

Inter-American Commission on Human Rights 186th Period of Sessions

COMPREHENSIVE WRITTEN SUBMISSION OF CIVIL SOCIETY HEARING ON WIDESPREAD SEXUAL VIOLENCE AGAINST WOMEN AND GIRLS IN HAITI

Hearing Held on March 8, 2023 | 8:45 AM

INTRODUCTION

The human rights disaster facing Haitian women and girls is one of the most pressing in the hemisphere. Gangs in Haiti are deploying rape and other forms of sexual violence as a deliberate tool for disrupting the country's social fabric and continue to do so with impunity or even with encouragement from political actors. There has been no meaningful response by the Haitian government. Indeed, due in no small part to the international community's continued oscillation between hegemonized interference and total disregard, there is no legitimate government to speak of in Haiti. The situation confronting women and girls in Haiti is thus inextricably linked to the ongoing crisis in governance; and it is entwined with the international community's choices to impede a lasting, Haitian-led solution. This crisis of violence is not new, but rather the latest and degenerative iteration of a longstanding and well-documented assault against women and girls in Haiti. Progress has been made in the past largely because of efforts by the women's movement, but lack of legitimate support has only resulted in this backsliding to yet new morally and legally reprehensible lows. Progress can be made again now and it can be sustained. The solution to remedying these appalling ongoing human rights violations lies precisely in the leadership of those suffering the abuses: Haitians, and more specifically, Haitian women. Member States have a duty to champion a Haitian-led rectification of the unfolding tragedy.

These heinous acts of violence and Haiti's utter failure to act irrefutably violate the human rights of women and girls as recognized by Inter-American agreements to which Haiti is party. In fact, the Commission has long expressed its concern over widespread sexual violence in Haiti, in 2009 issuing a comprehensive report laying out the historical context in Haiti that undergirds deeply rooted social norms and ineffective government structures for addressing gendered violence. The Commission's guidance since then has served as a focal point to improve policies and programs related to the advancement of women's equality in Haiti, including law reforms. This includes the Commission's grant of precautionary measures on behalf of displaced women and girls in the wake of the devastating 2010 earthquake, which provided a critical blueprint for the Haitian government and advocates in directing limited resources. But any progress has since been erased. More can and must be done immediately to prevent and respond to these grave violations to give any meaning to human rights standards.

RECOMMENDATIONS

Petitioners appeal to this honorable Commission to fulfill its mandate and utilize all mechanisms at its disposal, including through the Office of the Rapporteur on the Rights of Women, to protect the rights of Haitian women and girls via the robust Inter-American system of human rights.

We provide the following specific recommendations:

1. Issue a public statement acknowledging the dire situation facing Haitian women and girls and directing the Haitian government to do the following:
 - a. Strengthen the capacity of the Haitian police to reduce widespread insecurity and protect women and girls;
 - b. Build and strengthen the capacity of Haiti's judiciary to support and protect victims, especially those from marginalized backgrounds, including by confronting corruption and safeguarding competence and ethics within the judiciary, enforcing laws against gender-based violence, and taking due care with victim safety through appropriate notifications;
 - c. Direct and empower Haiti's judiciary to investigate the massive human rights violations and corruption that continue to take place;
 - d. Reduce the use of illegal and arbitrary preventive detention against women and girls;
 - e. Ensure women's equal participation in leadership and decision-making roles across all levels of government;
 - f. Center the specific needs of women and girls across all government policies and collect gender-disaggregated data;
 - g. Provide critical services for victims of SGBV, including reproductive care, psychosocial support, and access to livelihoods;
 - h. Support and empower women's rights organizations, including those focused on women's empowerment and broad policy advocacy to support, protect, and empower Haiti's women and girls.
2. Conduct a fact-finding in loco visit to Haiti to investigate its human rights situation, especially as it affects women and girls, with a focus on engagement with civil society and grassroots organizations, especially those comprised of and representing individuals from marginalized communities.
3. Document and issue a public report about the situation of women and girls in Haiti, including especially the incidence and causes of sexual violence directed at women and girls, as well as the underlying structural inequalities affecting their home and public lives, including but not limited to political participation, economic access and opportunities, and socio-cultural status. The preparation of the report must include discussions with and considerations of women and girls with further marginalizing identities and grassroots women's organizations. Further, all future reports by the Commission should require a dedicated focus on the situation of Haiti's women and girls.

4. Extend and expand precautionary measures MC 340/10 on behalf of women and girls at risk of sexual violence as recently requested by petitioners in that case. And, in light of the ineffective implementation of the existing measures and the broader situation facing Haitian women and girls in Haiti, request—pursuant to articles 25 and 76 of the Commission’s Rules of Procedure—that the Inter-American Court adopt provisional measures to avoid further irreparable harm to Haitian women and girls.
5. Issue a public statement (i) directing all countries within the Organization of American States (OAS) to comply with their obligations to respect the rights of the Haitian people to democracy and self-determination; (ii) acknowledging that no advancement can be made on substantive human rights in Haiti until the underlying governance crisis is addressed, which can be accomplished only through Haitian-led solutions free from foreign interference; and (iii) directing all countries within the OAS to desist from actions to prop up Haiti’s illegitimate, corrupt, and repressive de facto government at the expense of Haiti’s pro-democracy movement.
6. Ensure that all Commission communications and meetings are accessible to Haitians, including those from marginalized backgrounds by providing Haitian Creole language materials and interpretation as relevant.

