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Gender-Based Violence in Haiti

Submitted by:

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Endorsed by:

Gender Action (<https://genderaction.org/>)
Haitian Women's Collective (<https://thehwc.org/>)

Bureau des Avocats Internationaux (BAI): Founded in 1995, BAI is a Haiti-based constitutional and human rights law office that advances the Haitian people's struggle for justice and democracy. BAI has helped victims prosecute human rights cases, trained Haitian lawyers, and spoken out on justice issues. BAI works with its U.S.-based solidarity partner, the Institute for Justice and Democracy in Haiti, to advocate, litigate, build constituencies, and nurture networks to create systemic pathways to justice for marginalized Haitians and to hold international human rights violators accountable.

Institute for Justice & Democracy in Haiti (IJDH): Founded in 2004, IJDH is a U.S.-based human rights non-profit organization that advances recognition of and accountability for human rights in Haiti in partnership with its Haiti-based sister organization, *Bureau des Avocats Internationaux* (BAI). IJDH and BAI bring together litigation, advocacy, training, and grassroots solidarity to tackle injustice and its root causes.

Komisyon Fanm Viktim pou Viktim (KOFAVIV) (The Commission of Women Victims for Victims): Founded in 2004, the *Komisyon Fanm Viktim pou Viktim* (KOFAVIV) (Commission of Women Victims for Victims) is a group of Haitian women survivors of political rape working to help new women victims from poor neighborhoods of Port-au-Prince. They provide medical care and support for all women victims without discrimination.

UPR Report: Gender-Based Violence in Haiti

Submitted by: The *Bureau des Avocats Internationaux* (**BAI**); Institute for Justice & Democracy in Haiti (**IJDH**); *Komisyon Fanm Viktim pou Viktim* (**KOFAVIV**) (Commission of Women Victims for Victims)

Endorsed by: Gender Action; the Haitian Women's Collective

I. Executive Summary

1. This report is submitted on behalf of the *Bureau des Avocats Internationaux* (**BAI**), the Institute for Justice & Democracy in Haiti (**IJDH**), and the *Komisyon Fanm Viktim pou Viktim* (**KOFAVIV**) (Commission of Women Victims for Victims) to provide an overview of Haiti's continuing challenges in complying with its human rights obligations relating to the protection of women and girls from gender-based violence (**GBV**).

2. Haiti has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**)¹ and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (**Belém do Pará Convention** or **BDPC**),² in addition to numerous other human rights instruments relevant to the rights of women and girls. Under CEDAW Article 2, Haiti is obligated to eliminate all forms of discrimination against women and girls. The UN Committee on CEDAW (**CEDAW Committee**) has clarified that this requires eliminating GBV using all available state means, including legislative, judicial, and administrative actions, such as national and local programs, as well as measures targeted at eradicating “prejudices, stereotypes and practices that are the root cause of gender-based violence against women.”³ Delays in implementation cannot be justified on any grounds, whether “economic, cultural, or religious,”⁴ and failure to ensure access to justice for GBV crimes is itself a human rights violation.⁵ The BDPC likewise obligates Haiti to eradicate, prevent, and punish GBV, including by acting to prevent such crimes, enacting corresponding laws, and punishing guilty parties, as well as working to provide related resources and counteract underlying prejudices.⁶ Further, the International Covenant on Civil and Political Rights obligates states parties like Haiti to ensure equal protection under the law regardless of sex (Art. 2(1)), to provide access to judicial remedies for violations of rights (Art. 2(3)); and to secure the right to life (Art. 6(1)).⁷ Under Article 276 of Haiti's constitution, these human rights treaty obligations are part of Haiti's national laws and supersede any contrary provisions.⁸

3. In spite of undertaking these obligations, Haiti is far from ensuring meaningful protections and equality for its women and girls. GBV remains rampant. The submitting organizations have not perceived any positive change with respect to the prevalence of violence, harassment, and other harms directed at women and girls, including historic discrimination and harmful gender norms. Both the rates of violence and the harmful attitudes and practices that drive and enable GBV remain consistent, and may be increasing given the current climate of insecurity. Haiti has done little to intercede. (Section II). Likewise, although there have been some marginal improvements, Haiti's state practices, laws, and institutions dedicated to preventing and addressing GBV remain weak and fall well short of its human rights obligations. Indeed, by failing to ensure access to justice for GBV crimes, Haiti is committing separate human rights violations.⁹ (Section III).

4. Notably, in addition to the substantive lapses in meeting its human rights obligations, Haiti is also procedurally out of compliance with CEDAW: Haiti has for more than three years failed to respond to requests for additional information on implementation made by the CEDAW Committee during its last review cycle,¹⁰ and has yet to submit its state party report, which was due in March 2020, for the current cycle.¹¹ Haiti has also significantly underperformed in implementing recommendations from the last UPR cycle that it supported on this subject.¹²

II. Violence, Harassment, and other Harms Directed at Haiti's Women and Girls

5. Haiti has continued to fail to adequately protect its women and girls from GBV since the last UPR review, in violation of its above-described obligations and contrary to the recommendations Haiti supported during the last UPR cycle.¹³ Haiti's women have historically faced violence; discriminatory and patriarchal social norms; and marginalization in employment, education, politics, and other public spaces and social institutions. Rape and other forms of sexual violence have also been used as weapons of political intimidation. Reports of GBV surged in the wake of the 2010 earthquakes, especially in displacement camps, where lack of security, desperation, and power inequality created an enabling environment for assaults, as well as pressures on women and girls to sell their bodies in return for food and other necessities.¹⁴ Recent political instability and natural disasters in Haiti have further exacerbated these longstanding vulnerabilities and the government has taken insufficient measures to address both the historic and contemporary drivers of GBV and gender inequality.

6. GBV data is scarce, but consistently indicates high rates of violence directed at women and girls. There is direct evidence that over half and as many as 70 percent of Haiti's women and girls have experienced at least some form of GBV. A regional study conducted in 2002 found that 54 percent of women accessing health services reported having experienced forced sex in their lifetimes.¹⁵ A 2008 UNICEF survey found that over 70 percent of Haitian women had been victims of GBV, with girls the most frequently abused.¹⁶ The latest national study, conducted in 2016-2017 among women and girls ages 15 to 49, concluded that more than one in three women and girls in Haiti (34%) experience either physical or sexual violence in their lifetimes.¹⁷ Notably, the survey considered only sexual and physical violence (including domestic), but not other forms of GBV, such as harassment or economic violence. An as yet unpublished 2019 study by community health organization Zanmi Lasante – the most recent analysis available to the submitting organizations – found that 54.6 percent of female respondents in the regions examined had experienced some form of GBV in the past twelve months, with the incidence as high as 75.8 percent in some communities. Prevalence statistics generally undercount the actual rate of GBV directed against women and girls in Haiti, including because GBV is chronically underreported due to stigma and shame, fear of reprisals, access, lack of education about rights,¹⁸ and – perhaps most significantly – mistrust in Haiti's judicial system,¹⁹ which too often fails survivors.

7. GBV affects a large number of adolescent girls.²⁰ A 2012 national study found that more than 25 percent of respondents aged 18-24 reported that they had experienced nonconsensual sexual relations prior to reaching the age of 18 and that almost two-thirds of respondents had experienced physical violence at home as minors.²¹ According to a social worker who runs community GBV programming, girls are at risk for a variety of factors. These include girls' small size and corresponding inability to protect themselves; challenges of supervision where parents have to leave in order to work; the large and multi-generational nature of Haitian households, where older members of the extended family can sometimes prey on girls; and what the social

worker described as a harmful social belief that younger women are more desirable as sexual partners. In addition, lack of resources sometimes leads girls to accept abuse in return for things they need or want. The risk of both sexual and physical violence is particularly high for girls who work as domestic servants. The practice of *restaveks* in Haiti envisions children from poor backgrounds staying with wealthier, usually urban, families and helping with house chores in return for schooling. In reality, it is more like child slavery, including because the hosts rarely meet their promise to send the *restavek* children to school, force the children to work long hours, and do not adequately feed them.²²

8. One of the drivers for GBV is a permissive attitude among individuals and communities regarding violence directed towards women and girls, especially within families and intimate relationships, along with generalized objectification of girls and women. Survivors of violence often experience shame, self-blame, and internalized pressure to reconcile with or protect their abuser. Survivors of sexual violence are also often blamed and stigmatized, or pressured into silence when they report the abuse or attempt to seek legal recourse.²³ The Office of Citizen Protection (**OPC**) – the government’s human rights ombudsman office – has noted that rape is not considered a crime in some communities, especially in rural areas.²⁴ Physical violence is common within families and is often considered by the community and the police alike to be a private matter.²⁵ Women largely stay silent about such abuse, including because many rely on male partners for income and support of their children and have no alternatives. Community healthcare workers report that many survivors feel that they deserve the violence they experience. Many Haitian women consider a husband to be justified in hitting his wife under certain circumstances, including if he is dissatisfied with food or if she refuses sex.²⁶ One dynamic described by local advocates is that reporting becomes less likely when women know their abusers. If it is an intimate partner, they may fear his retaliation or loss of financial support, or feel pressure to preserve the family. Outside of intimate relationships, women are sometimes pressured by their assailants’ families or social connections; abusers connected with gangs or police are especially adept at intimidating survivors into silence. The particularly high rates of insecurity over the last two years²⁷ have exacerbated this dynamic even more.

