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OEA/Ser.L/V/II
Doc. 64
10 March 2009
Original: English

THE RIGHT OF WOMEN IN HAITI TO BE FREE FROM VIOLENCE AND DISCRIMINATION

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EXECUTIVE SUMMARY AND INTRODUCTION

1. The Inter-American Commission on Human Rights (hereinafter the "IACHR", the "Commission" or the "Inter-American Commission") has monitored the general human rights situation in Haiti for over forty years. For much of this period, the people of Haiti have faced many hardships, including deep-rooted poverty, political instability, violence and serious human rights abuses, with devastating consequences for the country's social, political and economic development. The purpose of this report is to highlight the alarming situation of violence and discrimination against women, who constitute more than half of the Haitian population, as a fundamental human rights issue.

2. This report provides an assessment of the situation of discrimination and violence against women in Haiti and the current legislative, institutional and judicial response to these problems. The conclusions and recommendations offered in this report are based on an examination of the general human rights situation in the Republic of Haiti, and the particular effects of recent events in the country on the rights of women. Furthermore, they are based on the international human rights commitments undertaken by the Haitian State, including the rights and obligations under the American Convention on Human Rights (hereinafter "American Convention"), and in particular, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (hereinafter "Convention of Belém do Pará"). The Commission hopes that the findings and recommendations in this report will assist the present government in the process of identifying appropriate and effective solutions to the structural and complex problems of violence and discrimination against women in Haitian society pursuant to its international human rights obligations.

3. The ratification by the Haitian State of international instruments such as the Convention of Belém do Pará and the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter "CEDAW") reflects an acknowledgement of its responsibility to exercise due diligence and undertake state actions to effectively address forms of discrimination and violence against women. As such, the State of Haiti has committed itself to exercise due diligence to prevent, punish and eradicate acts of discrimination and violence against women, regardless of whether the perpetrators are State or non-state actors. This duty obligates the Haitian State to adequately organize its state structure and institutional apparatus to respond to these problems in every sector, including justice, health and education, and to modify legal and customary practices which sustain the persistence and tolerance of acts of discrimination and violence against women. The obligations enshrined in these instruments are binding, regardless of changes in government, and reach beyond traditional security measures designed to ensure citizen security and eradicate violent crime in general.

4. The Commission has received information confirming that the rate of violence against women and girls, in all its forms, has notably and steadily increased during the past three years, exacerbated by the rise of poverty across the country, the wealth gap, the proliferation of arms, the prevalence of violent crime, the lack of adequate crime prevention measures, and the absence of effective accountability mechanisms in the country. For example, the service organization Kay Famn reported 133 cases of rape between September 1998 and April 2004,

while solely in 2006 it recorded 118 cases of rape, 78 of which were against girls and 40 against women. Furthermore, from the 118 rape cases recorded, 34 were gang rapes. Women and girls have suffered brutal acts of sexual violence, frequently accompanied by beatings and physical mutilation, forms of cruel treatment, and psychological and physical abuse at the hands of illegal armed groups and gangs. Information available from service-providers indicates that approximately half of the rape victims are girls below the age of 18, and that cases of gang rape and multiple acts of sexual violence against the same victim over time have increasingly been documented in the poorest neighborhoods. A variety of State and non-state sources have confirmed that rape is employed by members of illegal armed groups and gangs as part of a strategy to gain and retain power and control over the victim and her community.

5. Both State and non-state sources confirmed that the prevalence of violent activity in certain sectors of the metropolitan area, mostly perpetrated by different kinds of armed groups, has particularly affected women and girls. On this issue, the Commission received consistent reports from a variety of sources, including civil society, the United Nations and the Ministry of Women's Condition and Women's Rights (hereinafter the "Ministry of Women") on the increase in rapes since 2004 perpetrated by armed groups or gangs. For example, since its opening in Haiti in 2004, Doctors without Borders has treated 6,400 victims of violence, including nearly 3,000 suffering from gunshot wounds, approximately 1,600 who had been stabbed, 700 beaten, 500 raped and 500 victims of intra-family violence. Further, in June 2007 the organization increased its capacity to treat victims of sexual violence in the capital and had already treated 220 victims of sexual violence between July 2006 and June 2007. State and non-state sources also informed the Commission of forms of abuse against women and girls, including torture and murder. The armed violence that predominated in Port-au-Prince in recent years aggravated the problem of violence against women, resulting in record numbers of casualties and a number of particularly shocking acts that sparked public demonstrations and a demand for greater State action to grant protection to women victims of violence.

6. The public security situation in Haiti since early 2007 has improved, as the political situation in the country has stabilized since February 2006, marked by presidential elections and the inauguration of the Rene Preval government. Cases of kidnappings and murder have diminished and the police has apprehended a number of notorious criminal suspects. Furthermore, the justice system has exerted special efforts despite scarce resources to hold more frequent criminal hearings and trials, having resulted in a number of prosecutions for serious crimes. In addition, plans for social and economic development are underway. While such signs of progress are encouraging, the Commission continues to receive reports of physical, sexual and psychological violence and discriminatory acts towards women in Haiti.

7. The Commission wishes to highlight in this report that the current dire situation of women is a result of the historical discrimination and inferior treatment they have faced because of their sex, compared to their male counterparts. The Commission has received information confirming that forms of discrimination against women have been a fixture in the history of Haiti, both in times of peace and in times of unrest and violence. The tolerance of discrimination has in turn fueled brutal acts of violence and abuse towards women on a regular basis. This situation is aggravated in times of political unrest. It is important to highlight that in Haiti, even during periods where the political and armed violence has subsided, discriminatory beliefs

towards women still predominate, which in turn enables and promotes the repetition of violent acts. Discrimination has been and still is a widespread and tolerated phenomenon in Haitian society, based on social conceptions of the inferiority and subordination of women that remain ingrained in the culture, which have resulted in women having a disadvantaged position in the economic, education, health, justice, labor and decision-making sectors. The failures in these sectors particularly affect women in Haiti; while discrimination against women is yet to be recognized as a serious human rights violation.

8. Acts of violence against women are an especially extreme and grave manifestation of the discriminatory treatment women still receive in Haitian society. Discrimination and the resulting acts of violence continue to be tolerated in Haitian society, which in turn perpetuates a climate of impunity towards these acts and their repetition. The Commission observes with particular concern that discrimination against women is a constant and structural feature in Haitian society and culture, both in times of peace and unrest. Accordingly, such discrimination must be addressed in order to ensure the full protection of women's rights and to achieve the eradication of the problem of violence against women in Haiti. Furthermore, and according to international and regional human rights standards, the due diligence obligation of the States to prevent, punish and eradicate violence against women is reinforced when minors are involved. Girls are particularly at risk of human rights violations on the basis of two factors – their sex and their age.

9. For as long as the Commission has been evaluating the human rights situation in Haiti, fundamental deficiencies in the Haitian justice system have been identified among the matters of greatest concern. In this trend, the Commission notes with particular concern that most cases of violence against women are never formally investigated, prosecuted and punished by the justice system. This pattern of systematic impunity sends the message that forms of violence and discrimination against women will be tolerated. The prevalence of discrimination against women in Haitian society constitutes an additional barrier for women victims of violence to access justice.