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I. **FACTUAL BACKGROUND: DETERIORATING CONDITIONS EXACERBATE RAMPANT SEXUAL VIOLENCE AGAINST WOMEN AND GIRLS IN HAITI**

Haiti's women have historically faced violence and discrimination in the home and in public spaces and social institutions. Natural disasters and the structural, economic, and social challenges are the legacy of colonialism and extractive foreign interventions are potent factors that undergird ongoing violence toward Haitian women and girls.¹ Deeply rooted patriarchy further fosters a permissive attitude toward discrimination and sexual and gender-based violence (SGBV) directed against them.

Rape and other forms of SGBV are used as weapons of political intimidation in Haiti. Reports of sexual violence surged in the wake of the 2010 earthquake—especially in displacement camps, where lack of security, desperation, and power inequality created an enabling environment for assaults. Reports of what is often called “survival sex”—where heightened pressures force women and girls to sell their bodies for food or desperately needed aid is expressly conditioned on sexual favors—similarly swelled.² Recent political instability, gang proliferation, and natural disasters in Haiti have further exacerbated these longstanding vulnerabilities. Petitioners have periodically reported on these conditions to the Commission, which granted precautionary measures to prevent sexual violence in displacement camps in the wake of the 2010 earthquake that remain in effect and which several of the Petitioners have asked the Commission to extend and expand (see Appendix B).

Despite clear directives by this Commission and other human rights authorities, the Haitian government has failed to address both the historic and contemporary drivers of sexual violence and gender inequality.³ And tragically, the human rights conditions facing women and girls have worsened considerably since the Commission's last public hearing on the matter.⁴

A. **Haiti's Governance Crisis Must be Addressed Immediately to Prevent Further Abuses**

The prevalence of sexual violence directed at Haitian women and girls can be understood only in the context of Haiti's ongoing acute governance crisis. This urgent situation both drives and impedes resolution of the humanitarian and human rights emergency that places Haiti's women and girls at ever-increasing risk.

The current crisis has been marked by unprecedented levels of gang violence and brutality, widespread hunger, a severe decrease in the availability of health and other critical services, a collapse of education, and dwindling access to economic opportunities exacerbated by soaring

¹ See, e.g., *Haiti 'Ransom' Project*, *The New York Times* (Nov. 16, 2022), <https://www.nytimes.com/2022/05/20/world/americas/haiti-history-colonized-france.html> & <https://www.nytimes.com/2022/05/20/world/haiti-wall-street-us-banks.html>.

² See, e.g., Siobhan Morrin, *Survivors of Haiti's Sexual Violence Crisis Are Finally Making Themselves Seen*, *Newsweek* (Apr. 19, 2017).

³ *Bureau des Avocats Internationaux* (BAI), Institute for Justice & Democracy in Haiti (IJDH), KOFVIV, Submission to the U.N. Human Rights Council, *Gender-Based Violence in Haiti* (2022) (“BAI/IJDH/KOFVIV Report on GBV in Haiti”).

⁴ BAI, IJDH, *Human Rights and Rule of Law in Haiti: Key Recent Developments June through November 2022* (Dec. 2022) (“BAI/IJDH Recent Developments through Nov. 2022”).

inflation that puts basic necessities out of reach for the vast majority of Haitians.⁵ Women and girls, because of pre-existing social inequalities and systematized discrimination, suffer disproportionately. For example, escalating insecurity and gang takeovers of public spaces have increased levels of sexual violence they experience. The ever-increasing risk of SGBV impedes the ability of women to participate in public life, forcing them to curtail economic and civic activities which—alongside pre-existing economic and social marginalization—leaves women and women-headed households disproportionately impacted by food insecurity and the economic crisis.⁶

The deep governance crisis constitutes an unconstitutional interruption of Haiti’s democratic regime. It emerged in the wake of the 2010 earthquake and deteriorated as Haiti’s democratic institutions, including the judiciary, were progressively dismantled through the misrule of the Pati Ayisyen Tèt Kale (PHTK)—itself put in power through a flawed elections process pushed through by foreign actors—and affiliated individuals. After the assassination of then-president Jovenel Moïse in July 2021, Ariel Henry was installed by international actors as the de facto head of state. His regime is further entrenching corruption and state capture by individuals associated with the PHTK, and is at best complicit, if not directly involved, in the widespread killings, torture, and rape of civilians by gangs.⁷ Throughout, the international community and especially the United States government have persisted in supporting and propping up these actors, in spite of their direct culpability in Haiti’s crisis and contrary to the principles of democratic self-determination enshrined in the Inter-American system.

International actors have specifically continued to prop up Henry as protests against him intensify.⁸ This support enables the de facto regime’s destructive rule to continue even as it marginalizes democratic alternatives and undermines Haitian self-determination. Unless the governance crisis is resolved—and Haitians are no longer impeded from restoring the social compact and institutions necessary to enjoying the elected, accountable, participatory government to which they are entitled under the Inter-American system—meaningful progress on SGBV, as well as hunger, health, education, and security will remain elusive, if not impossible.

B. Sexual Violence Against Women and Girls is Worsening in Increasingly Brutal Forms

Although the Haitian government does not keep systematic data on SGBV committed against women and girls, all available evidence—including documentation by members of the undersigned organizations—indicates it is extensive and pervasive, with too many Haitian women and girls experiencing some form of SGBV in their lifetimes, largely without recourse. Moreover, the actual rate of violence against women in Haiti is almost certainly much higher than the already abhorrent statistics suggest: SGBV is “chronically underreported due to stigma and shame, fear of reprisals,

⁵ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), [Haiti: Impact of social unrest on the humanitarian situation - Flash Update #1](#), (Sept. 22, 2022) (“OCHA Report on Social Unrest”).

⁶ United Nations Women, Americas and the Caribbean, [One year after the earthquake, women in Haiti continue to face severe hardships](#) (Aug. 12, 2022).