9. In addition to sexual and physical violence, sexual harassment, and economic and emotional violence are highly prevalent. Elements of sexual harassment are “woven into the fabric of daily life” in Haiti.²⁸ There are numerous allegations of sexual harassment against women and girls involving high-profile government officials²⁹ and prominent public figures.³⁰ In a 2016 study, one third of female respondents reported being forced to sleep with their supervisors at least once in their lifetimes.³¹ Girls experience harassment and sexual assault from their teachers and coaches. For example, teachers will sometimes assert that girls failed examinations in order to pressure them into sexual relationships.³² Accountability is rare. In 2020, the International Federation of Football Association (**FIFA**) imposed a lifetime ban on the former head of the Haitian Football Federation for the rape and sexual assault of at least 14 players, some of whom were under 18.³³ There has been no formal legal sanction in Haiti. The abuse of unequal power is especially difficult to address in situations where the adolescents are no longer minors.

10. Haiti is currently experiencing catastrophic levels of insecurity and political instability.³⁴ These have – in conjunction with the COVID-19 pandemic – further increased violence directed against women and girls. According to ActionAid Haiti, “[w]omen and girls in Haiti are facing a rising tide of violence, femicide and kidnappings,” with the situation “deteriorating quickly as the

political crisis escalates and economic turmoil continues as communities battle the Covid-19 pandemic.”³⁵ While there is no systematic data, the UN and other observers have made clear that women and children are some of the worst affected by the prevailing state of insecurity.³⁶ UNICEF’s regional director opined that “[c]hildren and women in Haiti are no longer simply the victims of criminal gangs – they are increasingly becoming their targets.”³⁷ Women and girls also face additional risks of GBV if kidnapped. Recent examples like the following abound.

- a. Evelyne Sincere was drugged and kidnapped on October 29, 2020. The student was found dead four days later, her body partially naked with signs of sexual assault and dumped in a trash heap.³⁸
- b. On April 7, 2021, Guerline Joseph, a police officer, was kidnapped on her way to work and held for three days, during which she was tortured.³⁹
- c. On December 6, 2021, Magdala Louis was kidnapped and held for a day. Her assailants tortured her, including by beating her face and feet, burning her hair, and threatening her with death.⁴⁰

The Ministry for the Status of Women and Women’s Rights raised alarm regarding rising femicides in 2021.⁴¹ Multiple women’s shelters were set on fire by armed gangs in Port-au-Prince.⁴² According to one analysis, GBV incidents increased by 377 percent in 2020.⁴³

11. The general atmosphere of insecurity has also restricted the availability and accessibility of GBV support services, with survivors of GBV unable or unwilling to seek much-needed care.⁴⁴ The likelihood of seeking police help and accountability are lower still: there are already formal indications that even as instances of GBV reported to healthcare providers have significantly increased, reporting to the police has declined.⁴⁵ As in the wake of the 2010 earthquake, the precarious situation also leaves women and girls vulnerable to sexual exploitation and abuse when seeking necessities.⁴⁶ Further, the situation has forced women’s rights groups to stop trainings and other activities, with advocates reporting that women fear speaking out publicly.

12. The prevalence of GBV in Haiti reflects women and girls’ unequal status in Haitian society more generally. Girls are less likely to be educated than boys and face greater barriers in entering the formal economy or securing collateral for credit.⁴⁷ These and other constraints on women’s ability to earn an independent living often place them in a position of financial dependence on men,⁴⁸ and thus further feed patriarchal and discriminatory stereotypes while deepening vulnerabilities to sexual exploitation and abuse. Women further bear the burden of supporting children, with men often refusing to provide financial assistance for their offspring if separated from their mother, creating added barriers to women reporting or leaving abusers.⁴⁹ Women are also under-represented in positions of power, including in public office,⁵⁰ among judicial actors and the police,⁵¹ and in the formal economy.⁵² No material progress has been made in spite of Haiti’s support for corresponding recommendations.⁵³ Indeed, Haiti has one of the lowest rates of women’s political representation in the world.⁵⁴ Women have less access to funding when running for public office, face discriminatory stereotypes, and were sometimes discouraged from participating by violent means.⁵⁵ In spite of participation quotas, there were only four women in Haiti’s last functioning parliament. Current insecurity means that without special measures, women will be left out of the political process yet again.

III. Inadequate Laws and Institutional Protections

13. Haiti's current legal framework and institutions fall woefully short of its obligations to address the above-described challenges by promulgating laws and regulations, providing trainings, and deploying government resources to protect women and girls from GBV.⁵⁶ Haiti's constitution, in addition to expressly domesticating Haiti's human rights obligations, does explicitly provide for a government that respects "the equity of gender" and assures women "a representation in the instances of power and of decision which must conform to the equality of the sexes and to equity of gender";⁵⁷ provides that political and civil rights are enjoyed "regardless of sex or marital status";⁵⁸ and guarantees 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."⁵⁹ In 2012, the Constitution was further amended to provide that the government must ensure that women represent at least 30 percent "at all levels of national life, notably in the public services"⁶⁰ and in elections.⁶¹ As can be seen from the discussion above, however, these legal protections and the nondiscrimination requirements envisioned by these provisions are not substantively met. Further, government entities charged with related mandates, like the Ministry on the Status of Women, lack adequate resources⁶² and are perceived by at least some advocates as ineffectual and disengaged. Fewer than 10 percent of police officers are women⁶³ in spite of the constitutional quota requiring that a minimum of 30 percent of public offices be held by women. Women are likewise under-represented among prosecutors and judges, as well as in political and executive offices.

14. In one particularly egregious example of how Haiti is failing to protect its women and girls from GBV, at least nine women and one girl being detained at the civil prison of Gonaïves were gang-raped during a November 2019 prison mutiny over poor conditions.⁶⁴ At least eight of the ten were being held in pretrial detention at the time, meaning that no judgment had been rendered against them. A discussion of the related violations of human rights associated with Haiti's prison conditions and outrageous rates of pretrial detention⁶⁵ are beyond the scope of this submission. However, it is clear that Haiti is failing to consider risks of GBV to women in implementing its prison policies. The submitting organizations are not aware of any accountability for these crimes by either the prison authorities who permitted them to happen or the perpetrators themselves, and, as of November 21, 2019, all were still being held.

15. Haiti's legislature has made no progress in implementing recommendations Haiti supported during the last UPR cycle directed at improving its legislation,⁶⁶ likewise violating Haiti's obligations to adequately resource and prioritize efforts to address gender inequality and GBV under CEDAW and the Belém do Pará Convention. In general, as noted by the CEDAW Committee, Haiti's legislative process is slow and characterized by "frequent and very long delays in the promulgation of a series of laws affecting women's rights." In spite of corresponding commitments, no progress has been made in adopting a general law on the equality of the sexes and nondiscrimination against women, and discriminatory provisions persist in other laws.⁶⁷ Haiti's penal code dates back to 1835 and has not been adapted to contemporary legal treatment of GBV. Rape was only added as a standalone crime, rather than a crime of "indecent assault," by a 2005 ministerial decree. In any case, the penal code still fails to define elements of rape or address consent, which have made it extremely difficult to prosecute.⁶⁸ It also does not acknowledge rape within a marriage. Anecdotally, advocates report that certain judges refuse to acknowledge rape within marriage as a form of sexual violence, let alone a crime, and are resistant

to corresponding trainings. There are no provisions on domestic violence or sexual harassment, and abortion is illegal in all circumstances.⁶⁹

16. In June of 2020, the late President Moïse issued a decree dramatically revising Haiti's penal code, to go into effect on June 24, 2022.⁷⁰ Haiti's constitution – which recognizes the separation of government powers⁷¹ – does not permit the Executive to legislate in this manner, and the decree has been criticized as a gross abuse of power that undermines the rule of law in Haiti.⁷² Haiti's Parliament was dissolved in January 2020 due to a failure to hold elections and therefore has been unable to address the decree. It is noteworthy that a revised penal code and a violence against women law had been drafted under the leadership of the Ministry on the Status of Women and Women's Rights and with feedback from women's groups at the time of the last UPR review, but was never taken up by Parliament.

17. If effectuated, the penal code decree would dramatically transform Haiti's criminal laws. Some of the substantive changes envisioned are much-needed and would shift Haiti's criminal laws closer to meeting its international human rights obligations. For example, the decree sets out a clearer definition of rape with reference to consent⁷³ and includes an explicit prohibition on spousal sexual assault.⁷⁴ It also includes extensive provisions regarding sexual harassment,⁷⁵ legalizes abortion up to the twelfth week of pregnancy, and carves out allowances for the termination of pregnancies resulting from rape or incest, or in cases where the physical or mental health of the woman is in danger.⁷⁶ If enacted and implemented, such changes would significantly improve Haiti's current legal protections for women and girls. It is deeply troubling, however, that they are being put forward through an extralegal decree. In addition to general concerns this process raises regarding the balance of government powers, democratic integrity, and the rule of law,⁷⁷ it also carries the potential to create questions regarding the legitimacy of any laws thus promulgated and thereby undermine their effectiveness.