10. The Commission is particularly troubled by the fact that female victims of violence are disinclined to turn to the justice system. Victims and their families have no confidence in the ability of the justice system to right the wrongs committed, and are often mistreated when attempting to avail themselves of judicial remedies. This combination of factors leaves the victims with a sense of insecurity, defenselessness and mistrust in the administration of justice.

11. The Commission recognizes a number of recent and specialized State initiatives, particularly launched by the Ministry of Women, to provide greater protection and services to women victims of violence. Some steps adopted to address this situation display an understanding of the gravity of the existing problems and the commitment of the State and non-state sectors to consider the specific needs of women in public policies designed to prevent, punish and eradicate acts of discrimination and violence against women. The Commission reiterates its commitment to collaborate with the Haitian State in the search for solutions to the problems identified.

12. The Commission furthermore observes that the State is still not adequately responding to the prevalence of acts of violence and discrimination against women, particularly in the justice, police and health sectors, and is not allocating needed resources to provide the medical and legal services required by victims. The Commission hopes that the findings and recommendations in this report will assist the present government in the process of identifying appropriate and effective solutions to the structural and complex problems of discrimination and violence against women in Haitian society pursuant to its international human rights obligations.

13. This report is divided into three sections. First, the report describes the historical and current socio-political context in Haiti and its particular impact on women. Second, the report analyzes the forms of discrimination that women still face in Haiti and the link between these and acts of violence against women, followed by a detailed analysis of the forms of violence women suffer in various settings. Third, the report sets forth the international human rights and domestic legal framework relating to the rights of women and girls, followed by the measures adopted by Haiti to comply with its international obligations. It also outlines women's access to remedies and the challenges in the current legislative, public policy and institutional framework to address violence and discrimination against women. Based on this analysis, the Commission then issues a series of recommendations designed to assist the State in complying with its human rights obligations.

14. The recommendations in this report are geared towards the design of a national State policy that takes into account the existing forms of violence and discrimination against women, during times of peace and political unrest, in order to advance in the diagnosis, prevention and response to these problems and the incorporation of the specific needs of women in the public agenda. The Commission emphasizes the importance of adopting a multi-disciplinary and inter-sectoral approach to these problems, which seeks to integrate gender equality norms in all sectors of government. The recommendations furthermore call on the Haitian State to adopt urgent measures to eradicate discriminatory socio-cultural patterns based on the concept that women are inferior, as well as to take account of the problem of discrimination and the structural inequalities women experience in the development of public policies with the overall objective of addressing acts of violence perpetrated against women and girls in Haiti. Some of the general recommendations to the State include:

- To adopt an integral state policy to address the specific needs of women and the problems of discrimination and violence, supported by sufficient human and financial resources, and implemented by all key sectors and Ministries.
- To adopt public policies and programs intended to challenge and change the negative stereotypes about the role of women in society and to promote the eradication of discriminatory social patterns that obstruct their full access to justice; these public policies should feature training programs and comprehensive prevention initiatives.
- To adopt legislation, public policies and programs to effectively address inequalities between men and women in the Haitian society, especially in the labor, education, health, political participation and family spheres.

- To adopt legislation that adequately protects women and girls from acts of gender-based violence –physical, sexual and psychological– in the private and public spheres. To earmark sufficient resources, and to enact the necessary regulations to ensure their effective implementation nationwide.
- To review all norms, practices and public policies that create differences in treatment based on gender or that can have discriminatory effects with respect to women by the legislative, executive and judicial branches of the Haitian State in order to bring them in conformity with regional obligations.
- To develop educational programs for the public, from a formative and early age, in order to cultivate respect for women as equals, the recognition of their particular needs, and their right to live free from violence and discrimination.
- To strengthen the capacity of institutions to combat the pattern of impunity in cases involving violence against women, through effective criminal investigations that bring cases to trial, thereby ensuring that the crimes are properly punished and victims receive adequate reparations.
- To provide women victims of violence with accessible and effective legal services free of charge to pursue a claim before the courts and to create specialized centers to provide multidisciplinary services to victims of violence, including legal, medical and psychological.

15. The Commission wishes to acknowledge the valuable contribution and commitment of the Government of France, which has provided financial support to enable the Commission to maintain an active presence in Haiti in the area of human rights protection and promotion. The report also benefited from the support of the Government of Finland for the work of the Commission's Special Rapporteurship on the Rights of Women. Furthermore, the Commission wishes to thank both the Government of France and the Government of Finland specifically for their financial support in the preparation and publication of this report.

Preparation of the Report

16. The analysis in the present report is based on numerous sources of information. This includes data gathered during visits made to Haiti between 2004-2007, information presented during the general hearings before the Commission, prior reports of the Commission on Haiti, and the situation of women, respectively, and other publicly-available sources of information, including reports and other documents issued by international organizations such as the United Nations, government institutions, and domestic non-governmental organizations.

17. In the period covered by this report, the Commission conducted two on-site visits to Haiti from April 18 through 22, 2005 and from April 16 through 20, 2007, by invitation of the Haitian Government. The purpose of the 2005 visit was to examine the situation of the administration of justice in Haiti, the public security situation and its impact on the enjoyment of the fundamental rights of Haitians. Pursuant to this visit, the Commission published its findings

and recommendations on the situation in the country in its report, *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*. During the visit, the

Commission received alarming reports from a variety of sources with respect to the effects of armed violence on the situation of women and children, thus, this report included initial findings on the experience of women and girls.

18. Given the numerous reports of cases of violence against women received during 2005 and 2006, the Commission organized an on-site visit in April 2007 to examine the specific human rights situation of women in Haiti, given the vulnerability and the corresponding special protection required for these groups, as well as the specific impact of armed violence on women. In anticipation of the Commission's visit, the staff of the Executive Secretariat conducted a preliminary fact-finding mission to the Republic of Haiti from December 11 through 15, 2006 to collect information on the situation of women in Haiti and the particular effects of the urban conflict on this group. During the visit, the delegation met with officials of the government, namely the Ministry of Women, the Director General at the Ministry of Justice, the Chief of Cabinet to the Director General of the Haitian National Police (hereinafter "HNP" or "Haitian National Police"), the Inspector General of the HNP, the HNP Chief on Women's Affairs, and justice officials, including the Public Prosecutor in Port-au-Prince. The delegation also observed conditions in the Petionville prison facility for women and girls. Even though the Commission received information during the visits about the prevalence of sexual violence and discrimination against women and girls within recent years, the focus of this report is on the situation of women in general. The Commission expects to undertake new and similar investigations and to prepare future reports about the particular and specific situation of girls and boys.

19. Additionally, during the December 2006 fact-finding mission, the delegation received valuable information from a number of Haitian human rights organizations and victims of violence living in affected communities. Due to a sudden spike in the level of violence in the country during December 2006, (the delegation's visit in Haiti coincided with the mass kidnapping of a school bus of approximately 10 to 12 children and several other kidnappings, including those of one other child and a former senator), the delegation decided to cancel two of the scheduled meetings for security reasons, namely, a meeting with children living in Carrefour Feuilles, an area of town known to be dangerous and largely under the control of armed gangs, and a visit to a free health clinic, APROSIFA, servicing the population in the same part of town.