⁷ Réseau National de Défense des Droits Humains (RNDDH), [Massacre in Cité Soleil: Chilling Stories of Women and Girls Victims of Gang Rape](#) (Aug. 16, 2022) (“RNDDH Report on SGBV in Cité Soleil”).

⁸ Haiti Response Coalition, [US Hands Off Haiti's Democracy](#) (2022).

access, lack of education about rights, and—perhaps most significantly—mistrust in Haiti’s judicial system, which too often fails survivors.”⁹

Every indication points only to a further increase in SGBV perpetrated against Haitian women and girls in recent years. This is due in part to the compounding factors of the COVID pandemic, deteriorating economic conditions, natural disasters—including in particular the August 2021 earthquakes and tropical storm—and, most significantly, the increasingly catastrophic security situation. Over the past year, in particular, the incidence of gang-related SGBV has risen to unprecedented levels.¹⁰

In December, the United Nations (UN) estimated that gangs control 60 percent of Haiti’s capital; residents of Port-au-Prince currently put that number at closer to 100 percent.¹¹ The gangs increasingly use sexual violence as a weapon of conflict: to instill fear, punish, subjugate, and inflict pain on local populations with the ultimate goal of consolidating and expanding their territorial control. To inflict maximum fear and humiliation, women and girls are often brutally gang raped for hours in front of family members or in public. The gangs also use sexual violence as a tool of social control, targeting women and girls who travel across neighborhoods to go to work, marketplaces, or schools to dissuade people from crossing gang boundary lines. In gang strongholds, women and girls are also often coerced under threat into becoming “sexual partners” for gang members.¹²

A recent report by Petitioning organization and top Haitian human rights observer RNDDH documented a multi-day gang battle in Cité Soleil in July 2022 and found that the number of SGBV victims relative to previous armed attacks increased “exponentially.”¹³ RNDDH identified and spoke with at least fifty-two women and girls who were victims of mass and repeated rapes in their homes or on the streets, often in the presence of their own children or other family members. No abuser used protection, and most victims could not get to medical treatment within the seventy-two hours recommended by doctors for antiretroviral prophylaxis. Many family members who witnessed the mass rapes of their loved ones are racked with guilt for not intervening and many survivors regret being alive at all.

Members of Petitioning organization KOFIVIV, a grassroots organization founded and led by victims of political rape, have directly experienced harm themselves. They have suffered from displacements (including from the Martissant, Grand Ravine, Fontamara, and Cité Soleil neighborhoods of Port-au-Prince), as well as murder, kidnapping, and brutal physical and sexual assaults—with several members shot. They also report a lack of access to healthcare and a

⁹ BAI/IJDH/KOFIVIV Report on GBV in Haiti, *supra* note 3; see also BAI, [The Fight for Justice for Women and Girls in Haiti](#) (2023).

¹⁰ The United Nations Integrated Office in Haiti (BINUH) & Office of the United Nations High Commissioner for Human Rights (“OHCHR”), [Sexual violence in Port-au-Prince: A weapon used by gangs to instill fear](#), (Oct. 2022) (“BINUH/OHCHR Report on Sexual Violence”); see also RNDDH Report on SGBV in Cité Soleil, *supra* note 7.

¹¹ Evan Sanon and Fernanda Pesce, [Gangs take control in Haiti as democracy withers](#), PBS News Hour (Jan. 31, 2023); see also [BINUH Report of the Secretary-General to the UN Security Council](#) (Jan. 17, 2023) (stating that gang control in Haiti is increasing).

¹² BINUH/OHCHR Report on Sexual Violence, *supra* note 10.

¹³ RNDDH Report on SGBV in Cité Soleil, *supra* note 7.

consistent inability to obtain food and clean water. Accounts shared by others with the undersigned organizations reflect equivalent patterns throughout Haiti and especially in Port-au-Prince.

1. Displaced women and girls face heightened vulnerability to sexual violence

Pervasive insecurity is forcing women and girls to flee their homes and communities in large numbers, which exposes them to further vulnerabilities associated with displacement. This Commission has recognized the particular needs of the displaced, granting precautionary measures to women and girls living in internally displaced persons (“IDP”) camps in Port-au-Prince following the devastating 2010 earthquake. The Commission recently requested additional information regarding the precautionary measures given the ongoing risk of sexual violence in Haiti. The response by several of the Petitioners highlighted not only that the need for the precautionary measures remains as urgent now as in 2010, but also the tragic reality that even more expansive measures are imperative to confront SGBV.

Displaced Haitian women and girls—including those originally displaced in 2010—face persistent and intensifying plight. In multiple interviews conducted by Petitioning organization and Haiti’s oldest public interest law firm the Bureau des Avocats Internationaux (BAI), for example, persons displaced by massacres in Martissant¹⁴ described seeing women and girls raped, beaten, burned, and killed, or experienced such violence themselves. Displaced women and girls risk violence when engaging in necessary activities like searching for food and water, seeking medical care, or trying to work.

The only sizable IDP camp in the Port-au-Prince area, the Carrefour sports center, was closed with no replacement. Although it was notorious for grossly inadequate security measures, atrocious conditions, and even reports of sexual exploitation and abuse, it sheltered many IDPs—more than sixty percent of whom were women or girls. The solution to address the unacceptable conditions there was not to close the center but to improve it. Now, without any official place to go, the humanitarian disaster only deepens. Increasing flows of displaced women and girls are left in even more precarious circumstances in even more insecure informal displacement sites.¹⁵

Political instability alongside multiple natural disasters have further increased the number of IDPs in Port-au-Prince and throughout the country. There are no government structures protecting displaced women and girls against SGBV, even though the precautionary measures were ordered specifically to protect and support survivors—especially IDPs.

