.

<sup>24</sup> CODE PENAL [C. PENAL] art. 1 (Haiti), *reprinted in MENAN PIERRE-LOUIS & PATRICK PIERRE-LOUIS, CODE PÉNAL* app. at 15 (2007). Three elements must be proven for a conviction of rape. The material element is an act or omission that the penal law punishes; the legal element is the assigned penalty that makes the act or omission an infraction; and the moral element is the criminal intent. Jagannath, *Barriers to Women* at 39, n. 95.

<sup>25</sup> *Ibid.* at 39-40.

<sup>26</sup> Case of Nadia Saintil, on appeal to the Supreme Court as of July 2014.



prosecutors and judges often regard medical certificates as prima facie evidence of a rape, and assume – wrongly – that claimants who do not present a medical certificate when filing their case were not in fact raped.<sup>27</sup> The requirement of a medical certificate indicates the belief that a woman's testimony by its nature is questionable.<sup>28</sup>

Second, the courts' over-reliance on medical certificates disproportionately affects sexual assault victims in poor, rural, areas who may not have access to healthcare or the means to travel to a healthcare facility.<sup>29</sup> Many victims of sexual violence cannot afford transportation to a healthcare facility or are unaware of facilities offering free medical services and certificates. Additionally, victims may also be afraid to be examined and report their assault, especially by a male doctor.

Female victims of violence and their families are reluctant to turn to the justice system due to abuse received by law enforcement, the sluggishness of prosecutions, costly legal fees, and preconceived notions of female behavior.<sup>30</sup> Women's marginalization and exclusion from the justice system have led to an environment where female victims lack confidence in the system's ability to right the wrongs committed.

### Inadequate Legal Provisions

Current laws fail to address the realities of the violence and discrimination faced by women and girls. With regard to sexual violence, Haitian law did not criminalize rape until 2005, due to pressure from women's organizations to amend the Haitian Penal Code's classification of rape from an offense against morals to a criminal offense against the person.<sup>31</sup> This codification fails to enumerate the elements of the crime of rape, and fails to define consent, creating significant barriers to successful investigation or prosecution.<sup>32</sup> Further, this codification does not account for the high rates of intimate partner violence that occur in Haiti, as marital rape is not codified as a crime, nor are these cases typically pursued by prosecutors.<sup>33</sup>

Additionally, other common occurrences, such as sexual harassment, and discrimination on the basis of sexual orientation, are not crimes under Haitian law. Overall, the legal framework reflects the gender discrimination and disregard for the position of women and girls that is pervasive within the legal system itself.

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<sup>27</sup> *Ibid.*

<sup>28</sup> Jagannath, *Barriers to Women* at 40.

<sup>29</sup> *Ibid.*, p. 12.

<sup>30</sup> IACHR, *The Right of Women* at para. 10

<sup>31</sup> Jagannath, *supra* note 1, at 34-35.

<sup>32</sup> *See* Haitian Penal Code, Article 278.

<sup>33</sup> *See ibid.*





In 2011, the Ministère a la Condition Féminine et aux Droits des Femmes (Women's Ministry) in partnership with the Organization of American States launched an initiative to develop a comprehensive bill on violence against women and girls ("draft VAW Bill").<sup>34</sup> The draft VAW bill has numerous provisions that would revolutionize legal remedies available to victims of intimate partner abuse. The draft VAW Bill proposes to expand the definition of violence against women to include violence "committed in the family, in the household", provide a modern definition of rape (including a specific provision to criminalize marital rape), authorize restraining orders with child custody orders in intimate partner abuse cases, and establish a special Court of Violence Against Women.<sup>35</sup> The draft VAW Bill would also protect against discrimination based on sexual orientation, criminalize stalking and sexual harassment, and legalize abortions during the first twelve weeks of pregnancy if the mother's health is in danger.<sup>36</sup>

A draft penal code has also been prepared. The proposed law is less comprehensive than the draft VAW Bill, but does criminalize all forms of sexual assault regardless of the existing relationship between the aggressor and the victim.<sup>37</sup> The draft code also defines consent, criminalizes sexual intercourse with minors aged 15-18 as statutory rape (unless the accused is less than three years older than the victim or is married to the victim), and enumerates multiple forms of aggravated sexual assault, including with use of a firearm and cases of incest.<sup>38</sup> Lastly, the draft code criminalizes certain circumstances of discrimination and acts of violence committed against persons on the basis of their sexual orientation or gender identity.

As of June 2015, neither the draft VAW Bill nor the draft penal code has been approved by Parliament. The bills' submission to Parliament is influenced by recent unstable politics in Haiti, which have contributed to the stalling of several proposed laws before Parliament.