20. For the April 2007 visit of the Commission to Haiti, the delegation was led by the Rapporteur for Haiti, Commissioner Sir Clare K. Roberts and included staff members of the Executive Secretariat and of the Special Rapporteurship on the Rights of Women of the Commission. During the visit, the IACHR delegation met with the President, the Prime Minister, the President of the Supreme Court, the Minister of Justice, the Minister of Women's Condition and Women's Rights, the Minister of Social Affairs, the Secretary of State for Public Security, the Secretary of State for Justice, the Director General of the Haitian National Police, the Inspector General of the HNP, the Justices at the Court for Minors and the Ombudsman (*Office du Protecteur du Citoyen*).

21. The Commission also met with members of Haitian civil society organizations, women's rights advocates, women's rights organizations and children's groups. Additionally, the Commission received information from representatives of international human rights and humanitarian organizations such as the International Crisis Group, IFES-Victims of Violence project, PLAN International-Haiti, International Service Volunteers Association (AVSI-Italy), UNICEF, and MINUSTAH, including the Special Representative to the Secretary-General, the Gender Advisor to the Special Representative to the Secretary-General, the Chief of the Human Rights section and the Chief of the Justice section.

22. The Commission would like to express its gratitude for the cooperation and support provided by the State of Haiti, non-governmental organizations, civil society institutions and international agencies in the preparation of the visits in 2005, 2006 and 2007. The Commission also wishes to express its gratitude to the Ministry of Women for its full collaboration with the information-gathering process, as well as its demonstrated will and commitment to design a plan of action and use available resources towards its prompt implementation to address the problems identified. Further, the Commission notes the positive example of inter-sectoral cooperation between key ministries, notably the Ministry of Justice, the Ministry of Public Health, and the Ministry of Social Affairs, in collaboration with the Ministry of Women to design a multi-disciplinary and comprehensive solution to the problem of violence against women. Finally, the Commission would like to especially thank the victims and victim's groups for their valuable contributions throughout this process and wishes to recognize their courage, despite the risks and difficult circumstances in which they live, to come forward and share their experiences with the Commission.

23. The draft Report *The Right of Women in Haiti to be Free from Violence and Discrimination* was approved by the Commission on October 29, 2008. In accordance with Article 58, of the Commission's Rules of Procedure, this Report was transmitted to the Government of Haiti on November 18, 2008 with a request that it submit the observations and comments deemed pertinent within a period of one month. On February 4, 2009, the Secretariat received the State's observations by mail, through note dated January 19, 2009. These observations were reviewed by the IACHR and incorporated where pertinent into the final version of the present report. The Commission approved the final version of the report on March 10, 2009.

I. SOCIO-POLITICAL CONTEXT IN HAITI AND ITS IMPACT ON WOMEN

24. The nature of the social, political, and economic context in Haiti, as previously observed by the Commission, has historically affected the full enjoyment of the fundamental rights of all Haitians, including women. The history of Haiti has been characterized by deep-rooted poverty, political instability and violence with devastating consequences for the country's social, political and economic development. The Commission stated in its 2005 report on the administration of justice in Haiti that Haiti is one of the most troubled countries of the world. The country has been consistently plagued by the weak and often corrupt successive governments, the recurrent seize and preservation of power through violence and political repression, the underdevelopment of the infrastructure of the country's national and local governments, a weak rule of law and a fragile economic foundation. The Commission has also observed how the Haitian people suffer from the worst living standards in the Hemisphere and

are systematically deprived of basic needs in the spheres of nutrition, medical care, shelter, employment and education.

25. Moreover, the Commission has noted the near total absence of state presence in several areas of the capital city and throughout the country, in the form of civil authorities, police officers, courts, schools and medical facilities. This has resulted in the inability of the State to protect the life and physical integrity of its inhabitants, and still contributes to the rise in criminality, the proliferation of armed gangs, the drug and arms trade and the corruption of key State institutions such as the police and the judiciary. The main consequences of this context are an acute rise in the level of violence in the country, the increasingly gruesome and life threatening abuses involving physical mutilation and kidnapping of the victims, and a persistent and increasingly more widespread and entrenched impunity for human rights abuses and crimes.

26. During the period covered in this report (between the 2004-2006) Haiti experienced a phase of political instability, marked by mounting discontent and acts of violence by armed groups leading to the forced departure of former President Aristide in February 2004. This event was followed by a two-year mandated transitional government and the subsequent organization of presidential and legislative elections in 2006. This transitional period was largely characterized by increased insecurity and frequent acts of violence by armed gangs, the lack of effective control by the Haitian police and by international forces over certain sectors of the capital city, and finally, the lack of adequate institutional resources and capacity to function properly, especially, the existence of endemic weaknesses in the administration of justice. During that time, the Commission documented numerous violations such as kidnappings, murders, rape, and acts of intimidation by armed gangs. Armed confrontations between rival gangs or between security forces and suspected criminals were also frequent.

27. Acts of violence progressively became a daily occurrence, while at the same time the nature of the violence became increasingly inhumane, accompanied by the physical and sexual abuse of women and young girls, the targeting of children for kidnapping, acts of cruel treatment or torture of the victims and the forced recruitment of children into armed gangs. This situation affected the daily lives of Haitians, including the significant paralysis of economic activities. Businesses and schools were forced to close in downtown Port-au-Prince during the height of kidnappings. In the areas called '*zone de non-droit*' -areas under the authority of armed gangs and with no effective State presence- many public and private institutions were forced to suspend their activities. At the same time, victims faced numerous challenges to access medical facilities, which had devastating life-threatening consequences.

28. Since the inauguration of President Preval's administration in 2006, the government has devised plans for development, reform and institution strengthening. Additionally, since early 2007, acts of gang violence, kidnapping, murder and rape have decreased, and the Haitian and international security forces have apprehended a number of criminal suspects and appear to have regained control over Port-au-Prince. Despite a modest budget and the scarce resources allocated to the justice sector, the judiciary has made renewed efforts to hold criminal trials more frequently in 2007. This has resulted in a number of criminal prosecutions and convictions. However, the number of cases of violence against women tried and convicted remains significantly low, with only a handful of cases successfully prosecuted in 2007.

29. Over the past several years, the Commission has documented conditions of extreme poverty, high illiteracy and severe and widespread malnutrition, which has prevented Haitians from fully exercising their economic, social and cultural rights. Limited access to free public education and employment opportunities are longstanding features of the Haitian social and economic context, which perpetuate precarious living conditions for most Haitians. The majority of the Haitian population lacks access to basic social services including public health, housing, education, and economic opportunities. An estimated 80% of the national population lives below the poverty line (living on less than US\$1 per day) and more than two-thirds of the labor force work in the informal sector of the economy.

30. The Commission received figures for 2007 indicating that Haitians' access to basic medical and health services, shelter, food, and potable water still remain primary concerns. According to the Pan-American Health Organization, "Haiti has the highest infant and maternal mortality rate, the worst degree of malnutrition and the worst AIDS situation in the Americas".