18. Patriarchal and discriminatory stereotypes remain prevalent in Haiti and, as described in Section II, there is a permissive attitude towards GBV at individual and community levels. Haiti has failed to implement adequate measures to confront such social biases, in spite of supporting corresponding recommendations during the last cycle⁷⁸ and, in some instances, is responsible for perpetuating them. For example, the current holder of the OPC mandate – which includes an emphasis on promoting women's rights⁷⁹ – has been accused of domestic violence, but has nevertheless remained in office with no inquiry.⁸⁰ This is only one example of men remaining in high government office in spite of allegations of assault and even rape.⁸¹ In 2020, the current Minister of Culture used his public platform to attack feminist organizations for demanding more information regarding allegations of sexual assault involving the director of the National Library of Haiti,⁸² adding to a culture of silence, intimidation, and impunity.

19. There have been some improvements in using the existing legal mechanisms for preventing and addressing GBV, but they remain weak and are further undercut by pervasive discrimination, especially in more rural areas. Advocates observe that police officers who have received GBV training have improved their performance in terms of interacting with survivors reporting GBV, although it is not clear whether this is the case outside of the capital and whether the current crisis has resulted in backsliding. Civil society initiatives like BAI's Rape Accountability and Prevention Program created to respond to the surge of GBV in the wake of the 2010 earthquake have improved women's knowledge of their legal rights and worked to compel existing legal mechanisms to actually work as intended on behalf of survivors.⁸³ BAI and a network of women's organizations

like KOFAVIV have been working alongside survivors to ensure that claims are appropriately filed, investigated, and prosecuted by government officials. In some cases, they have represented survivors wishing to participate as civil parties to criminal prosecution.

20. On the whole, however, progress in ensuring that the criminal justice system and accompanying government services adequately investigate and address GBV has been limited and slow. There are now more GBV investigations and prosecutions, but they focus mostly on the rape of minors, (as opposed to other forms of GBV). Prosecutions remain the exception rather than rule, and convictions are few. Rates are especially low for adult women survivors. In BAI's experience, in Port au Prince, fewer than 70 percent of complaints led to an arrest, and 40 percent of those arrested were set free before the completion of judicial proceedings, leaving survivors at risk. The rates are likely to be far worse farther from the capital. Domestic violence is rarely addressed unless the survivor is severely harmed or killed.⁸⁴ A UN Integrated Office in Haiti (BINUH) investigation in the Grand-Anse Department revealed that of the 126 GBV complaints made in 2020 (that number, in turn, likely to be a fraction of actionable incidence of violence),⁸⁵ only 46 had resulted in judicial inquiries and none had gone to trial. BINUH concluded that similar or worse dynamics play out across the rest of Haiti.⁸⁶ This is likewise the perspective of the submitting organizations. In one particularly egregious instance of lax prosecution, a pastor was acquitted of assaulting a 14-year-old girl in spite of DNA evidence confirming he had fathered the resulting child.⁸⁷

21. At a more granular level, every aspect of Haiti's legal mechanisms for addressing GBV falls far short of its human rights obligations. While Haiti's police now have a dedicated GBV unit,⁸⁸ it is understaffed and has only three offices, all in or near the capital.⁸⁹ As noted above, police have improved with respect to receiving claims of GBV following programs aimed at training. However, police and judicial investigators generally lack resources to investigate GBV crimes and their respective investigations are often deficient and lengthy as a consequence.⁹⁰ Police investigations and the separate judicial investigations, which under law must take less than three months, in practice take one to two years each to complete. The process is usually opaque for survivors, who rarely receive information. Evidence-gathering in GBV cases is further impeded by a lack of forensic skills and equipment,⁹¹ including infrastructure for storing forensic evidence, which hampers proceedings in an already weak system that suffers from politicization and corruption. The OPC has acknowledged that prosecutors often fail to adequately investigate and indict GBV cases and that in at least some parts of the country, allegations of GBV are discounted by officials responsible for protecting women and girls.⁹² Individuals accused of serious crimes are often released without any meaningful process or accountability, especially where they have connections to members of the judiciary or the political elite, or are able to pay bribes.⁹³ The government office responsible for supervising judicial conduct and discipline has largely failed to intervene to confront such practices.⁹⁴

22. Haiti's justice system does not effectively support survivors of GBV and has elements that seem intended to exclude survivors, especially those without means, from seeking or obtaining justice. As a practical reality, GBV prosecutions require survivors to obtain medical certificates. Such certificates are not legally mandatory and should not be dispositive, as in some cases there is no physical evidence of forced penetration. Nevertheless, in practice, survivors who do not have medical certificates are unable to proceed with their cases and the certificates thus pose a significant barrier to accountability by forcing recently traumatized women and girls to undertake

additional steps and associated expenses in order to seek justice. According to advocates, women also face challenges in obtaining the medical certificates at the point of care, including because doctors are sometimes absent and certificates must be obtained within 72 hours. Survivors likewise struggle to obtain treatment for any sexually transmitted infections and pregnancies resulting from assaults. In general, male accounts are privileged over female ones with respect to consent,⁹⁵ such that prosecutions are virtually impossible in the absence of external evidence of force. One way in which this dynamic may be observed is that reporting GBV is especially fraught for adult women. Judges are more likely to question whether women consented than in cases involving young girls. Further, unlike younger girls, adult women are more likely to be subjected to shaming, assumptions of promiscuity, and expectations of submitting to family pressures. Indeed, in BAI's experience adult women are far more likely to have difficulties with the police in filing a complaint. They are also less likely to succeed in obtaining a judgment.

23. Moreover, while Haitian law provides for survivors to be able to act as civil parties to criminal cases – and seek civil compensation alongside criminal remedies – in reality, survivors of GBV rarely do so. There are several reasons. In addition to limited legal advocacy resources (BAI is one of the few organizations that provide *pro bono* legal services to survivors of GBV), the testimony of survivors who participate as civil parties is discounted by courts, thus making it more difficult to obtain a conviction in a case where the survivor chooses to participate as a civil party. Further, Haitian law requires civil parties to pay a percentage of any damages they are awarded to the courts in order to register the judgment – a requirement for then seeking compensation from the defendant. This means that survivors, who are usually without means, must expend significant funds to have even the opportunity to collect restitution awarded to them by a court of law from their abuser. The continued existence of such practices is a flagrant impediment to justice and a violation of Haiti's human rights obligations.⁹⁶ As a practical reality, the submitting organizations are not aware of any cases where damages awarded to survivors in connection with a GBV conviction were paid.

24. Finally, Haiti lacks sufficient social support services for survivors of GBV⁹⁷ and government actors often fail to take meaningful care to protect survivors who step forward from retaliation or further harm. There are no government shelters, although a few are run by women's groups. In fact, when survivors approach the government, including the Ministry on the Status of Women and Women's Rights, the government refers them to women's support organizations like KOFAVIV. Similarly, any psychological or legal services for survivors are provided by advocacy organizations and not the government. Medical providers are often closed at night, which presents a further barrier to survivors receiving necessary care.⁹⁸ Further, the process of attempting to seek out justice is prohibitively expensive, especially in rural areas⁹⁹ or otherwise challenging due to familial obligations.¹⁰⁰ No government services exist to alleviate the burden. In combination with the judicial dysfunction described above, this serves as a major barrier for survivors to leave abusers or to step forward and complain. In addition, the social and economic marginalization of women gives rise to compounding challenges in pursuing accountability for GBV. Survivors are often pressured by families and communities to stay silent because of their relationship with the offender or reservations of parents or guardians about bringing a case.¹⁰¹ Families of perpetrators will sometimes threaten survivors or negotiate with their families to avoid or force the withdrawal of legal complaints.¹⁰² Such pressures are compounded by survivors' financial dependence on those relationships in a judicial system that has few resources to offer them.

25. Especially in light of these major failures of Haiti's judicial sector to provide accountability for GBV, it is concerning that Haiti has not implemented the recommendations it supported to ratify the Optional Protocol to CEDAW.¹⁰³

IV. Recommendations

- 1) Reform or enact laws to ensure protections against GBV for women and girls in line with Haiti's human rights obligations, including especially providing a modern definition of rape grounded in consent, criminalizing domestic violence and sexual harassment, and legalizing abortion to respect the bodily autonomy of women and girls. Such changes must be enacted in a constitutional manner.
- 2) Enact and implement legislation protecting the equality of women and girls and requiring affirmative investments to that end.
- 3) Establish and implement policies and programs to combat harmful or unequal stereotypes regarding women and girls and attitudes normalizing GBV. Invest in resources for survivors to help them confront internalized prejudice.
- 4) Implement policies and programs directed at supporting GBV survivors, including shelters, know-your-rights trainings, psychological and medical support, livelihood programs, and support resources for navigating the justice system. Consider creating and funding survivor advocate offices.
- 5) Provide trainings to all judicial actors, including police, on trauma-sensitive and thorough investigation and prosecution of GBV, including especially in areas outside of the capital. Ensure that the police and judiciary receive training and resources to conduct modern forensic investigations of GBV cases, including infrastructure for storing underlying materials.
- 6) Invest in women's economic and political empowerment, including by implementing programs targeted at promoting women's livelihoods and related skills; setting and meeting higher quotas for women's participation in public positions of authority, including elected office; and ensuring nondiscriminatory educational, hiring, and workplace practices.
- 7) Enact and implement laws and policies requiring fathers to provide parental support to their children, regardless of marital status.
- 8) Track statistics concerning rates of GBV and women's participation and representation in elected office, government positions, and other key metrics. Implement policies encouraging hiring more women in top positions.
- 9) Submit the CEDAW report due March 2020; implement recommendations arising from the last UPR and CEDAW cycles relating to GBV.
- 10) Ratify the Optional Protocol to CEDAW.