## **Questions**

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<sup>34</sup> *Access to Judicial Remedies in Haiti, Submission for the 112<sup>th</sup> Session of the United Nations Human Rights Committee, October 8 & 9, 2014*, Institute for Justice & Democracy in Haiti et al. (Sept. 12, 2014), para. 22, available at [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HTI/INT\\_CCPR\\_CSS\\_HTI\\_18243\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/HTI/INT_CCPR_CSS_HTI_18243_E.pdf) [hereinafter IJDH Access to Judicial Remedies]

<sup>35</sup> *Ibid.*, p. 6.

<sup>36</sup> *Ibid.*

<sup>37</sup> *Projet de Loi Révision Du Code Pénal de la République d'Haiti* (Draft Revised Penal Code of the Republic of Haiti) (Jul. 30, 2013).

<sup>38</sup> *Ibid.*

- What concrete steps will the Haitian government take to promote the codification of legislation, such as the Draft Penal Code revision, that will enshrine women’s rights?
- What efforts will be made to address intimate partner violence, whether by prosecution or other means, given its lack of codification in Haitian law?
- What training will public officials, including judges, prosecutors and police officers undergo to ensure that victims of sexual violence are respected and that their cases are taken seriously?
- Are there any plans to provide free legal services or social services, such as shelters or counselling, to victims of sexual violence?
- With regard to medical certificates, what procedures will be promulgated to ensure that they are not misused in sexual violence proceedings?
- What training will medical and legal professionals undergo regarding the varied psychological, emotional and physical trauma associated with gender-based violence, such that they are able to respond adequately to these complaints?
- What efforts has the government made to combat discriminatory social patterns?
- What efforts have been made to circulate information nationwide about the right to be free of violence and judicial resources available to women victims of violence in Haitian Creole?

### **Article 7 (Political and Public Life)**

Violence against Human Rights Defenders: Human rights defenders in Haiti have been increasingly subjected to threats, attacks, harassment and intimidation. The Haitian Government has failed to take adequate measures to protect them and, in fact, is engaged in violating many of their rights.

Over the last year, leaders and members of Komisyon Fanm Viktim Pou Viktim (KOFAVIV) (Commission of Women Victims for Victims), an organization founded by rape survivors to support and empower other rape survivors, have been threatened and harassed. These threats, which have been ongoing since 2013, have continued even following the February 24, 2014 arrest of a woman whom the police held responsible for earlier threats and harassment against Marie Eramithe Delva (KOFAVIV’s Secretary General), Malya Vilard Apolon (the organization’s Coordinator), and other KOFAVIV members.<sup>39</sup> Distressed by the threats, both Delva and Apolon left Haiti with their children in 2014.<sup>40</sup>

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<sup>39</sup> KOFAVIV, et al., *Report on Failure to Investigate and Prevent Threats and Violence against the Women Human Rights Defenders at KOFAVIV*, submitted to UN Human Rights Committee (2014), available at





Although KOFIV members have filed complaints with the police, insufficient measures have been taken to investigate the incidents or to ensure that members of the organization are adequately protected and able to fully enjoy their rights to liberty and security as they seek to provide rape survivors from the poorest neighborhoods of Port-au-Prince with critical support.<sup>41</sup> For more information, please see *Report on Failure to Investigate and Prevent Threats and Violence against the Women Human Rights Defenders at KOFIV*, submitted to the Human Rights Committee in September 2014 for Haiti's review.<sup>42</sup>

### **Questions**

- What measures will be put into place to ensure the adequate protection of human rights defenders, including women defenders?
- How will the government promote efforts to promptly and thoroughly investigate threats made against human rights defenders and prosecute those responsible?
- How will the government protect the right of its citizens to determine their political status and freely express their political opinions in both private and public fora?

### **Article 8 (Representation)**

Background on 2015 Elections Cycle: The administration of President Michel Martelly failed to administer legislative and mayoral elections in 2012 and 2014, though they were constitutionally required. As a result of these election delays, the terms of 119 out of 129 members of Parliament expired on January 12, 2015. With Parliament unable to act, President Martelly began governing without parliamentary oversight, in violation of the Haitian Constitution.

In February 2015, President Martelly appointed a Provisional Electoral Council to administer the long overdue elections, and promulgated an electoral decree in March 2015, which provides the legal framework for administering this year's elections. Over the course of 2015, Haitian voters are scheduled to elect over 5,000 public officials, including a new President, 20 Senators, 118 Deputies and thousands of local officials.

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[http://www.madre.org/images/uploads/misc/1403633547\\_Malya%20HRC%20Submission%20EN G.compressed.pdf](http://www.madre.org/images/uploads/misc/1403633547_Malya%20HRC%20Submission%20EN G.compressed.pdf).

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*



Low Representation of Women in in the 2015 Elections Cycle: Although women constitute 52 percent of Haiti's population, women are not adequately represented in public office in Haiti. There are currently no women in the Senate or the Chamber of Deputies, and female representation in the National Assembly is only 4.2 percent.<sup>43</sup> Similarly, only 20 percent of Ministers in the newly formed government under Prime Minister Evans Paul are women.