31. In the realm of health, the World Health Organization has identified Haiti as the country with the poorest health-related indicators in the Americas. Also the HIV infection rate is the highest in Latin America, with the infection rate for women being higher than the infection rate for men (4.1 v. 3.5). Forty percent of the population has no real access to basic health care, and more than half of the population has no access to medicine. Nearly half of Haiti's health services are concentrated in the capital, thereby forcing the majority of the rural population to rely on traditional medicine. Furthermore, for every 10,000 inhabitants there is an average of 2.5 physicians and one quarter of the children suffers from chronic malnutrition. According to the United Nations Population Fund (hereinafter "UNFPA") the infant mortality rate was recorded at 57 per 1,000 live births. Life expectancy is estimated at 52 years of age for men and 53 years of age for women. The poor quality of health services and working conditions are issues that have been raised on a number of occasions by staff at the General Hospital in Port-au-Prince, who have organized numerous work stoppages to alert authorities of these problems. Such work stoppages have further endangered the lives of persons receiving medical treatment at this facility.

32. The combination of violence and extreme poverty in the urban setting further exacerbates the limited access to medical services in Port-au-Prince. For example, during 2005, *Medecins Sans Frontiers* reportedly provided emergency medical assistance to more than 7,000 people, of which approximately 2,500 were direct victims of violence. The lack of proximity and accessibility of public health facilities severely increases the risk of loss of life amongst victims of armed violence. Overall, several factors caused a critical humanitarian situation, as a consequence of the rise in violent crime on a massive scale, the incapacity of the State to adequately respond to these acts in a prompt and effective manner, and the inability of the public to access basic services. This resulted in a record number of casualties caused by acts of armed violence and led to the establishment of new facilities to provide medical and psychosocial services to victims of violence in affected communities.

33. The political, economic and social features of the Haitian context have a dire impact on the exercise of women's rights. While aspects of the general situation in Haiti affect most

Haitians, the information gathered shows that Haitian women have historically experienced additional barriers to the full enjoyment of their basic rights due to predominant social beliefs that they are inferior to men and a historical pattern of discrimination and violence against them based on their sex. The Commission observes with concern that Haitian women still bear the burden of inequalities in the protection of their civil, political, economic and social rights as compared to their male counterparts, including greater exposure to human rights violations and discriminatory acts, the absence of their specific needs from the public agenda, limited opportunities to contribute and participate in the economic and social development of their societies, dire levels of poverty and brutal acts of violence.

II. FORMS OF DISCRIMINATION AND VIOLENCE AGAINST WOMEN IN HAITI

A. The Problem of Violence against Women as a Cause and Consequence of Discrimination

34. During its visits, the Commission received information confirming that discrimination against women has been and still is a widespread and tolerated phenomenon in Haitian society. Women in Haiti continue to enjoy a disadvantaged and unequal position, as compared to their male counterparts, in the economic, education, health, justice, labor and decision-making sectors. Furthermore, the Commission is particularly concerned with the avid link between the forms of discrimination that women still face in Haiti and the alarming prevalence of violence against women.

35. Discrimination against women in Haiti mostly results from social and popular conceptions, in the form of stereotypes, that women are inferior to men and therefore are only fit to perform certain social roles, which are also the most socially undervalued. These conceptions remain ingrained in Haitian culture and fuel social practices that are discriminatory towards women in the family and public spheres. For example, during the visits, the Commission received information from a number of sectors confirming that women are still the sex largely expected to care for the children and perform household duties because of their biological difference and reproductive capacity, which severely limits women's opportunities to work outside of the home. In turn, the activities that women perform in the context of the family are not socially valued equally as the work performed outside of the home. The Commission has expressed in the past its concern over this type of social assignment of roles to women because it promotes their inferior social treatment.

36. For example, in the *María Eugenia Morales de Sierra* case, the Commission found violations to the American Convention when provisions of the Guatemalan Civil Code that concerned the relationship between husbands and wives divided responsibilities between them according to socially constructed roles: husbands were responsible for financially supporting the home, while wives were responsible for taking care of the home and the children. The Commission found that "far from ensuring the 'equality of rights and adequate balancing of responsibilities' within marriage," these provisions institutionalized imbalances in the rights and duties of the spouses. The Commission concluded that the disputed articles of the Civil Code:

[h]ave a continuous and direct effect on the victim in this case, in contravening her right to equal protection and to be free from discrimination, in failing to provide protections to ensure that her rights and responsibilities in marriage are equal to and balanced with those of her spouse, and in failing to uphold her right to respect for her dignity and private life.

37. The Commission found that the provisions of the Civil Code applied stereotyped notions of the roles of women and men, which perpetuated discrimination against women in the family context. It therefore concluded that the use of “stereotyped notions of the roles of women and men” is not a suitable factor to guarantee the equality of men and women and their equal rights and responsibilities. Article 6 of the Convention of Belém do Pará furthermore provides that the right of every woman to be free from violence includes the right to be free from all forms of discrimination and the right of women to be valued and educated free of stereotyped patterns of behavior and social and cultural practices based on concepts of inferiority and subordination.

38. With respect to Haiti, information available indicates, that compared to their male counterparts, women have historically been underrepresented in decision-making positions in the Executive, Legislative, and Judiciary; their work has been undervalued and underpaid; they have faced scarce professional opportunities and their work has often been confined to the domestic sphere; they have experienced limited access to educational opportunities at all levels; they have had an unequal access to the health, education and justice services; and they have received an unequal treatment within their families.

39. In its plan of action, the Ministry of Women documents existing systemic inequalities between men and women in Haitian society in the labor, education, health and political sectors. In the labor sphere, the Ministry of Women observes how Haitian women hold an important position in the Haitian economy, but to assess their contribution is challenging because of the “invisible nature” of their work. Women still constitute a majority in the domestic labor sphere, as it is considered an extension of their traditional role in the home. The work of women is usually relegated to the informal sector of the economy, which does not grant stability or standard labor protections or to professions with the lowest salaries and those considered “feminine”. Their salaries are lower than those of men and their professional and economic opportunities are scarce.

40. Several sources confirmed during the Commission’s visits that women are underrepresented in political parties and in decision-making structures, and that a gender perspective is typically missing from public policies and programs. The Association for Women Judges communicated to the delegation that women are underrepresented in the Legislative and in the justice system in general. For example, it has been 17 years since a woman has held the post of Supreme Court judge. They also confirmed that women judges are disrespected, mistreated and relegated to less important matters and that male judges are favored over women in the assignment of important cases and in consideration for promotions. Furthermore, even though women and male judges may receive the same salaries, female judges do not enjoy the same growth opportunities at work as their male counterparts.

41. In the realm of education, a number of sectors, including the Ministry of Social Affairs, confirmed during the April 2007 visit that, due to the historical discrimination women

have faced in Haitian society, education levels of the female population are lower than those of the male population. For example, parents with limited means invest in the education of their male children instead of that of their female children based on the expectation that girls will financially depend on men in the future. The Ministry of Women also notes that young girls enter the education system later than boys and have a higher dropout rate, due to domestic responsibilities and teenage pregnancies. This results in women having a higher illiteracy rate than men. The Ministry of Women also reports that the school curriculum reproduces stereotypes of women as inferior to men. In the family sphere, civil society organizations and service-providers, such as Kay Famn, communicated to the delegation that women have been historically and exclusively tasked with maternal and childrearing responsibilities, which has exposed them to an inferior treatment within the family.