2. Haitian women and girls living in rural areas are uniquely impacted by the ongoing governance and security crises

The security paucity is not only a problem in Port-au-Prince but also in other areas throughout the country—especially for women and girls in situations of displacement outside the capital. Impacted

¹⁴ OCHA, [Haiti: Displacements due to gang violence in Port-au-Prince, Situation Report No. 4](#) (July 2021).

¹⁵ See, e.g., BAI/IJDH Recent Developments through Nov. 2022, *supra* note 4 (discussing the over 21,000 Haitians escaping violence last year—unable to find places with family in Port-au-Prince—forced to shelter in the countryside or gather in public squares or other informal sites with little to no humanitarian support). Organizations working on the ground in Haiti continue to report dozens of instances of rape and sexual exploitation at informal displacement sites.

women and girls are left to fend entirely for themselves in places they do not know and without any means of formal support. For example, many people were displaced in the Sud department in and around the city of Les Cayes after a devastating earthquake in August 2021. One humanitarian worker documented several cases of sexual violence and the complete absence of any security presence in the area’s displacement camps, even more than a year following the disaster.

The situation is compounded by other States—including, in particular, the United States—failing to uphold international and domestic obligations to women and girls fleeing violence in Haiti. The UN Office for the Coordination of Humanitarian Affairs (OCHA) reports that “repatriated migrants are unable to reach their intended destination and have virtually no means to meet their basic needs for shelter, food, or clothing:” thus further exacerbating—in both severity and ubiquity—the women and girls’ vulnerability to SGBV.¹⁶

Women and girls in rural areas are also significantly impacted by criminal gang influence. Gangs have sought footholds outside of Port-au-Prince across the country to increase territorial control and bolster their ranks. As the UN has reported: “[g]angs use sexual violence to instill fear, and alarmingly the number of cases increases by the day as the humanitarian and human rights crisis in Haiti deepens.”¹⁷ In the Grand’Anse Department, for example, advocates have seen a marked increase in both the incidence and brutality of sexual violence over the last few years. Unlike in the past, aggressors are often armed with guns and carry out assaults against multiple members of the family. Given the lack of infrastructure in rural Haiti, victims have virtually no access to support or the judicial system, and there is no accountability or opportunity for recourse. A recent rape occurred only a few minutes from a police station, underscoring the lack of protection for women in rural areas.¹⁸

Gangs also maintain a presence on major roads that connect urban and rural areas, and therefore control the passage of persons, needed supplies, medicine, food, and water.¹⁹ While general security and access to food and medical services continue to deteriorate, the food crisis in rural areas remains at emergency levels. Vulnerable women and girls in rural Haiti are the most impacted by restricted access to basic services, are among the most impacted by the ongoing situation of violence, and have no means of support or recourse whatsoever.

3. Haitian women and girls in State custody are subject to ongoing sexual violence

Haitian women and girls being detained by the State - which therefore carries heightened duties - are also uniquely vulnerable to sexual violence. On January 26, 2023, during an attempted escape and prison mutiny at Gonaïves civil prison, male detainees gang raped at least seventeen female

¹⁶ OCHA Report on Social Unrest, *supra* note 5.

¹⁷ [‘Catastrophic’ hunger recorded in Haiti for first time, UN warns](#), UN News (Oct. 14, 2022).

¹⁸ Telephone Interview with Yvon Janvier, Professor & Lawyer, *Ecole Supérieure Catholique de Droit de Jérémie* (ESCDROJ) (Feb. 28, 2023).

¹⁹ César Niño, [Criminal Power in Haiti and Hunger as an Instrument of Governance](#), Georgetown Journal of International Affairs (Feb. 8, 2023).

detainees, among them a woman who had just given birth as well as at least one minor child.²⁰ Gonaïves is the same prison in which ten female detainees, again including a minor, were gang raped in 2019. That event occurred during a male prisoner mutiny over the lack of coal for cooking food.²¹ Two mass events of severe sexual violence were thus committed at the same prison over the course of less than four years. The government of Haiti was fully on notice regarding ongoing sexual violence perpetrated against women and girls in custody yet took no action to prevent it from happening again.

C. The Government’s Response to Prevent and Respond to Widespread Sexual Violence is Grossly Inadequate

The government of Haiti has failed to take adequate measures to prevent and address SGBV and is completely derelict in its duties in the ongoing crisis, as the harms to women and girls increase. The list of the government’s failures is long—including a failure to prosecute perpetrators of acts of sexual violence; to offer adequate support and resources for survivors; and to include women, grassroots organizations, and Haitians from marginalized backgrounds in any policy and decisionmaking roles.

Impunity is the norm for the vast majority of cases of sexual violence perpetrated by gangs. Survivors of sexual violence often do not report incidents due to stigma, shame, or fear of reprisals from gang members. Mounting gang violence has forced police officers and other government representatives out of marginalized neighborhoods, effectively precluding victims of sexual violence in these locations from seeking protection and accountability. BAI attorneys have continued to work with victims to seek justice through the courts, but a non-functional judicial system and court closures due to insecurity and vacant government posts effectively deny any recourse.