Despite increased public awareness of women's political participation, the levels of participation still remain low. Out of 2,039 officially registered candidates for the legislative elections, only 162 (9%) are women.<sup>44</sup> Similarly, only 6 female candidates have registered for the presidential election out of a total of 70 candidates.<sup>45</sup> Strikingly, the majority of political parties (86 out of 129) do not have any female candidates, although most parties have registered an average of 16 candidates.

Inadequate Legal Provisions: Haitian women are not encouraged to enter into politics, as it has been traditionally regarded as a career for men. Although the Haitian government has developed a series of legal initiatives since 2012 to counteract this tradition and promote women's inclusion of politics, these initiatives have largely failed to achieve these goals.

Article 17.1. of the Haitian Constitution sets a quota for women's political participation, and requires that women make up 30 percent of all government posts, including the Senate, National Assembly and ministerial positions.<sup>46</sup> Article 100.1 of the March 2015 Electoral Decree imposes a mandatory 30 percent quota for the candidate lists for all elected positions. Second, Article 92.1 of the decree stipulates that political parties who successfully register at least 30 percent female candidates will have their registration fees reimbursed at a rate of 40 percent.<sup>47</sup> Lastly, Article 129 of the decree provides a 25 percent increase in campaign finance funds for political parties that have 50 percent or more female candidates.<sup>48</sup>

Although Article 17.1 of the Haitian Constitution contains a mandatory quota for women's political participation, there are no enforcement mechanisms for this provision. Parliamentary proposals for a law that would penalize government

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<sup>43</sup> *International Foundation for Electoral Systems*, A Gender Analysis of Haiti's Legal Framework for Elections, March 18, 2015, available at <http://www.ifes.org/Content/Publications/Articles/2015/A-Gender-Analysis-of-Haitis-Legal-Framework-for-Elections.aspx>.

<sup>44</sup> <http://www.cephaiti.ht/> [last accessed 21.05.2015];  
[http://www.cephaiti.ht/files/Doc\\_off/Liste\\_definitive\\_des\\_candidats\\_14\\_mai\\_2015.pdf](http://www.cephaiti.ht/files/Doc_off/Liste_definitive_des_candidats_14_mai_2015.pdf)

<sup>45</sup> [http://www.cephaiti.ht/files/Doc\\_off/candidats\\_a\\_la\\_presidence.pdf](http://www.cephaiti.ht/files/Doc_off/candidats_a_la_presidence.pdf) [last accessed 21.05.2015]

<sup>46</sup> Haitian Constitution Article 100.1

<sup>47</sup> <http://www.slideshare.net/fritzgeraldchevalier/decret-electoral2015haiti> [last accessed 22.05.2015]

<sup>48</sup> Ibid.



officials who failed to appoint sufficient female officials were met with great resistance, and as such, no such enforcement mechanisms were ever adopted.<sup>49</sup> The March 2015 electoral decree make strides to promote the political participation of women through an incentive structure in Article 92.1, and by reaffirming the quotas mandated by the constitution. Despite these strong incentives for political parties to increase women’s political participation, there are no provisions to enforce the mandatory quota imposed by Article 100.1. As described earlier, a majority of parties have failed to include any female candidates on their roster. Of the 46 political parties who have female candidates, none have met the 30 percent requirement. Yet, these parties have not received any sanctions nor has the Provisional Electoral Council acknowledged that these parties have failed to adhere to the requirements of the electoral law.

Haiti could consider adopting affirmative action measures in line with other countries that mandate female political participation, such as Argentina. The Argentine Electoral Code provides that all legislative candidate lists that do not meet the 30 percent quota will be rejected, with a forty-eight hour grace period given to parties to submit new lists.<sup>50</sup> If the new lists again fail to meet the quota, then the relevant judicial authority will nominate female candidates from the party’s roster to meet the 30 percent threshold.<sup>51</sup>

### Questions

- What affirmative action measures will be taken to enforce the constitutional and legislatives quotas regarding women’s political participation?
- How will the Haitian government respond to the political parties who have failed to meet the gender quotas present in the electoral decree?
- What efforts will be undertaken by the government to increase the level of women’s political participation at all levels?

We thank you again for your consideration of this report and the proposed questions herein.

Sincerely,

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<sup>49</sup> Committee on the Elimination of Discrimination against Women, Consideration of reports submitted by States Parties under article 18 of the Convention Eighth and ninth periodic reports of States parties, Haiti, CEDAW/C/HTI/8-9, para 97.

<sup>50</sup> National Electoral Code 19.945 as amended by Law N° 26.774 B.O. 02/11/2012. See also Quota Project, “Argentina,” 2014, *available at* <http://www.quotaproject.org/uid/countryview.cfm?CountryCode=AR>

<sup>51</sup> *Ibid.*



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