42. Some of the main problems faced by women due to their disadvantaged social position are the lack of access to information on the reproductive health and family planning services available and a low rate of contraceptive use (measured at 13.2% by the Ministry of Women). Furthermore, the United Nations Development Fund for Women (hereinafter "UNIFEM") has concluded, based on United Nations Development Programme (hereinafter "UNDP") data, that between 80 to 90% of Haitian women live at least 15 kilometers away from a health-care centre and therefore have limited access to contraceptives, pre-natal checks or post-natal care.

43. For the Commission, it is particularly alarming how the discrimination women have historically faced in Haitian society still exposes them to brutal acts of physical, sexual, and psychological abuse in the public and private spheres. The civil society and services organization SOFA has described the link between the problem of discrimination and violence against women in Haiti as follows:

The declarations of violence-against-women victims who have sought our services between July and December of 2006, in the different centers, show one more time, that violence against women is the direct consequence of a discriminatory and unequal society developed within a patriarchal system. The laws, institutions, structures, and the mentalities resulting from such regime violate the fundamental liberties and rights of women and girls because they are not recognized as full rights holders. Discrimination, social exclusion and female *paupérisation* are the cause of that systemic violence. [IACHR's Translation]

44. In its jurisprudence, the Commission has established the link between the obligation of the States to guarantee the equal treatment of women in their societies and the eradication of violence against women. Furthermore, the Commission has repeatedly found that violence against women is a manifestation of social customs and practices, which relegate women to a position of subordination and inequality and consequently places them in a disadvantaged position, compared to their male counterparts.

45. Violence against women has been a historical fixture in Haitian society because of the discrimination they have always faced. Following a visit to Haiti, the United Nations Special Rapporteur on violence against women, its causes and consequences (hereinafter "United Nations Rapporteur on violence against women") expressed that most interviewees described

Haitian society as "inherently and structurally violent"; a society in which violence against women manifests itself in all of its forms, with one State interlocutor indicating that 90% of Haitian women have experienced gender-based violence in their lives. This context has been perpetuated by existing legislation, which includes language and provisions that limit the rights of women and fail to guarantee their equal protection under the law from acts of sexual violence. More recently, on November 25, 2006, in commemoration of the International Day against Violence against Women, the Prime Minister of Haiti claimed that "violence against women is an alarming human rights violation, which originates in the discriminatory nature of the society, and which in its laws, education schemes and prejudices, dictates social patterns of inequality detrimental to young girls and women".

46. Violence against women in Haiti has furthermore notably increased during instances of political instability and unrest, especially since the 1990's. In 1995, the Commission reported that since the *coup d'état* against President Jean-Bertrand Aristide, the illegal *de facto* regime committed numerous human rights abuses against the civilian population, particularly since mid-1993, following the failure of the Governors Island Agreement. The Commission also reported that women of varying ages and circumstances had been raped with the objective of creating a "climate of terror" among Aristide supporters. Accordingly, the Commission was informed of the systemic use of rape and other types of violence against women and children by a variety of perpetrators including members of the army, the police, their armed civilian auxiliaries and paramilitary groups, among others. The Commission described the use of rape as "neither random, nor occasional, but widespread, open and routine".

47. In this backdrop and context, discrimination and the resulting acts of violence continue to be tolerated in Haitian society which in turn perpetuates a climate of impunity towards these acts and their repetition. Discrimination is a constant and structural feature in Haitian society and culture, both in times of peace and unrest, and, as such, needs to be addressed in order to ensure the full protection of women's rights and to achieve the eradication of the problem of violence against women.

B. Violence against Women in Different Settings

48. Since 2004, the rate of violence against women, in all its forms, has remained alarmingly high. The figures reveal a steady increase over the past three years, exacerbated by the rise in poverty across the country, the wealth gap, the proliferation of arms, the prevalence of violent crime, the lack of adequate crime prevention measures, and the absence of effective accountability mechanisms in the country. The nature of the violations has grown progressively more brutal, resulting in women being subjected to multiple forms of violence at once, including acts of rape, cruel treatment, and psychological and physical torture.

49. The Commission has observed that the incidence of violence against women has mirrored the increase in criminal violence in Port-au-Prince. Cases of child rape, gang rape, and multiple acts of sexual violence against the same victim over time have increasingly been documented in the poorest neighborhoods. Daily acts of violence against women and the State's failure to ensure justice for the victims perpetuate a situation of widespread impunity. The UN Secretary-General acknowledged the urgent situation of girls subjected to systematic acts of rape

and sexual violence, and found that up to 50% of girls living in conflict zones such as Cité Soleil are victims of rape or sexual violence, while in other affected areas, such as Martissant, acts of gang rape have been reported.

50. The lack of an official, national data collection and recording system makes it difficult to obtain comprehensive statistics on incidents and cases of violence against women. However, a study from the *Table de Concertation Nationale* confirms the high percentage of sexual violence in Haiti. The study documented 600 cases of sexual violence between 2002 and July 2005 which were recorded by GHESKIO (a medical center exclusively servicing women victims of violence in Port-au-Prince). Meanwhile, this same organization reported 17 cases of rape in 2003 and 49 during 2004. These figures were higher for 2006. In particular, GHESKIO reported receiving approximately 10 rape cases per day during the month of November 2006. The report concluded that almost half of the recorded rape victims were minors (under 18 years old); the time delay for seeking medical assistance after rape tended to exceed 72 hours; and, that the majority of cases of sexual violence were perpetrated by men against single women.

51. Figures for 2006 and 2007 indicate that these acts are being perpetrated with more frequency, and are often accompanied by other abuses such as beatings and physical mutilation. The civil society and services organization SOFA recorded 396 cases of violence against women and young girls nationally for the second semester of 2006 (July through December), and a total of 726 cases for the whole

year. The civil society and services organization Kay Fanm, recorded 954 cases of violence against women for the year 2006. For the first semester of 2007, Kay Fanm reports 573 cases in which they provided legal assistance to women, 305 of which resulted in criminal complaints by the victims with the assistance of Kay Fanm. Most of the recorded cases by SOFA were documented in gang ridden sections of Port-au-Prince, such as Martissant. The organizations indicated that the data is based on reported abuses, but clarified that the actual number of cases is likely much higher since many incidents go unreported. Additionally, international agencies, such as UNDP, reported widespread violence against “*restavek*” or domestic workers, the majority of which are young girls.

52. The Commission also received information about the prevalence of intra-family violence. The United Nations Independent Expert for Haiti reported in 2006 that in 85% of the cases of interpersonal violence, women were the victims, while 88% of the aggressors were men. However, the Commission observed that intra-family violence does not have the same level of visibility as other forms of violence given the social taboo linked to this issue.

53. The Commission received information on three main forms of violence against women in Haiti: physical, sexual, and psychological; and the contexts in which they occur: urban, institutional and intra-family or domestic. As explained earlier, all forms of violence against women constitute extreme manifestations of discrimination against women and are rooted in an underlying perception of women’s inferiority in society reflected at all levels, both in the private and public spheres.