The general atmosphere of insecurity has also restricted the availability and accessibility of SGBV support services, with survivors of sexual violence unable or unwilling to seek much-needed care. Women’s organizations and dedicated services have suffered, both because they have been deliberately targeted and because women—and by extension the critical work of women leaders in Haitian civil society—are disproportionately vulnerable to various forms of physical and psychological violence as well as economic harms.²² Women’s rights activists are targeted with threats and harassment, and the government fails to offer protection, forcing some to flee the country.²³ For example, Pascale Solages, who will be testifying for Petitioner feminist organization Neges Mawon, along with other members of her organization have faced threats of violence that forced her and other colleagues to flee their homes and even the country. Such threats impede their ability to deliver care to vulnerable women and girls and to engage in other advocacy activities; the police who

²⁰ Ronel Paul, *Haiti: the heavy toll of the mutiny at the civil prison of Gonaïves*, RFI (Jan. 30, 2023); see also *Mutiny at the civil prison of Gonaïves: 16 women and a minor were raped*, Vant Bèf Info (VBI) (Jan. 30, 2023).

²¹ RNDDH & Haitian Women’s Solidarity (SOFA), *Report on the Mutiny Followed by the Collective Rape of Detainees at the Gonaïves Civil Prison* (Nov. 21, 2019).

²² See BINUH/OHCHR Report on Sexual Violence, *supra* note 10, at ¶ 66 (describing how throughout 2021 and 2022 several healthcare facilities run by NGOs were compelled to suspend or relocate their activities due to gang violence, including Doctors Without Borders clinics in the areas of Martissant and Cité Soleil).

²³ See BAI/IJDH Recent Developments through Nov. 2022, *supra* note 4.

were notified have failed to provide adequate protection. Survivors are also unable or unwilling to seek assistance, as the availability of resources becomes increasingly dire and the risks of leaving safe spaces progressively grave. When survivors—especially those experiencing displacement—do seek help, they find it is unavailable, or worse, experience additional abuse.

Further, there has been a failure to advance the broader gender justice movement in Haiti, which is necessary to prevent and build resilience to SGBV. The post-earthquake recovery and subsequent humanitarian response failed to adequately mainstream gender considerations or to put women—particularly women from grassroots organizations and marginalized backgrounds—in policy and decisionmaking roles. Similarly, one of the few advancements achieved, a constitutional amendment mandating that women hold at least thirty percent of public offices, has not been implemented meaningfully and women remain severely underrepresented in positions of public authority. As a consequence, pre-existing discrimination and inequality have only become further entrenched.²⁴

II. LEGAL ARGUMENT: THE GOVERNMENT OF HAITI HAS FAILED TO EXERCISE DUE DILIGENCE TO PREVENT SEXUAL VIOLENCE AGAINST WOMEN AND GIRLS AND OTHERWISE VIOLATED THEIR HUMAN RIGHTS

Haiti has ratified the American Convention on Human Rights and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belém do Pará”). Haiti has also ratified a number of international human rights instruments that impose concomitant obligations—including, chiefly, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).²⁵ The Haitian Constitution renders ratified international treaties part of Haitian law, automatically repealing any otherwise conflicting existing laws. Article 19 of the Haitian Constitution further asserts that the State has an “absolute obligation” to guarantee certain human rights, including and especially as they concern women and girls.²⁶ Thus, under both international and domestic law, Haiti has legal obligations to respect, protect, and fulfill the rights of women and girls.²⁷

Pursuant to these instruments, every woman and girl is entitled to the enjoyment and protection of all human rights and freedoms, including the “free and full exercise” of her civil, political, economic, social, and cultural rights. Any abrogation thereof—including and especially unrelenting violence perpetrated against women and girls—thus “prevents and nullifies” the exercise of the full host of

²⁴ See BAI, Disaster Law Project, Haitian Women’s Collective (HWC), IDJH, *Nègès Mawon, Women’s and girls’ human security in the context of poverty and inequality, Joint Submission to WGDAWG* (2022) (“WGDAWG Report”) (describing more broadly how the Haitian women’s movement has been impeded since the 2010 earthquake).

²⁵ Haiti ratified the American Commission on Human Rights in 1977; Convention of Belém do Pará in 1997; International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1972; Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1981; International Convention on Civil and Political Rights (ICCPR) in 1991 (by accession); Convention on the Rights of the Child (CRC) in 1995.

²⁶ Constitution d’Haiti of 1987 as amended to 2012, Art. 276-2, Art. 19.

²⁷ Member States of the Organization of American States (the “OAS”) are also obligated by the OAS Charter to “join together in seeking a solution... whenever the economic development or stability of any Member State is seriously affected by conditions that cannot be remedied through the efforts of that State.” Charter of the Organization of American States, Art. 37, Apr. 30, 1948, 2 U.S.T. 2394, 119 U.N.T.X. 3 (the “OAS Charter”).

rights to which she is entitled.²⁸

Petitioners highlight that there is essentially no argument as to Haiti's failure to meet its obligations under Articles 1 and 2 of the American Convention and Articles 7 and 8 of the Convention of Belém do Pará, among others, simply for tolerating incessant, atrocious violations of rights protected under the Convention with little to no action taken. Further, states must not only themselves respect the rights enshrined in the Convention, they are also required to adopt and promote "all appropriate measures to guarantee" those rights.²⁹ Moreover, the Inter-American Court of Human Rights has indicated the general obligations to guarantee Article 1 rights give rise to additional "special obligations that derive from these obligations," as determined by the particular needs for protection of, in this case, Haitian women and girls.³⁰

The obligations of the government of Haiti do not diminish in the context of an emergency like the one Haiti is experiencing at present. As this Commission has reiterated, its recommendations are applicable both "during times of peace and political unrest."³¹ Further, the CEDAW Committee has found that such circumstances impose a heightened duty of care on the State to take particularized action on behalf of especially vulnerable groups.³²

The numerous acts of violence documented herein—committed without consequence or even with government of Haiti encouragement—constitute violations of Inter-American human rights instruments including but not limited to Articles 1, 4, 5, 17, 19, 23, 24, 25, and 26 of the American Convention and Articles 1, 4, 5, 6, 7, 8, 9, and 10 of the Convention of Belém do Pará.