¹ Convention on the Elimination of All Forms of Discrimination Against Women, signed July 1, 1980, ratified July 20, 1981 [hereinafter **CEDAW**].

² The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, signed June 9, 1994, ratified April, 7, 1997 [hereinafter **Belém do Pará Convention** or **BDPC**].

³ See CEDAW Committee, *General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19*, UN Doc. CEDAW/C/GC/35, ¶ 26 (July 14, 2017), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf [hereinafter **General Recommendation No. 35**]. The CEDAW Committee concluded in its General Recommendation No. 35 that “[g]ender-based violence against women constitutes discrimination against women under article 1 and therefore engages all of the obligations in the Convention.” *Id.* at ¶ 21. Thus, CEDAW’s Article 2 “establishes that the overarching obligation of States parties is to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including gender-based violence against women.” *Id.* The Committee further specified that these obligations concern “all areas of State action, including legislative, executive and judicial branches” and requires “the adoption and implementation of measures to eradicate prejudices, stereotypes and practices that are the root cause of gender-based violence against women. *Id.* at ¶ 26. See also *id.* at ¶ 1 (establishing that “discrimination against women – as defined in article 1 of the Convention – includes gender-based violence, that is, ‘violence which is directed against a woman because she is a woman or that affects women disproportionately’, and, as such, is a violation of their human rights.”); *id.* at ¶ 19 (recognizing “gender-based violence against women to be rooted in gender-related factors such as the ideology of men’s entitlement and privilege over women, social norms regarding masculinity, the need to assert male control or power, enforce gender roles, or prevent, discourage or punish what is considered to be unacceptable female behavior”); *id.* at ¶ 14 (“Gender-based violence against women is also affected by political, economic and social crises, civil unrest, humanitarian emergencies, natural disasters, destruction or degradation of natural resources”); *id.* at ¶ 23 (“States parties are responsible for preventing these acts or omissions by their own organs and agents – including through training and the adoption, implementation and monitoring of legal provisions, administrative regulations and codes of conduct – and to investigate, prosecute and apply appropriate legal or disciplinary sanctions as well as provide reparation in all cases of gender-based violence against women, including those constituting international crimes, as well as in cases of failure, negligence or omission on the part of public authorities.”); *id.* at ¶ 24(a–b) (providing fact patterns where States will be responsible for acts and omissions of non-state actors responsible for gender-based violence against women). See also CEDAW art. 2.

⁴ General Recommendation No. 35 at ¶ 21.

⁵ See General Recommendation No. 35 at ¶ 24.

⁶ See BDPC, art. 3 (“Every woman has the right to be free from violence in both the public and private spheres.”); art. 7 (obligating States Parties “to pursue, by all appropriate means and without delay, policies to prevent, punish and eradicate” violence against women and to ensure that the State Party’s laws, institutions, and practice provide access to justice for survivors); art. 8 (obligating States Parties to undertake progressive and comprehensive measures to ensure the rights established); art. 5 (codifying State Party agreement that violence against women prevents and nullifies “the free and full exercise of [women’s] civil, political, economic, social and cultural rights” and that State Parties are obligated to provide “the full protection of those rights as embodied in regional and international instruments on human rights”).

⁷ International Covenant on Civil and Political Rights, ratified Feb. 6, 1991, art. 2(1) ; art. 2(3); art. 6(1).

⁸ The Constitution of the Republic of Haiti, art. 276-2 (1987) [hereinafter **Haiti Constitution (1987)**] (“Once international treaties or agreements are approved and ratified in the manner stipulated by the Constitution, they become part of the legislation of the country and abrogate any laws in conflict with them.”).

⁹ See CEDAW art. 2; General Recommendation No. 35 at ¶ 24.

¹⁰ See CEDAW, Letter to the Permanent Representative of Haiti to the United Nations Office at Geneva (Jan. 14, 2019), https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/HTI/INT_CEDAW_FUL_HTI_33436_E.pdf (referencing CEDAW, Concluding observations on the combined eighth and ninth periodic reports of Haiti, UN Doc. CEDAW/C/HTI/CO/8-9, ¶ 58 (Mar. 8, 2016), <https://undocs.org/en/CEDAW/C/HTI/CO/8-9> [hereinafter **CEDAW Concluding Observations**]).

¹¹ See UN Treaty Body Database, *Reporting Status for Haiti*, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=HTI&Lang=EN.

¹² See Human Rights Council (HRC), Report of the Working Group on the Universal Periodic Review (2016), U.N. Doc. A/HRC/34/14 [hereinafter “2016 UPR Report”], recommendations supported by Haiti: 117.6, 115.20, 115.21,

115.36, 115.66, 115.67, 115.62, 115.68, 115.64, 115.69, 115.60, 115.61, 115.94, 115.84, 115.97, 115.83, 115.86, 115.88, 115.90, 115.85, 115.89, 115.65, 117.24.

¹³ See 2016 UPR Report at 115.83 (“Take additional measures to address all forms of violence against women and girls, including women and girls with disabilities (Georgia)”) (supported by Haiti); *id.* at 115.69 (“Continue its efforts to promote gender equality, including by taking concrete measures to combat the high level of violence against women (Norway)”) (supported by Haiti); *id.* at 115.65 (“Remedy violence against women and girls, including gender and sexual violence, through the implementation of legislation that prevents and criminalises such acts (Canada)”) (supported by Haiti); *id.* at 115.90 (“Adopt and implement efficiently a comprehensive legislation on combating violence against women (Italy)”) (supported by Haiti); *id.* at 115.94 (“Ensure that the police and judiciary are trained to deal impartially with women reporting gender based violence, and that all such complaints are fully investigated and prosecuted (United Kingdom of Great Britain and Northern Ireland)”) (supported by Haiti); *id.* at 115.84 (“Take further appropriate actions to combat gender based violence, discrimination and legalize domestic violence (Mongolia)”) (supported by Haiti); *id.* at 115.97 (“Consider adopting further measures to enhance legal protection to vulnerable groups, including on the issues of gender violence and child labour (Brazil)”) (supported by Haiti); *id.* at 115.86 (“Adopt and effectively implement comprehensive legislation criminalising rape, domestic violence, sexual harassment and other forms of violence (Australia)”) (supported by Haiti); *id.* at 115.85 (“Amend all legislative provisions discriminatory against women and introduce a comprehensive law preventing and combating violence against women and girls, including a definition of rape in line with international standards and the criminalization of marital rape (Czechia)”) (supported by Haiti); *id.* at 115.89 (“Intensify its efforts in protecting the rights of women and promote gender equality by revising legal framework, strengthening law enforcement and supporting victims of domestic violence in their legal process, rehabilitation and reintegration (Thailand)”) (supported by Haiti); *id.* at 115.85 (“Amend all legislative provisions discriminatory against women and introduce a comprehensive law preventing and combating violence against women and girls, including a definition of rape in line with international standards and the criminalization of marital rape (Czechia)”) (supported by Haiti); *id.* 115.91 (“Adopt the existing draft law on combatting violence against women to incorporate the criminalization of marital rape, incest, and sexual harassment (Ireland)”) (supported by Haiti).

¹⁴ See, e.g., Siobhan Morrin, *Survivors of Haiti's Sexual Violence Crisis Are Finally Making Themselves Seen*, Newsweek (Apr. 19, 2017), <https://www.newsweek.com/2017/04/28/haiti-epidemic-sexual-violence-rape-survivors-crisis-586061.html>; Nicole Phillips, *The vital role of grassroots movements in combatting sexual violence and intimate partner abuse in Haiti*, p. 10, 2014, in *Comparative Perspectives on Gender Violence: Lessons from Efforts Worldwide* (Rashmi Goel and Leigh Goodmark eds., Oxford Publishing 2015) (Annex 1).

¹⁵ See M.C. Smith Fawzi et. al, *Factors associated with forced sex among women accessing health services in rural Haiti: implications for the prevention of HIV infection and other sexually transmitted diseases*, Soc Sci Med 60 (4), (Feb. 2005), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3407680/>.

¹⁶ See Organization of American States, Haiti: Response to questionnaire, OEA/Ser.L/II.7.10, 20 (2008); see also Center for Gender and Refugee Studies (CGRS), Haitian Bridge Alliance (HBA) & Instituto para las Mujeres en la Migración (IMUM), *A Journey of Hope: Haitian Women's Migration to Tapachula, Mexico*, p. 40 (2021), <https://cgrs.uchastings.edu/sites/default/files/A-Journey-of-Hope-Haitian-Womens-Migration-to%20-Tapachula.pdf> [hereinafter **CGRS, HBA & IMUM, A Journey of Hope**].