1. Urban Violence

54. The nature of the violence, commonly referred to in Haiti as '*violence urbaine*', is the term used to characterize the recent phenomenon of violent crime, gang violence and organized crime that has particularly affected Port-au-Prince residents and has become a priority issue for the Government of Haiti. This crime wave has been characterized by frequent gang conflicts in numerous parts of the city, often involving gun battles between rival groups or between these groups and members of the HNP or UN forces undertaking security operations.

55. In this connection, unidentified armed groups or gangs were reported to constitute the primary perpetrators of violence against women in the urban setting. Reports indicate that perpetrators of violent crime in the metropolitan area have frequently targeted women, as a means to impose an atmosphere of fear and intimidation, thereby exerting power and control over the victim and targeted communities. Figures show that the majority of women in Haiti have been victims of urban violence. Reports confirm that women and girls have been wounded or killed by gunfire, beaten, raped, tortured, psychologically abused or otherwise physically or sexually exploited by their aggressors. According to service providers, the largest number of recorded cases of violence against women in the urban setting results from gunshot wounds and beatings.

56. The practice of engaging in violence against women by armed groups as a strategy to acquire political power in Haiti and other countries is well documented. While in the past armed group activity was strictly linked to political objectives, in recent years armed groups have increasingly engaged in violent activity purely for criminal purposes (organized crime), such as competition between groups for power and control over certain sectors of the city. The Commission received information that rape in Haiti has become a regular and consistent practice perpetrated by armed groups affecting women of all categories, not limited by age or socioeconomic class.

57. The Commission noted that, between 2004 and 2006, sexual violence emerged as one of the predominant forms of violence against women, frequently causing serious physical injuries and long-term effects on the victim's physical and mental health, and social stigmatization. The organization *Medecins Sans Frontieres* recorded having treated 557 women for rape between January 2005 and August 2007 and indicated that 68% of this total figure had more than one attacker, and about 6% of this total number had experienced rape in the context of having been kidnapped. Further, *Medecins Sans Frontieres* reported, that in 2006 on average of 19 rape victims per month were received by its health centers, while in 2007 it registered on average of 26 per month.

58. The kidnapping phenomenon, which until recently was unprecedented in Haiti's history, became systematic and widespread in Port-au-Prince during 2005-2006. Also during this period, the Commission received numerous reports that kidnappers were increasingly targeting women, with the intent to claim higher ransoms. The Commission was able to verify that rape of female victims of kidnapping had become a systematic practice by the aggressors. There have been cases in which the victim has been killed and her body found mutilated, suggesting acts of possible cruel treatment or torture. Thus, rape has been increasingly employed

by several armed groups, particularly gangs and criminals, as part of a strategy to gain and retain power and control over the victim and her community.

59. The Commission notes with concern a growing number of reports of gang rape, which in some cases, has been used as an instrument of punishment or repression by armed groups, especially against girls, which are largely perceived to be more susceptible targets, or women who are seen to be socially deviant, promiscuous, rebellious or who refuse consensual sex.

60. Women victims of violence share similar characteristics and conditions which make them relatively more susceptible to violence. For example, the majority of sexual violence cases are carried out against single women; nearly half of rape victims are women who are 18 years old or younger; and in most cases, the women are the heads of households, living in extremely poor economic conditions and inhabiting the poorest neighborhoods in the city called "*quartiers populaires*," several of which are over-run by armed gangs. Figures recorded since 2005 indicate 85% of the victims of violence registered in health centers are women.

61. The *Table de Concertation Nationale* study confirms the high percentage of gang rapes (accounting for 41-49% of the cases documented by GHEISKO and KAY FAMN) and considers the rate of rape cases committed by strangers with the use of firearms "alarming." The report confirms that acts of gang rape constitute the majority of cases of violence against women recorded between October 2004 and September 2005. Moreover, increasingly gang rape is perpetrated during kidnappings and attacks on private homes by criminals. As such, women are increasingly vulnerable to multiple violations perpetrated at once.

62. Testimonies from the victims and social worker accounts confirm that certain women have been forcibly recruited by armed groups or otherwise forced to provide a number of services for the armed groups, including sexual services. Women are further expected to engage in criminal activities and/or to serve as accomplices to criminal acts, such as serving as negotiators for kidnapped victims and providing meals and care for gang members and their kidnapped victims. In these cases, women have been subjected to systematic abuse by their captors and risk serious physical harm or death if they attempt to escape. Similarly, women and young girls residing in gang ridden communities risk being raped (or gang raped) as a form of punishment for their refusal to have sex with a gang leader or member.

63. Few acts of violence against women are reported to the authorities due to various barriers, including the lack of public security in parts of the city where violent crime predominates, fear of reprisal attacks by the perpetrators, and the victims' lack of confidence in the justice system's ability to provide an effective remedy. In most cases, women reside in the same neighborhoods as their aggressors and are aware that they may be the targets of retaliation for filing a complaint with the authorities. Further, rape carries with it a strong social stigma that can result in the rejection of the victim by her partner, family and community.

2. Institutional Violence (in administration of justice institutions)

64. Acts of violence against women perpetrated by State agents and/or within State institutions is a form of violence that has not been widely documented in Haiti. This form of violence continues to be a hidden issue, which frequently goes unreported. The Commission received information during its visits indicating that women and girls are victims of physical and sexual abuse at the time of arrest and during periods of detention in police station holding cells. This section highlights the information received by the Commission on acts of violence against women in institutional settings and the existing barriers to reporting these acts to the authorities.

65. In December 2006, the IACHR's delegation obtained information from prison authorities stating that they had received female detainees (delivered by police authorities from police stations) who had been physically abused and beaten, presumably by police authorities during the time of arrest or detention. In this connection, in October 2007, a similar case was reported in which a prison guard in the prison of Cap-Haitien allegedly raped and beat the wife of a male detainee while she was at the facility to deliver food to her husband. The victim required hospitalization for her injuries.

66. Witness accounts and reports from human rights observers indicate that abuse of women while in detention in the police station cells is frequent but rarely reported. Victims are particularly disinclined to report violations perpetrated by security forces or prison guards for several reasons. Victims are usually in the custody of those who are perpetrating the abuse, for example, acts of violence have reportedly taken place at the time of arrest or during periods of detention in police stations or prison facilities. In many cases, there is no evidence of the crime because the sexual abuses are committed in isolated locations and with no witnesses.

67. In this context, women have no access to a safe and secure complaint mechanism to report the abuse. While the office of the Inspector General of the Police is charged with investigating acts of misconduct by police officers, this office does not have representation in or near metropolitan police stations or in the ten administrative departments of the country. According to the Inspector General, regular inspection visits are part of the strategy to enforce proper police conduct, but due to a lack of resources and personnel, these visits are infrequent.

68. In situations where victims have the opportunity to file a formal complaint with the authorities (for example, after they have been released from custody), additional factors cause victims to refrain from reporting the abuse. For example, there is a general and widespread lack of public confidence in the administration of justice in Haiti, the reputation of the police and the judiciary has been seriously tarnished over the years, due to the prevalence of corruption in both institutions and the inefficacy of these institutions with respect to their capacity to bring perpetrators to justice.