A. Violations of the Rights to Nondiscrimination and Equal Protection of the Law

Article 1(1) of the American Convention establishes that "States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition." This bedrock nondiscrimination principle of international human rights law is repeated in Article 6(1) of the Convention of Belém do Pará and universally adopted in other human rights instruments. The related right of equal protection before the law is also clearly enshrined in the American Convention (Article 24) and Convention of Belém do Pará (Article 4).

These provisions obligate the government of Haiti to respect and guarantee the rights contained in

²⁸ Convention of Belém do Pará, Art. 4-6.

²⁹ Inter-American Court. *Case of the Santo Domingo Massacre v. Colombia*. Preliminary Objections, Merits, and Reparations. Judgment of November 30, 2012. Series C No. 259 (Judgment, Santo Domingo Massacre), at ¶ 188.

³⁰ *See, e.g., Case of the Pueblo Bello Massacre v. Colombia*, at ¶ 111); *see also Case of González et al. ("Cotton field") v. Mexico*, at ¶ 243; *see also Case of Vélez Loor v. Panama*, at ¶ 98.

³¹ Inter-Amer. Comm'n H.R., *The Right of Women in Haiti to Be Free From Violence and Discrimination*, OEA/Ser.L/V/II (10 Mar. 2009).

³² UN Committee on the Elimination of Discrimination Against Women (CEDAW), Gen. Rec. No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28 (Dec. 16, 2010), at ¶ 11.

the Conventions to all women and girls. Therefore, if the Haitian government discriminates in respecting or guaranteeing a right or suite of rights set forth in the Conventions, it plainly violates Article 1(1), and it violates the substantive right in question. As the Convention of Belém do Pará, like CEDAW, makes explicit—and the Inter-American Court has elaborated—violence against women is an invidious form of discrimination. Additionally, judicial ineffectiveness in cases of violence against women and girls itself constitutes gender-based discrimination insofar as it implicates and prohibits meaningful access to justice.

B. Violations of Rights Related to Physical Integrity and Freedom from Violence

The American Convention and the Convention of Belém do Pará set forth several provisions aimed at ensuring that women and girls live a life free of violence at the hands of State and non-State actors alike. For example, Articles 4 and 5 of the American Convention protect the rights to life and “physical, mental and moral integrity,” explicitly prohibiting acts of torture and other inhuman treatment. This Commission and the Inter-American Court have taken an expansive view of the right to life, guaranteeing not just arbitrary deprivation of life but also requiring the State to take all necessary measures to protect and preserve the right to a life with dignity.³³ Article 7 of the Convention of Belém do Pará further codifies and provides depth to the State’s obligation to prevent, punish and redress violence against women both in the public and private spheres.

Sexual violence against women and girls in Haiti, often accompanied by threats, attempted murder, and other terrorizing treatment, violates each of these provisions. The injuries inflicted cause death or grave injury and have also resulted in infecting victims with HIV. Sexual violence has also resulted in severe psychological trauma, leading to suicide or suicidal ideation and paralyzing fear. Indeed, it is well established that rape—even a single occurrence—constitutes an act of torture for its severe physical and psychological effects. It can have deleterious effects not just on the victim “but also her family or community.”³⁴ As the Special Rapporteur on Torture has stated: “[r]ape is a particularly base attack against human dignity.”³⁵

There is no safety in Haiti as gangs spread their influence in the country: women and girls have been raped on their way to work, school, marketplaces and in their own homes.³⁶ Many victims have also received threats of retaliation from their attackers and fear they will return to carry out those threats so have been forcibly displaced as a result. The Haitian government has not only failed in its duty to protect women and girls from SGBV, it has been complicit.

While Haiti saw some signs of progress in at least some respects in the arena of women’s rights during brief periods of democracy over the last several decades—including in the years immediately following the earthquake—any such progress has since been erased. Haiti is completely derelict in its duties to protect Haiti’s women and girls especially, as described elsewhere, those who are displaced and otherwise marginalized.

³³ I/A Court H.R., *Campo Alogodnero: Claudia Ivette Gonzalez, Esmerelda Herrera Monreal and Luara Berenice Ramos Monarrez*, Cases Nos. 12.496, 12.497 and 12.498, Application of Nov. 4, 2007.

³⁴ *Raquel Martín de Mejía v. Peru*, Case 10.970, Inter-Am. C.H.R., Report No. 5/96, OEA/Ser.L/V/II.91 Doc. 7 at 157 (1996).

³⁵ *Methods of Work of the Special Rapporteur on Torture*, ¶ 580 (1994) U.N. Doc. U.N./e/CN.4/1994/31.

³⁶ BINUH/OHCHR Report on Sexual Violence, *supra* note 10; see also RNDDH Report on SGBV in Cité Soleil, *supra* note 7.