¹⁷ See Institut Haïtien de l'Enfance Pétiou-Ville, *Haïti, Haïti Enquête Mortalité, Morbidité et Utilisation des Services (EMMUS-VI 2016-2017)*, p. 392 (July 2018), <https://www.dhsprogram.com/pubs/pdf/FR326/FR326.pdf>.

¹⁸ See, e.g., Médecins Sans Frontières (MSF), *Against Their Will: Sexual and Gender Based Violence Against Young People in Haiti*, p. 7 (2017), <https://www.msf.org/haiti-against-their-will-new-report-sexual-violence> (Annex 2); Chanelle Fox, *Violent Sex: How Gender-Based Violence is Structured in Haiti*, *Healthcare & HIV/AIDS*, 2 Ind. J.L. & Soc. Equality 202, 225 (2013), <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1020&context=ijlse>; Anastasia Moloney, *Sexual violence in Haiti is a public health problem: charity*, Thomson Reuters (July 19, 2017), <https://www.reuters.com/article/us-haiti-sexual-violence-women-idUSKBN1A41T2>; see also CEDAW Concluding Observations at ¶ 21(d)-(f).

¹⁹ Estimates are deeply impacted by who is willing to report abuse, and CEDAW acknowledged in 2016 that gender-based violence in Haiti is underreported because of survivors' mistrust of the justice system and threats of stigma and retaliation if the crime is reported. See CEDAW Concluding Observations at ¶ 21(e) (“Violence against women is underreported owing to lack of trust in the judges, prosecutors, and police officers, and that mediation and conciliation is excessively resorted to in cases of violence against women.”). See also, e.g., United States Department of the State, *Haiti 2019 Human Rights Report*, p. 19 (2019), <https://www.state.gov/wp-content/uploads/2020/02/HAITI-2019-HUMAN-RIGHTS-REPORT.pdf> [hereinafter **U.S. DOS Haiti 2019 Human Rights Report**].

- ²⁰ See, e.g., MSF, *Against Their Will: Sexual and Gender Based Violence Against Young People in Haiti*, p. 7 (2017), <https://www.msf.org/haiti-against-their-will-new-report-sexual-violence> (Annex 2) (finding that 83 percent of rape survivors treated at its clinic were under 25 years old, and 57 percent were under 18 years old).
- ²¹ Centers for Disease Control and Prevention, *Violence Against Children in Haiti, Findings From a National Survey*, p. 21 (2012), <https://www.cdc.gov/violenceprevention/pdf/violence-haiti.pdf>; see also Avocats Sans Frontiers Canada, Kay Fanm & OPC, *L'impunité des violences faites aux femmes et aux filles en Haïti*, p. 17 (2019), https://www.asfcanada.ca/site/assets/files/7636/asfc_violence-femme_juillet_19_web.pdf.
- ²² See, e.g., Leah Gilbert et. al, *The experience of violence against children in domestic servitude in Haiti: Results from the Violence Against Children Survey*, National Center for Biotechnology Information (NCBI), p. 185 (Nov. 4 2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6016389/>; Sarah J. Breyer, *Using the Organization of American States to End the Abuse of Restaveks*, 48 Colum. Human Rights L. Rev. 147, 160 (2016).
- ²³ See, e.g., CGRS, HBA & IMUM, *A Journey of Hope*, p. 24 (“SGBV can be accompanied by stigma in Haitian culture, and women often do not report incidents of abuse to their friends, family members, or law enforcement.”).
- ²⁴ See, e.g., Jean Pharès Jérôme, *Viol : de petits progrès éclipsés par d’énormes défis*, *Le Nouvelliste* (June 25, 2018), <https://lenouvelliste.com/article/189181/viol-de-petits-progres-eclipses-par-denormes-defis>.
- ²⁵ See, e.g., Kenaz Jean Baptise, *Perceptions of Domestic Violence Among Women in the Department of Artibonite, Haiti*, ScholarWorks, pp. 3, 8 (2021), <https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?article=11230&context=dissertations>; Amnesty International, *Don't Turn your Back on Girls: Sexual Violence against Girls in Haiti*, p. 9 (2008), <https://www.amnesty.ie/wp-content/uploads/2016/05/Sexual-Violence-against-Girls-in-Haiti.pdf>; Ministère à la Condition Féminine et aux Droits des Femmes, *Étude Une réponse à la violence faite aux femmes en Haïti. Étude sur la violence domestique et sexuelle en Haïti*, p. 5 (2007), <https://evaw-global-database.unwomen.org>.
- ²⁶ See Institut Haïtien de l’Enfance Pétiion-Ville, *Haïti, Haïti Enquête Mortalité, Morbidité et Utilisation des Services (EMMUS-VI 2016-2017)*, p. 365 (July 2018), <https://www.dhsprogram.com/pubs/pdf/FR326/FR326.pdf> (reporting that just under 17 percent of women in Haiti believe a husband is justified in hitting a spouse under certain circumstances); OECD.Stat, *Gender, Institutions and Development Database (GID-DB)* (2019), <https://stats.oecd.org/Index.aspx?DataSetCode=GIDDB2019> (publishing data from UNICEF’s global databases showing that 58.9 percent of women in Haiti aged 15-49 years old believe a husband to be justified in hitting or beating his wife in certain circumstances); see also OECD Development Centre, *Social Institutions & Gender Index (SIGI): Haiti*, p. 1 (2019), <https://www.genderindex.org/wp-content/uploads/files/datasheets/2019/HT.pdf>.
- ²⁷ See *infra* note 34.
- ²⁸ Heartland Alliance International & Initiative pour un Développement Équitable en Haïti, *A Barrier to Work, Life and Rights: Sexual Harassment in Haiti*, p. 5 (Mar. 2016), https://www.heartlandalliance.org/wp-content/uploads/2016/01/HAI_Haiti_Report.pdf.
- ²⁹ For example, Josue Pierre-Louis, who was serving as Minister of Justice, was accused of sexually harassing and raping his assistant, Marie-Danielle Bernardin, in 2012. See Brian Concannon, *A System Put to the Test* (Jan. 23, 2013), www.ijdh.org/2013/01/topics/womens-issues/a-system-put-to-the-test.
- ³⁰ For example, FIFA suspended three Haitian soccer federation officials due to “alleged systematic sexual abuse of young women players.” *FIFA suspends 2 more Haiti officials in sexual abuse inquiry*, The Associated Press (Aug. 20, 2020), <https://www.miamiherald.com/sports/article245104475.html>. In November 2014, seven employees of the Radio Television Nationale d’Haïti (RTNH) submitted a complaint to the Citizen’s Protection Office claiming widespread sexual harassment at their workplace, including by Director General Ernest Harrison himself. Business & Human Rights Resource Centre, *Haiti: Seven employees complain of sexual harassment at Radio Television Nationale d’Haïti* (Dec. 23, 2014), <https://www.business-humanrights.org/en/latest-news/haiti-seven-employees-complain-of-sexual-harassment-at-radio-television-nationale-dhaiti-rtnh/>.
- ³¹ See Heartland Alliance International & Initiative pour un Développement Équitable en Haïti, *A Barrier to Work, Life and Rights: Sexual Harassment in Haiti*, p. 5 (Mar. 2016), https://www.heartlandalliance.org/wp-content/uploads/2016/01/HAI_Haiti_Report.pdf.
- ³² See Laura Lewis, *Un professeur peut-il entretenir une relation intime avec son élève ?*, AyiboPost (May 20, 2021), <https://ayibopost.com/un-professeur-peut-il-entretenir-une-relation-intime-avec-son-eleve/>.
- ³³ See, e.g., Hervia Dorsinville, *Bilan détaillé de la lutte des femmes en Haïti pour 2020*, AyiboPost (Jan. 30, 2021), <https://ayibopost.com/bilan-detaille-de-la-lutte-des-femmes-en-haiti-pour-2020/>; U.S. Department of State, *2020 Country Reports on Human Rights Practices: Haiti*, p. 1, <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/haiti/>; Human Rights Watch (HRW), *Accountability for Past Abuses Haiti* (Feb. 22, 2021), <https://www.hrw.org/world-report/2021/country-chapters/haiti#d9658f>.

³⁴ See, e.g., IJDH, Human Rights and Rule of Law in Haiti: Key Recent Developments November 2020 to May 2021 (June 2021), pp. 1, 5, <http://www.ijdh.org/wp-content/uploads/2021/06/June-2021-Human-Rights-Update-IJDH.pdf> (Annex 6); IJDH, Human Rights and Rule of Law in Haiti: Key Recent Developments March to October 2020 (Nov. 2020), p. 2, <http://www.ijdh.org/wp-content/uploads/2020/11/Update-on-Human-Rights-and-Rule-of-Law-Situation-Mar-Oct-2020-FINAL.pdf> (Annex 7); IJDH, Human Rights and Rule of Law in Haiti: Key Recent Developments, Feb. 2020, p. 3, <http://www.ijdh.org/wp-content/uploads/2020/02/Update-on-Human-Rights-and-Rule-of-Law-Situation-Feb-19-2020.pdf> (Annex 8); IJDH, Haiti at a Crossroads: An Analysis of the Drivers Behind Haiti's Political Crisis (2019), p. 7, <http://www.ijdh.org/wp-content/uploads/2019/05/IJDH-Report-Haiti-at-a-Crossroads-May-2019.pdf> (Annex 9).