69. For most Haitians, the police and/or the justice system does not present an effective solution to their problems and most victims are disinclined to rely on these institutions to provide a prompt and effective response. In this connection, State agents in Haiti have very rarely been prosecuted and convicted for human rights violations or acts of violence against women. Furthermore, in some cases, victims and their families have been targeted by their perpetrators for filing a complaint against them, and have been subjected to additional harm. Also, the society's discriminatory views towards women and the tendency not to take women's complaints

of violence seriously are additional deterrents to pursuing a legal claim. In some cases their allegations are trivialized, doubted or questioned. Many victims and service providers, especially civil society organizations working with women victims of violence, confirmed the widespread discrimination women face by police and judicial authorities when seeking legal redress from the State.

70. The Commission therefore considers it important that the State adopts measures to improve the monitoring and enforcement of State agents in institutional settings. Special attention and resources should be allocated to improving the complaint mechanisms for victims of institutional violence and State agents must be sensitized and trained on the handling of complaints relating to violence against women. In particular, the Inspector General's Office should explore the possibility of improving access to the mechanism by affected populations, and/or explore the options for other State entities, such as the office of the Ombudsman (*Office du Protecteur du Citoyen*), to play a more active role in protecting human rights and appropriately channeling and addressing complaints. Finally, a review of current policies, procedures and codes of conduct in the police and prison administrations is recommended and appropriate amendments suggested in order to eradicate violence against women within State institutions and to ensure proper follow-up by the justice system.

3. Intra-family Violence

71. Intra-family violence is another form of violence against women that is extremely prevalent in Haitian society, although it frequently goes unreported. The U.N. Independent Expert on Haiti reported that "[i]n 85 per cent of cases of interpersonal violence, women are involved... [and] taking all forms of violence together, women are the victims in 85 per cent of cases, and men the aggressors in 88.8 per cent." Intra-family violence remains largely a hidden issue that is tolerated within the private sphere and ignored by the State. During its visit to Haiti, the Commission met with victims of intra-family violence and members of organizations providing specialized services for women victims of violence, who confirmed that violence in the domestic sphere is common and widespread, but that women rarely report acts of violence unless they result in serious physical injury, unwanted pregnancies or other conditions that would require medical attention.

72. The Ministry of Women recently released a study on intra-family violence, according to which "30% of Haitian women are victims of physical, emotional and sexual violence from their spouses". The Commission received information from civil society organizations that reported that 68% of victims of physical violence between 2003 and 2005 received services for claims of intra-family violence. The Commission also received data from other organizations, which reported that 59% of victims of violence were victims of intimate partner violence. The latter group, SOFA, which comprises various centers for victims of intra-family violence located in the West, South East, Artibonite and Grande-Anse Departments in Haiti, has reported that in the first semester of 2006, 75% of women treated were victims of intimate partner violence and 2% were victims of violence perpetrated by a relative.

73. These figures reveal that out of a total of 330 victims of violence received by these centers, 246 were victims of intimate partner violence; the highest percentage (38%) being physical violence.

74. Various sources confirm that the majority of women who have been subjected to intra-family violence do not report these incidents to the authorities, due to various reasons, including the probability of facing ostracism and reprisals from their aggressors, the lack of trust that the judicial system can offer an effective remedy for these acts, and the apathy shown by police and law enforcement authorities when the victims report these acts. Furthermore, one of the main barriers to the eradication of intra-family violence is the social perception of this matter as private.

75. The organization Kay Fanm informed the Commission that the police perceives intra-family violence cases as less important when compared to cases involving other forms of violence. On this point, the current provision on rape in the Haitian criminal code does not specifically include marital rape, and no specialized law on domestic violence or gender-based violence currently exists in Haiti. Despite these challenges, SOFA has reported that, for the first semester of 2006, women have begun to report marital rape. However, since acts of intra-family violence against women are tolerated in Haitian society they rarely result in the prosecution and the conviction of the perpetrators, which in turn perpetuates impunity and the repetition of these acts.

76. Given the lack of information about this form of violence, the fact that many victims are still afraid to report such violations due to social taboos and the fear of reprisals, the State must adopt legislative, institutional and policy measures, as stipulated in the Convention of Belém do Pará, specifically designed to prevent, prosecute and punish acts of intra-family violence. The State should also provide adequate and specialized services for victims of intra-family violence. In particular, State efforts are needed to sensitize and educate the public on intra-family violence as a form of violence punished under national and international law.

4. Perception of Violence against Women

77. Given the prevalence of violence against women reported by service groups over the past three years, the Commission is particularly concerned with what social workers and service groups have described as the *'banalisation de la violence dans la société'*, or the social tolerance of violence against women. The Commission observes that the entire society has been adversely affected by this phenomenon of urban or criminal violence, causing the population to be predominantly ruled by fear and intimidation. This context has resulted in tolerance and passivity in the face of acts of violence against women. Service providers and victims groups specified that the notion of passive acceptance is most common in affected, poor communities where acts of violence have been most frequent, gang activity has predominated, and State action to prevent or punish such acts has been largely ineffective.

78. Violence against women is perpetuated by persisting discriminatory attitudes and practices towards the victims. One factor contributing to a general sentiment of tolerance towards acts of violence against women is a lack of awareness and recognition that violence against women constitutes a human rights violation triggering a duty by the State to take action in preventing such abuses. Further, victims and persons living in the most affected communities have not received justice for most of the abuses or violations suffered over the years. This is

contributing to the climate of impunity and a sentiment of tolerance toward the situation by the general population. To date, violence against women has largely been trivialized in terms of its public recognition and treatment, in comparison to other human rights issues.

79. A contributing factor to the culture of silence surrounding acts of violence against women, such as sexual violence, is the social stigma in Haitian society associated with these incidents. A woman or girl who is sexually abused is perceived to have had her dignity tarnished, rather than being regarded as a victim of a human rights violation. A woman who has been sexually abused is often blamed for the abuse and runs the risk of being ostracized from her community and abandoned by her family. The failure to recognize these abuses as human rights violations denies the victims the right to a remedy and frequently leads to repeated victimization in the long-term. Social workers attribute the persistence of rape and physical abuse in the domestic setting to a culture of silence, in society and by the State.

UN, Economic and Social Council, COMMISSION ON HUMAN RIGHTS, Sixty-first session, Item 19 of the provisional agenda, E/CN.4/2005/123, 24 January 2005, Advisory Services and Technical Cooperation in the Field of Human Rights: Situation of human rights in Haiti Report prepared by the independent expert, Louis Joinet, para. 16, available at <http://www.ohchr.org/EN/countries/LACRegion/Pages/HTIndex.aspx>.

Kay Fanm, *Violence envers les Femmes et les Filles, Bilan de l'Année 2006*, p. 18.

UN, Economic and Social Council, COMMISSION ON HUMAN RIGHTS, Sixty-first session, Item 19 of the provisional agenda, E/CN.4/2005/123, 24 January 2005, Advisory Services and Technical Cooperation in the Field of Human Rights: Situation of human rights in Haiti Report prepared by the independent expert, Louis Joinet, para. 16, available at <http://www.ohchr.org/EN/countries/LACRegion/Pages/HTIndex.aspx>

Due to resource constraints, the State is limited in its capacity to provide official comprehensive figures for the phenomenon of violence against women. Nevertheless, the Commission received data from service-providers in Haiti that aim to address the needs of victims of violence against women, including those that are members of the *Table de Concertation Nationale contre la Violence Faites Aux Femmes*. The *Table de Concertation Nationale* includes several service organizations that collect data on women victims of violence treated per year.