C. Violations of Rights of the Family and Children’s Rights

Inter-American norms recognize the fundamental nature of the family unit to society and the special protections due to children. The failure of the state to protect families against heinous assaults directed at women and girls that intentionally and wantonly destroy family units violates Article 17 of the American Convention, which provides: “[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the state.” As a result of the inadequate protection of the family, family members (including children) have been witness to the violent acts of sexual violence described above. Thus, in addition to the harms experienced by the victim in the form of physical and mental anguish caused by the assault, there is likewise psychological damage and other pain caused to the victim’s family members.³⁷ Moreover, the stigma of such experiences has interfered with victims’ relationships with their families.³⁸

Further, children are entitled to special protection under Article 19 of the American Convention given their “condition as a minor on the part of his family, society, and the state.” The Convention of Belém do Pará in Article 9 also recognizes age as a special vulnerability factor that must be considered by a State when designing interventions. Moreover, the Convention on the Rights of the Child—which the Inter-American Court on Human Rights has determined forms part of the “international corpus juris” to be considered by this body in understanding the scope of Article 19³⁹—demands States take measures to ensure children are “treated with humanity” and that all decisions concerning children account for their best interests.⁴⁰ Adult women are not the only victims of these heinous acts of violence; many young girls throughout Haiti have also suffered from sexual violence. Victims as young as ten have been documented.⁴¹ The government of Haiti has entirely failed to protect Haitian children, and its failure to protect the family has prevented families from protecting their children, too.

D. Violations of Rights to an Effective Remedy and Government Transparency

Together, the American Convention (as interpreted) and the Convention of Belém do Pará (Article 7) require that the Haitian government take—without delay—several actions to prevent violence against women and girls. This includes not only condemning such violence but also establishing strategies for comprehensive protections and strengthening institutions to provide effective responses to cases of violence. Where prevention efforts fail, the State must act with due diligence to investigate, punish, and redress the violence.

Article 9 of the Convention of Belém do Pará makes clear that when designing interventions, State parties “shall take special account of the vulnerability of women . . . subjected to violence while pregnant or who are disabled, of minor age, elderly, socio-economically disadvantaged, affected by

³⁷ RNDDH Report on SGBV in Cité Soleil, *supra* note 7.

³⁸ BAI/IJDH/KOFAVIV Report on GBV in Haiti, *supra* note 3.

³⁹ *Ana, Beatriz and Cecelia Gonzalez Perez v. Mexico*, Case 11.565, Inter-Am. C.H.R., Report No. 53/01, OEA/Ser.L/V/II.111, Doc. 20 rev. at 1097 (2000).

⁴⁰ *Id.*

⁴¹ BINUH/OHCHR Report on Sexual Violence, *supra* note 10.

armed conflict or deprived of their freedom.”⁴² In other words, the Convention demands an intersectional approach. However, as described above, the Haitian government has no meaningful approach to eradicating gender-based violence; approaches that take any “special consideration” of the plight of women and girls facing discrimination based on any other intersecting status appears even more beyond reach.

In Haiti, as acknowledged by the UN, “impunity for sexual violence crimes remains the norm.”⁴³ And this culture of impunity sends a strong signal to perpetrators that the violence will be tolerated. Moreover, victims of such crimes are reluctant to report them out of fear of stigmatization or retaliation.

In any event, the government does not publicly provide statistics or other information about its interventions to measure effectiveness as several of the undersigned Petitioners have emphasized in other forums.⁴⁴ Article 8(f) of the Convention of Belém do Pará explicitly requires that States “ensure research and gathering of statistics and other relevant information” that will help it “assess the effectiveness of measures” to then in turn “formulate and implement the necessary changes” to eradicate violence. The Haitian government cannot hide behind the lack of relevant data for evaluating its human rights compliance; indeed, the failure to collect and make public this information itself violates the State’s obligations.

E. Violations of Economic, Social, and Cultural Rights

Under Article 26 of the American Convention, the Haitian government must “adopt measures, both internally and through international cooperation [to progressively achieve] the full realization” of its citizens’ economic, social and cultural rights. As delineated throughout this submission, and in the extensive reporting by brave advocates on the ground in Haiti, the government of Haiti is failing in this regard. Rather, violence in Haiti has only gotten worse, preventing women and girls from accessing basic necessities for survival that has only made women only more susceptible to violence.

Article 8 of the Convention of Belém do Pará similarly requires States to progressively undertake specific measures, including programs to promote awareness, education, and support for women who are subject to sexual violence. While some programs exist, as reported elsewhere, they are under-resourced and in need of development.⁴⁵ Specifically, in the realm of public health, support for women is fragile. Gang presence has made it increasingly difficult for healthcare providers to provide medical care for victims of sexual violence.⁴⁶

Importantly, the progressive realization of the economic, social, and cultural rights of Haitian women and girls entail obligations for the Haitian State and through “international cooperation.”⁴⁷ The Haitian government has failed women and girls as has the international community, which

⁴² Convention of Belém do Pará, Art. 9.

⁴³ BINUH/OHCHR Report on Sexual Violence, *supra* note 10.

⁴⁴ WGDAGW Report, *supra* note 24.

⁴⁵ BINUH/OHCHR Report on Sexual Violence, *supra* note 10.

⁴⁶ *See, e.g.*, WGDAGW Report, *supra* note 24.

⁴⁷ American Convention, Art. 26.

eschews grassroots Haitian voices and continues to legitimize an illegitimate regime.