³⁵ *Women protest rising violence and political corruption in Haiti*, ActionAid (Mar. 2, 2021), <https://actionaid.org/news/2021/women-protest-rising-violence-and-political-corruption-haiti>.

³⁶ See, e.g., OCHA, Haiti: Displacement in Port-au-Prince Situation Report No. 4, pp. 2,3,4 (July 1, 2021), <https://reliefweb.int/report/haiti/haiti-displacement-port-au-prince-situation-report-no-4-1-july-2021>; OCHA, Haiti: Displacements due to gang violence in Port-au-Prince Situation Report No. 3, p. 7 (June 22, 2021), <https://reliefweb.int/Haiti - Situation Report Nr. 3> [hereinafter **Haiti: Situation Report No. 3**]; OCHA, Haiti: Displacements due to gang violence in Port-au-Prince Situation Report No. 2, pp. 1, 5 (June 14, 2021), <https://reliefweb.Haiti - Situation Report Nr. 2 - Displacements Port-au-Prince> [hereinafter **Haiti: Situation Report No. 2**]; *Haiti-Criminality: Precarious calm in Martissant and Fontamara - The army and the police mobilized to restore order, announces the de facto government* (June 2, 2021), <https://www.alterpresse.org/spip.php?article27082#.YNJTbmhKiM->; Nations Unies Haiti (@UNHaiti), TWITTER (June 10, 2021, 11:41AM), <https://twitter.com/UNHaiti/status/1403014450848882690>.

³⁷ *73 enfants et femmes victimes de la violence des gangs en Haïti, depuis le dernier trimestre de 2020, selon l'Unicef*, AlterPresse (Apr. 16, 2021), <http://www.alterpresse.org/spip.php?article26921#.YH79WuhKiM>.

³⁸ See, e.g., Onz Chéry, *Killer confession, Haitian Times* (Nov. 11, 2020), <https://haitiantimes.com/2020/11/11/killer-confession-three-men-recount-how-they-kidnapped-and-murdered-elysne-sincere/>.

³⁹ See Haiti Libre (Apr. 11, 2021), <https://www.haitilibre.com/en/news-33458-haiti-news-zapping.html>.

⁴⁰ Onz Chéry, *Kidnappers threaten to kill street vendor over \$200K ransom*, Haitian Times (Dec. 8, 2020), <https://haitiantimes.com/2020/12/08/kidnappers-threaten-to-kill-street-vendor-over-200k-ransom/>.

⁴¹ See *Féminicide en Haïti : le MCFDF se dit alarmé et indigné*, Le Nouvelliste (May 12, 2021), <https://lenouvelliste.com/article/228920/feminicide-en-haiti-le-mcfd-se-dit-alarme-et-indigne>; see also Phillerque Hyppolite, *La responsable des programmes à la SOFA était de passage à Chita Pale, le 2 avril dernier. Extraits choisis de cette discussion*, AyiboPost (Apr. 26, 2021), <https://ayibopost.com/chita-pale-des-femmes-victimes-de-kidnapping-et-de-viols-cherchent-de-laide-pour-quitter-haiti-selon-sharma-aurelien/>.

⁴² See Press Release, United Nations Population Fund (UNFPA), *Health care for women displaced by violence in Haiti* (June 18, 2021), <https://reliefweb.int/report/haiti/health-care-women-displaced-violence-haiti>.

⁴³ See OCHA, Haiti: Humanitarian Needs Overview (March 2021), <https://www.humanitarianresponse.info/en/operations/haiti/document/haiti-humanitarian-needs-overview-summary-2021>.

⁴⁴ See Haiti: Situation Report No. 2; Haiti: Situation Report No. 3; *Haiti: Violence puts patients, staff, and medical activities at risk*, Doctors Without Borders (June 11, 2021), <https://www.doctorswithoutborders.org/what-we-do/news-stories/news/haiti-violence-puts-patients-staff-and-medical-activities-risk>.

⁴⁵ UN Secretary General, Report of the Secretary-General on the United Nations Integrated Office in Haiti, UN Doc. S/2021/559, ¶ 21 (June 11, 2021), <https://undocs.org/en/S/2021/559> (“The number of instances of gender-based violence reported by the national health system increased by 19 per cent between January and April, while the police registered a 44 per cent decline in the number of rapes reported, from 56 to 39 cases.”).

⁴⁶ See Haiti: Situation Report No. 2.

⁴⁷ See CGRS, HBA & IMUM, *A Journey of Hope*, p. 39; CEDAW Concluding Observations at ¶¶ 31(b)-(c) 37.21(e).

⁴⁸ See, e.g., CGRS, HBA & IMUM, *A Journey of Hope*, p. 39; *In Haiti, vocational training offers sex workers a way out of violence*, Spotlight Initiative (Oct. 20, 2020), <https://www.spotlightinitiative.org/fr/node/44235>.

⁴⁹ See, e.g., CEDAW Concluding Observations at ¶ 49.

⁵⁰ See, e.g., Sarah Haddjeri, *The Importance Of Education For Girls And Women In Haiti*, NATO ASS'N (Sept. 24, 2019), <https://natoassociation.ca/the-importance-of-education-for-girls-and-women-in-haiti/>; Gabrielle Bardall et al, *Violence Against Women in Elections in Haiti: An IFES Assessment*, USAID (May 2018), https://www.ifes.org/sites/default/files/violence_against_women_in_elections_in_haiti_may_2018.pdf (Annex 3); Marianne Tøraasen, *Women's status in Haiti ten years after the earthquake*, Chr. Michelsen Institute (June 2020), <https://www.cmi.no/publications/7263-womens-status-in-haiti-ten-years-after-the-earthquake> (Annex 4) (“Just 11,5

per cent of the judiciary and 3 per cent of the parliament are currently filled by women. This places Haiti at a disappointing 187th position out of 190 countries in terms of women’s political representation (IPU, 2020), and well below its Latin-American and Caribbean neighbors in terms of women’s judicial representation.”).

⁵¹ See, e.g., *Haiti - Security: Towards more women in the PNH*, HaitiLibre (June 8, 2018), <https://www.haitilibre.com/en/news-25170-haiti-security-towards-more-women-in-the-pnh.html>; *Haiti-Genre : L'accès des femmes à la justice, un défi à relever, selon le Moufhed*, AlterPresse (Mar. 14, 2019), <http://www.alterpresse.org/spip.php?article24137=#.YOcO0BNKh-V>; Conseil Supérieur du Pouvoir Judiciaire, *Magistrature/Rapport Hommes-Femmes* (2020) <http://www.cspj.ht/index.php/900-magistrature-rapport-hommes-femmes>; Anastasia Moloney, *Haiti police reform crucial to tackling rising crime – ICG*, Thomson Reuters (Sept. 13, 2011), <https://news.trust.org/item/20110913142900-j2nt1/>; see also U.N. Secretary-General, *United Nations Mission for Justice Support in Haiti* (Mar. 1, 2019), https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/S_2019_198_E.pdf.

⁵² See, e.g., Inter-American Development Bank, *Gender and Transport in Haiti: Gender Diagnostic and Gender Action Plan*, p. 11 (2021), <https://publications.iadb.org/publications/english/document/Gender-and-Transport-in-Haiti-Gender-Diagnostic-and-Gender-Action-Plan.pdf> (“[T]hree out of four women are employed in the informal market and in low-wage jobs, such as domestic work, in the agriculture sector, and in the commercialization of agriculture products and manufactured goods.”).

⁵³ See 2016 UPR Report at 115.66 (“Continue strengthening the participation of women in decision making processes (Iraq)”) (supported by Haiti); *id.* at 115.67 (“Establish effective measures to ensure access of women to decision-making positions (Costa Rica)”) (supported by Haiti).

⁵⁴ See Caitlin Hu, *Haiti elections minister teases new gender rule for parliament, says disputed vote will go on*, CNN (Mar. 23, 2021), <https://www.cnn.com/2021/03/23/americas/haiti-elections-minister-intl-latam/index.html>.

⁵⁵ See, e.g., Phillerique Hyppolite, *Chita Pale | Des femmes victimes de kidnapping et de viols cherchent de l'aide pour quitter Haiti, selon Sharma Aurélien*, AyiboPost (Apr. 26, 2021) <https://ayibopost.com/chita-pale-des-femmes-victimes-de-kidnapping-et-de-viols-cherchent-de-laide-pour-quitter-haiti-selon-sharma-aurelien/>; CGRS, HBA & IMUM, *A Journey of Hope*, p. 40.

⁵⁶ See, e.g., CEDAW art. 2 & General Recommendation No. 35 at ¶¶ 23, 24; BDPC art. 7, 8.

⁵⁷ Haiti Constitution (1987), preamble (“To assure to women a representation in the instances of power and of decision which must conform to the equality of the sexes and to equity of gender.”).

⁵⁸ *Id.*, art. 17 (“All Haitians, regardless of sex or marital status, who have attained twenty-one years of age may exercise their political and civil rights if they meet the other conditions prescribed by the Constitution and by law.”).

⁵⁹ *Id.*, art. 19 (“The 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.”).

⁶⁰ Haiti 1987 Amended Constitution (2012), art. 17-1 (“The principle of the quota of at least thirty percent (30%) of women is recognized at all levels of national life, notably in the public services”).