F. Violations Rights to Participation in Public Life and Decisionmaking

Haitian women and girls are entitled to legitimate, meaningful participation in their government under both the American Convention (Article 23) and the Convention of Belém do Pará (Article 4(j)). This includes the fundamental right to vote and select a representative government in genuine elections. And, as set forth above, this right is among the most indispensable and pressing to ensure any lasting positive change in the country. But, notably, it also covers the opportunity for women to engage in decisionmaking in public policies.⁴⁸ The Commission rightly centered this right in its grant of precautionary measures to displaced women in 2010, directing the government (and by extension international agencies leading relief efforts) to include grassroots women's groups in conversations regarding security in the camps. Exclusion of the voices of women and girls at the proverbial table not only makes for ineffective policies, it contravenes established human rights norms. Several of the undersigned petitioners have written extensively about the exclusion of women's participation in leadership and its impacts, which we draw the Commission's attention to.⁴⁹

III. CONCLUSION

The Haitian government has failed to meet its obligations to respect, protect, and fulfill the rights of women and girls to live a life free of sexual violence and receive reparation where their rights have been violated. It has ignored directives by this Commission to take specific action to protect women in particularly vulnerable circumstances, including the precautionary measures issued in the wake of the 2010 earthquake. While the immediate years following the earthquake saw some signs of progress for women and girls in some respects, any such advances have since been lost through the misrule described above and a more general failure to prioritize women's needs or put women in decisionmaking roles with genuine authority and budget. Subsequent natural disasters and the structural economic and social challenges that are the legacy of colonialism and extractive foreign interventions are also relevant factors. The conclusions of the U.N. Human Rights Council following its recent Universal Periodic Review of Haiti's human rights compliance highlight the lack of adequate responses to sexual violence despite the government's awareness of its widespread occurrence.⁵⁰

Haiti's ratification of numerous international human rights instruments, in addition to Haiti's own constitution, which provides for the incorporation of those rights, explicitly require it protect the rights of women and girls. Yet today, notwithstanding the progressive obligations imposed by these instruments, Haiti's women and girls are at heightened risk of brutal violence and have fewer protections, resources, and opportunities. This Commission has a clear mandate to act on their behalf by demanding that all States honor related obligations and implementing immediate measures to encourage, monitor, and strengthen corresponding interventions.

⁴⁸ Inter-Am. Comm'n H.R., *The Road to Substantive Democracy: Women's Political Participation in the Americas*, OEA/Ser.L/V/II. Doc.79, paras. 20-25 (April 18, 2011).

⁴⁹ See, e.g., WGDAGW Report, *supra* note 24.

⁵⁰ U.N. General Assembly, Human Rights Council, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21, A/HRC/WG.6/40/HTI/1* (January 4, 2022), available from <https://www.ohchr.org/en/hr-bodies/upr/ht-index>.

Considering the longstanding and well-publicized nature of this problem, and the Haitian government's evident inability to take any meaningful action whatsoever to meet its human rights obligations to women and girls, the undersigned respectfully request the swift, decisive, and tangible action by the Inter-American Commission in this matter. Petitioners propose several such measures as set out below.

IV. PETITIONERS' REQUESTS TO THE COMMISSION

The facts set out above establish that the grave conditions in Haiti violate the American Convention and the Convention of Belém do Pará, among other international human rights instruments that impose binding obligations on Haiti and fall within the purview of this Commission. Urgent action is needed on the part of the Commission to prevent further irreparable harm to Haiti's women and girls and to ensure the realization of their human rights. For the foregoing reasons, Petitioners respectfully request the Commission:

1. Issue a public statement acknowledging the dire situation facing Haitian women and girls and directing the Haitian government to do the following:
 - a. Strengthen the capacity of the Haitian police to reduce widespread insecurity and protect women and girls;
 - b. Build and strengthen the capacity of Haiti's judiciary to support and protect victims, especially those from marginalized backgrounds, including by confronting corruption and safeguarding competence and ethics within the judiciary, enforcing laws against gender-based violence, and taking due care with victim safety through appropriate notifications;
 - c. Direct and empower Haiti's judiciary to investigate the massive human rights violations and corruption that continue to take place;
 - d. Reduce the use of illegal and arbitrary preventive detention against women and girls;
 - e. Ensure women's equal participation in leadership and decision-making roles across all levels of government;
 - f. Center the specific needs of women and girls across all government policies and collect gender-disaggregated data;
 - g. Provide critical services for victims of SGBV, including reproductive care, psychosocial support, and access to livelihoods;
 - h. Support and empower women's rights organizations, including those focused on women's empowerment and broad policy advocacy to support, protect, and empower Haiti's women and girls.
2. Conduct a fact-finding in loco visit to Haiti to investigate its human rights situation, especially as it affects women and girls, with a focus on engagement with civil society and grassroots organizations, especially those comprised of and representing individuals from marginalized communities.
3. Document and issue a public report about the situation of women and girls in Haiti, including especially the incidence and causes of sexual violence directed at women and girls, as well as the underlying structural inequalities affecting their home and public lives, including but not

limited to political participation, economic access and opportunities, and socio-cultural status. The preparation of the report must include discussions with and considerations of women and girls with further marginalizing identities and grassroots women's organizations. Further, all future reports by the Commission should require a dedicated focus on the situation of Haiti's women and girls.

4. Extend and expand precautionary measures MC 340/10 on behalf of women and girls at risk of sexual violence as recently requested by petitioners in that case. And, in light of the ineffective implementation of the existing measures and the broader situation facing Haitian women and girls in Haiti, request—pursuant to articles 25 and 76 of the Commission's Rules of Procedure—that the Inter-American Court adopt provisional measures to avoid further irreparable harm to Haitian women and girls.
5. Issue a public statement (i) directing all countries within the Organization of American States (OAS) to comply with their obligations to respect the rights of the Haitian people to democracy and self-determination; (ii) acknowledging that no advancement can be made on substantive human rights in Haiti until the underlying governance crisis is addressed, which can be accomplished only through Haitian-led solutions free from foreign interference; and (iii) directing all countries within the OAS to desist from actions to prop up Haiti's illegitimate, corrupt, and repressive de facto government at the expense of Haiti's pro-democracy movement.
6. Ensure that all Commission communications and meetings are accessible to Haitians, including those from marginalized backgrounds by providing Haitian Creole language materials and interpretation as relevant.