⁶¹ *Id.*, art. 31-1-1 (“Any law concerning the Political Parties must reserve in its structures and in its mechanisms of functioning a treatment in conformity with the principle of the quota of at least thirty percent (30%) of women as expressed in Article 17-1.”).

⁶² See Phillerique Hyppolite, *La responsable des programmes à la SOFA était de passage à Chita Pale, le 2 avril dernier. Extraits choisis de cette discussion*, AyiboPost (Apr. 26, 2021), <https://ayibopost.com/chita-pale-des-femmes-victimes-de-kidnapping-et-de-viols-cherchent-de-laide-pour-quitter-haiti-selon-sharma-aurelien/>.

⁶³ See *Les Experts et les Autorités Soulignent l'Importance d'Augmenter le Taux de Femmes Policières dans la PNH*, MINUJUSTH (May 10, 2019), <https://minujusth.unmissions.org/les-experts-et-les-autorit%C3%A9s-soulignent-l'importance-d'augmenter-le-taux-de-femmes-polici%C3%A8res-dans-la>.

⁶⁴ See, e.g., National Network for the Defense of Human Rights & Haitian Women's Solidarity, *Report on the mutiny followed by the collective rape of detainees at the Gonaïves civil Prison* (Nov. 21, 2019), <https://web.rnddh.org/the-rnddh-and-the-sofa-present-their-report-on-the-mutiny-followed-by-the-collective-rape-of-detainees-at-the-gonaives-civil-prison/?lang=en> (Annex 5).

⁶⁵ See generally *UN warns increased lengthy pre-trial detention in Haiti*, Prensa Latina (Apr. 6, 2021) <https://www.plenglish.com/index.php?o=rn&id=66019>.

⁶⁶ See 2016 UPR Report at 115.86 (“Adopt and effectively implement comprehensive legislation criminalising rape, domestic violence, sexual harassment and other forms of violence (Australia)”) (supported by Haiti); *id.* at 115.90 (“Adopt and implement efficiently a comprehensive legislation on combating violence against women (Italy)”) (supported by Haiti); *id.* at 115.85 (“Amend all legislative provisions discriminatory against women and introduce a comprehensive law preventing and combating violence against women and girls, including a definition of rape in line with international standards and the criminalization of marital rape (Czechia)”) (supported by Haiti); *id.* at 115.89

(“Remedy violence against women and girls, including gender and sexual violence, through the implementation of legislation that prevents and criminalises such acts (Canada)”) (supported by Haiti); *id.* at 115.65 (“Intensify its efforts in protecting the rights of women and promote gender equality by revising legal framework, strengthening law enforcement and supporting victims of domestic violence in their legal process, rehabilitation and reintegration (Thailand)”) (supported by Haiti).

⁶⁷ See CEDAW Concluding Observations at ¶ 9 (“However, the Committee is concerned that these efforts have not yielded concrete results owing to a lack of consistent and coordinated actions, and inadequate financial, technical and human resources. It also notes the slowness of the legislative process and the frequent and very long delays in the promulgation of a series of laws affecting women’s rights.”), 11 (“The Committee is concerned that despite an undertaking by the State party (CEDAW/C/HTI/CO/7, para. 11) to adopt a law on equality of women and men and non-discrimination against women, this has not yet been done. It is further concerned about the persistence of discriminatory provisions in a number of laws including the out-dated Criminal and Civil Codes. The Committee is also concerned about the absence of a clear time frame for the adoption of pending draft laws that have an impact on the enjoyment of women’s rights”).

⁶⁸ See Haitian Penal Code, art. 279.

⁶⁹ See *id.*, art. 262; see also Agathe Logeart, *A Wretched Journey into Haiti’s Clandestine Abortion Trade*, WorldCrunch (Aug. 10, 2014), <http://www.worldcrunch.com/world-affairs/a-wretched-journey-into-haiti-039-s-clandestine-abortion-trade/clandestine-abortions-illegal-mortality/c1s17171/>.

⁷⁰ Projet de loi portant nouveau code penal, art. 1035.

⁷¹ See Haiti Constitution (1987), art. 59 (“Citizens delegate the exercise of national sovereignty to three (3) powers of government: 1. the Legislative Power; 2. the Executive Power; 3. the Judicial Power.”).

⁷² See, e.g., Hervia Dorsinville, *Bilan détaillé de la lutte des femmes en Haïti pour 2020*, AyiboPost (Jan. 30, 2021) <https://ayibopost.com/bilan-detaille-de-la-lutte-des-femmes-en-haiti-pour-2020/>; Winnie Hugot Gabriel, «*Le président commet une usurpation de pouvoirs préjudiciables aux valeurs républicaines*», *estime le barreau de Port-au-Prince* (Nov. 17, 2020), <https://lenouvelliste.com/article/223270/le-president-commet-une-usurpation-de-pouvoirs-prejudiciables-aux-valeurs-republicaines-estime-le-barreau-de-port-au-prince>; Jacqueline Charles, *Slew of presidential decrees have some wondering if Haiti is on the road to dictatorship* (Dec. 21, 2020) <https://www.miamiherald.com/news/nation-world/world/americas/haiti/article247954080.html>; *Haiti's president defends record at UN, US slams 'rule by decree'*, France24 (Feb. 23, 2021), <https://www.france24.com/en/live-news/20210222-haiti-s-president-defends-record-at-un-us-slams-rule-by-decree>.

⁷³ Projet de loi portant nouveau code penal, art. 297 (“Any act of sexual penetration, of whatever nature, committed on a person without their consent, by violence, constraint, menace, or surprise is rape”); *id.*, art. 309 (explaining that the accused cannot offer a defense of believing that the victim had consented if that belief resulted from voluntary impairment of the victim’s faculties, from recklessness or willful blindness, or failure to take reasonable steps to ascertain consent; outlining circumstances in which consent cannot be freely given).

⁷⁴ *Id.*, art. 296 (“Rape and other sexual assaults are established when they have been imposed on the victim in the circumstances outlined by the present section, whatever the nature of the relations existing between the aggressor and the victim, including whether they are united by marriage or live in cohabitation.”).

⁷⁵ *Id.*, art. 308 (“Abuse of authority to harass others by giving orders, making threats, coercing or exerting severe pressure in order to obtain favors of a sexual nature is punishable...”), *id.* art 312 (“The fact of harassing others by repeated acts the object or effect of which is to worsen the conditions of work likely to infringe their rights and dignity, to alter his physical or mental health or to compromise his professional future, is punishable by imprisonment of six (6) months to one (1) year and a fine of 10,000 gourdes to 25,000 gourds.”).

⁷⁶ *Id.*, art. 328 (“The interruption of a pregnancy without the free and clear consent of the pregnant woman, or beyond twelve (12) weeks, or in disregard of the requirements of medical science, is punishable by imprisonment for five (5) to seven (7) years and a fine of 50,000 to 100,000 gourdes. Whoever, outside the requirements of medical science, by food, drink, medicine or other means, causes the abortion of a pregnant woman without her consent, is subject to the same penalties. The penalty is the same if the abortion is caused by physical violence. Doctors, surgeons, other health officers and pharmacists who have prescribed or administered these means, will be subject to the same penalties if the abortion has been carried out as a result. There is no offense when the pregnancy is the result of rape or incest or when the physical or mental health of the woman is in danger.”).

⁷⁷ See, e.g., *Politique: La Fédération des barreaux d’Haïti exige le retrait des décrets présidentiels*, AlterPresse (July 27, 2020), <https://www.alterpresse.org/spip.php?article25951#.YNpZEBNKh-U> (the Haitian Bar Federation calling on President Moïse to rescind his decrees because they are not within his constitutional powers); Elco Saint Amand, *Billet de la rédaction – Le Décret du 24 juin 2020 sur le Code Pénal, une ineptie juridique et politique!*, Rezo Nòdwès

(July 9, 2020), <https://rezonodwes.com/2020/07/09/billet-de-la-redaction-le-decret-du-24-juin-2020-sur-le-code-penal-une-ineptie-juridique-et-politique/#o>.

⁷⁸ See 2016 UPR Report at 117.24 (“Design and implement a series of measures to combat discriminatory stereotypes, including stereotypes based on gender (Croatia)”) (supported by Haiti); *id.* at 115.61 (“Tackle negative attitudes related to gender and discrimination against women through human rights training of law enforcement and judicial bodies’ agents (Colombia)”) (supported by Haiti); *see also id.* at 115.94 (“Ensure that the police and judiciary are trained to deal impartially with women reporting gender based violence, and that all such complaints are fully investigated and prosecuted (United Kingdom of Great Britain and Northern Ireland)”) (supported by Haiti); *id.* at 115.84 (“Take further appropriate actions to combat gender based violence, discrimination and legalize domestic violence (Mongolia)”) (supported by Haiti).

⁷⁹ See Haiti Constitution (1987), art. 207 (“In the exercise of its functions, it will pay a special attention to the complaints presented by women, particularly in that relating to the discriminations and the aggressions of which they may be victims notably in their work.”).

⁸⁰ See « *Batteur de femme* » selon SOFA, Renan Hédouville nommé chef de l’OPC, Loop Haiti (Oct. 28, 2017), <https://www.loophaiti.com/content/batteur-de-femme-selon-sofa-renan-hedouville-nomme-chef-de-lopc>.

⁸¹ See, e.g., Phillerique Hyppolite, *Chita Pale | Des femmes victimes de kidnapping et de viols cherchent de l’aide pour quitter Haïti, selon Sharma Aurélien*, AyiboPost (Apr. 26, 2021), <https://ayibopost.com/chita-pale-des-femmes-victimes-de-kidnapping-et-de-viols-cherchent-de-laide-pour-quitter-haiti-selon-sharma-aurelien/>; Valéry Daudier, *Josué Pierre-Louis retrouve son sommeil sans passer devant la justice*, Le Nouvelliste (Jan. 28, 2013), <https://lenouvelliste.com/article/112995/josue-pierre-louis-retrouve-son-sommeil-sans-passer-devant-la-justice>.

⁸² See Hervia Dorsinville, *Bilan détaillé de la lutte des femmes en Haïti pour 2020*, AyiboPost (Jan. 30, 2021), <https://ayibopost.com/bilan-detaille-de-la-lutte-des-femmes-en-haiti-pour-2020/>; *see also Les féministes d’Haïti répondent à une « diatribe machiste et antiféministe » du ministre de la culture*, Pradel Henriquez, AlterPresse (Sep. 18, 2020), <https://www.alterpresse.org/spip.php?article26170#.YNtHpRNKjEZ>.

⁸³ See further, e.g., *Viol : de petits progrès éclipsés par d’énormes défis*, Le Nouvelliste (June 25, 2018), <https://lenouvelliste.com/article/189181/viol-de-petits-progres-eclipses-par-denormes-defis>; Nicole Phillips, *The vital role of grassroots movements in combatting sexual violence and intimate partner abuse in Haiti*, 2014, p. 10 in *Comparative Perspectives on Gender Violence: Lessons from Efforts Worldwide* (Rashmi Goel and Leigh Goodmark eds., Oxford Publishing 2015) (**Annex 1**).

⁸⁴ CGRS, HBA & IMUM, *A Journey of Hope*, p. 40; Nicole Phillips, *The Vital Role of Grassroots Movements in Combatting Sexual Violence and Intimate Partner Abuse in Haiti*, in *Comparative Perspectives on Gender Violence: Lessons from Efforts Worldwide* (Rashmi Goel and Leigh Goodmark eds., Oxford Publishing 2015) (**Annex 1**).

⁸⁵ See *supra* notes 18-19 and associated text.

⁸⁶ UN Secretary General, Report of the Secretary-General on the United Nations Integrated Office in Haiti, UN Doc. S/2021/559, para. 21 (June 11, 2021), <https://undocs.org/en/S/2021/559>.

⁸⁷ U.S. DOS Haiti 2019 Human Rights Report, p. 19; *Haiti - FLASH : Amazing release of a Haitian Pastor accused of rape*, HaitiLibre (July 18, 2019) <https://www.haitilibre.com/en/news-28272-haiti-flash-amazing-release-of-a-haitian-pastor-accused-of-rape.html>.

⁸⁸ See, e.g., *What’s happening today in Port au Prince?*, UNPOL (Oct. 8, 2018), <https://police.un.org/en/whats-happening-today-port-au-prince>.

⁸⁹ U.S. DOS Haiti 2019 Human Rights Report, p. 23.

⁹⁰ See, e.g., Benedetta Faedi, *NOTE: The Double Weakness of Girls: Discrimination and Sexual Violence in Haiti*, 44 *Stan. J. Intl’L.* 147, 189-190 (Winter, 2008); Shannon D. Lankenau, *Note: Toward Effective Access to Justice in Haiti: Eliminating the Medical Certificate Requirement in Rape Prosecutions*, 64 *Hastings L.J.* 1759, 1769 (August 2013).

⁹¹ See, e.g., *Viol: de petits progrès éclipsés par d’énormes défis*, Le Nouvelliste (June 25, 2018), <https://lenouvelliste.com/article/189181/viol-de-petits-progres-eclipses-par-denormes-defis>; Marianne Toraasen, *The long fight against impunity for gender-based violence in Haiti*, CMI (2019), <https://www.cmi.no/publications/6875-the-long-fight-against-impunity-for-gender-based-violence-in-haiti>.

⁹² *Viol : de petits progrès éclipsés par d’énormes défis*, Le Nouvelliste (June 25, 2018), <https://lenouvelliste.com/article/189181/viol-de-petits-progres-eclipses-par-denormes-defis>

⁹³ See, e.g., Samuel Celiné, *Le commissaire du gouvernement tout puissant de Jérémie*, AyiboPost (May 1, 2021), <https://ayibopost.com/le-commissaire-du-gouvernement-tout-puissant-de-jeremie/>; Oibrillant Damus, *Les viols en Haïti : aspects psychologiques et sociologiques des crimes sexuels*, *Etudes caribéennes*, ¶ 3 (Apr. 2019), <https://journals.openedition.org/etudescaribeennes/15478>.

⁹⁴ See, e.g., Samuel Celiné, *Le commissaire du gouvernement tout puissant de Jérémie*, AyiboPost (May 1, 2021), <https://ayibopost.com/le-commissaire-du-gouvernement-tout-puissant-de-jeremie/>.

⁹⁵ See Athena Kolbe and Robert Muggah, *Haiti's Silenced Victims*, N.Y. Times (Dec. 8 2012), https://www.nytimes.com/2012/12/09/opinion/sunday/haitis-silenced-victims.html?_r=0.

⁹⁶ See CBDP, Art 7(g) (“Establish the necessary legal and administrative mechanisms to ensure that women subjected to violence have effective access to restitution, reparations or other just and effective remedies.”); General Recommendation No. 35 at ¶ 33 (“Ensure that sexual assault, including rape is characterised as a crime against women’s right to personal security and their physical, sexual and psychological integrity. Ensure that the definition of sexual crimes, including marital and acquaintance/date rape is based on lack of freely given consent, and takes account of coercive circumstances. Any time limitations, where they exist, should prioritise the interests of the victims/survivors and give consideration to circumstances hindering their capacity to report the violence suffered to competent services/authorities.”).

⁹⁷ See, e.g., MSF, *Against Their Will: Sexual and Gender Based Violence Against Young People in Haiti* (2017), <https://www.msf.org/haiti-against-their-will-new-report-sexual-violence> (Annex 2); see also Jean Pharès Jérôme, *Viol : de petits progrès éclipsés par d’énormes défis*, Le Nouvelliste (Jun. 25, 2018), <https://lenouvelliste.com/article/189181/viol-de-petits-progres-eclipses-par-denormes-defis>.

⁹⁸ See MSF, *Against Their Will: Sexual and Gender Based Violence Against Young People in Haiti* (2017), p. 13, <https://www.msf.org/haiti-against-their-will-new-report-sexual-violence> (Annex 2).

⁹⁹ See, e.g., Hervia Dorsinville, *74 adolescentes enceintes dans huit écoles à Beaumont*, AyiboPost (Nov. 8, 2020), <https://ayibopost.com/74-adolescentes-enceintes-dans-huit-ecoles-a-beaumont/>.

¹⁰⁰ See, e.g., U.S. DOS Haiti 2019 Human Rights Report, (2019), p. 19.

¹⁰¹ See, e.g., Hervia Dorsinville, *74 adolescentes enceintes dans huit écoles à Beaumont*, AyiboPost (Nov. 8, 2020), <https://ayibopost.com/74-adolescentes-enceintes-dans-huit-ecoles-a-beaumont/>; see also CEDAW Concluding Observations at ¶ 13 (“The Committee is concerned about the numerous obstacles women and girls face in gaining access to justice, particularly in cases of gender-based violence and abuse, including linguistic barriers, economic factors, a dysfunctional judiciary, lack of awareness of rights and reticence to file complaints because of fear of social stigma and prejudices, relationship with the offender, reservations of parents or guardians, and financial dependence of the victim. The Committee is also concerned about the lack of measures taken by the State party to eliminate those obstacles and CEDAW/C/HTI/CO/8-9 16-03718 5/17 to ensure the independence, professionalism and gender sensitivity of law enforcement professionals, including judges, prosecutors and the police. The Committee is further concerned that the State-sponsored legal aid system is limited in its outreach, and that legal aid is provided only to a minimal extent by civil society organizations.”).

¹⁰² See, e.g., Hervia Dorsinville, *74 adolescentes enceintes dans huit écoles à Beaumont*, AyiboPost (Nov. 8, 2020), <https://ayibopost.com/74-adolescentes-enceintes-dans-huit-ecoles-a-beaumont/>; Jean Pharès Jérôme, *Viol : de petits progrès éclipsés par d’énormes défis*, Le Nouvelliste (June 25, 2018), <https://lenouvelliste.com/article/189181/viol-de-petits-progres-eclipses-par-denormes-defis>.

¹⁰³ See 2016 UPR Report at 117.6 (“Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, as well as the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Croatia)”) (supported by Haiti); *id.* at 115.20 (“Implement, strictly, the Convention on the Elimination of All Forms of Discrimination against Women and accede to its Optional Protocol (Ghana)”) (supported by Haiti); *id.* at 115.21 (“Sign and ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and take all appropriate legislative measures (Netherlands)”) (supported by Haiti).