Preliminary Observations of the Inter-American Commission on Human Rights upon conclusion of its April 2007 Visit to Haiti (2 March 2008); see also, U.N. Report of the Secretary General on Children and Armed Conflict. (A/61/529- S/2006/826) 26 October 2006.

Doctors Without Border's Fact Sheet on Haiti, last updated 2007, available at www.doctorswithoutborders.org/news/country.cfm?id=2323.

Kidnapping and murder of Natasha Farah Dessources (20 years old), body found mutilated; See Radio Kiskeya, «Arrestation d'un adolescent de 15 ans pour implication présumée dans l'assassinat de la jeune Farah Natacha Kerby Dessources (20 ans), en novembre 2006 à Port-au-Prince», MINUSTAH Newsletter of January 14, 2008; RNDDH, «Port-au-Prince inflicted with Terror ,» Press release of December 6, 2006; Radio Kiskeya, «Hystérie collective aux funérailles de Farah Natacha Dessources, une suppliciée du kidnapping,» November 25, 2006; see also Panos Caraïbes, «Viol en Haïti:État des lieux accablants, le défi de contrecarrer le fléau,» No. 15, Février 2007, p. 4: « Les femmes violentées sont en outre soumises à des sévices corporels les plus cruels, à savoir: assassinat, matrices perforées, yeux crevés, blessures graves.»

See IACHR Press Release No. 19/04 “IACHR Completes Visit to Haiti” (September 7, 2004) available at <http://www.cidh.org/Comunicados/English/2004/19.04.htm>; see also IACHR Press Release No. 16/05 “IACHR Calls for More International Action in Haiti” (April 22, 2005) also available at: <http://www.cidh.org/Comunicados/English/2005/16.05eng.htm>; see also IACHR Press Release No. 20/05 “IACHR Releases Preliminary Observations on its April 2005 Visit to Haiti (June 6, 2005) also available at <http://www.cidh.org/Comunicados/English/2005/20.05.htm>; see also IACHR Press Release No. 37/05 “IACHR and UNICEF Regional and Caribbean Office Conclude Visit to Haiti” (November 5, 2005), available at: <http://www.cidh.org/Comunicados/English/2005/37.05eng.htm>; see also IACHR Press Release No. 24/07 “IACHR Encouraged by Efforts to Improve the Situation of Human Rights in Haiti” (April 20, 2007) available at: <http://www.cidh.org/Comunicados/English/2007/24.07eng.htm>; see also IACHR Press Release No. 32/07 “Rapporteur on Persons Deprived of Liberty Concludes Visit to Haiti” (June 21, 2007) available at: <http://www.cidh.org/Comunicados/English/2007/32.07eng.htm>.

See IACHR Press Release No. 4/04 “Press Release on Haiti by IACHR” (February 26, 2004) also available at: <http://www.cidh.org/Comunicados/English/2004/4.04.htm>; see also IACHR Press Release No. 7/04 “IACHR Insists on Respect for Human Rights during Haiti’s Crisis” (March 11, 2004) also available at: <http://www.cidh.org/Comunicados/English/2004/7.04.htm>; see also IACHR Press Release No. 22/04 “IACHR Expresses Concern over Situation in Haiti during 121st Regular Period of Sessions” (October 28, 2004) also available at: <http://www.cidh.org/Comunicados/English/2004/22.04.htm>; see also IACHR Press Release No.35/05 “IACHR Reports on Human Rights Situation at Conclusion of its Session” (October 28, 2005) also available at: <http://www.cidh.org/Comunicados/English/2005/35.05eng.htm>; see also IACHR Press Release No.37/06 “IACHR Observes Progress and Challenges in Respect for Human Rights in the Americas” (October 27, 2006) also available at: <http://www.cidh.org/Comunicados/English/2006/37.06eng.htm>.

See IACHR Press Release No. 6/06 “Haiti: Failed Justice or the Rule of Law? IACHR Releases Report on Administration of Justice in Haiti” (March 16, 2006) also available at: <http://www.cidh.org/countryrep/HAITI%20ENGLISH7X10%20FINAL.pdf>; see also IACHR Report “Access to Justice for Women Victims of Violence in the Americas” (OEA/Ser. L/V//II) Doc. 68 (20 January 2007) available at : <http://www.cidh.org/women/Access07/tocaccess.htm>; see also IACHR Report “*Violence and Discrimination against Women in the Armed Conflict in Colombia*” (OEA/Ser.L/V//II) Doc. 67 (October 16, 2006) also available at: <http://www.cidh.org/countryrep/ColombiaMujeres06eng/TOC.htm>; see also IACHR Press Release No. 14/06 “IACHR Expresses Concern for the Human Rights Situation in Haiti” (May 2, 2006) also available at: <http://www.cidh.org/Comunicados/English/2006/14.06eng.htm>.

Wiza Loutis, «*Evaluation de la situation des femmes dans le cadre de la violence armée en Haïti (Commune de Port-au-Prince, des Cayes et des Gonaïves ,*” Section conjointe DDR-PNUD/MINUSTAH, June 2006; Radhika Coomaraswamy, «*Integration of the Human Rights of Women and the Gender Perspective: Violence against Women/Report on the Mission to Haiti*», E/CN.4/2000/68/Add.3, January 27, 2000.

Office de la Protection du Citoyen (OPC), «*Rapport de fin de mission 10 Février au 10 Aout 2005*», UPDF (Aout 2005) and «*Rapport d’activité dans le cadre de l’observation des cas de violence faite aux femmes*» (Décembre 2006); Ministry of Women, «*Plan National de Lutte contre les violences faites aux femmes ,*” CNVF, (November 2005) and «*Prise en charge et accompagnement des victimes de violence sexuelle*» (March 2005).

Reports from Haitian human rights and civil society organizations during 2004-2007, including the Episcopal Commission on Justice and Peace (JILAP), the Réseau National pour les Droits des Haitiens (RNDDH); Solidarité des Femmes Haitiennes (SOFA).

Interviews by IACHR delegation with representatives of Solidarité des Femmes Haitiennes (SOFA); APROSIFA; GHESKIOU; Kay Fanm; Enfofanm; Anne Sosin; CONOCS/MOFECES; AVSI; IFES-Victims of Violence Program; and women and children victims of violence.

UN News Centre, "Recent wave of Haitian kidnappings sparks alarm from UN peacekeeping mission," December 20, 2006, available at: <http://www.un.org/apps/news/story.asp?NewsID=21063&Cr=haiti&Cr1=>;

see also Jacobs, Stevenson, "Haitian Senator Escapes after Kidnapping," December 16, 2006, available at: <http://www.washingtonpost.com/>.

The Commission met with representatives of the Haitian Government, members of civil society and representatives of international organizations. The Commission met with the President of the Republic of Haiti, His Excellency René Préval, the Prime Minister, His Excellency Jacques Edouard Alexis, the Minister of Foreign Affairs, Jean Renald Clerisme, the Minister of Justice and Public Security, Rene Magloire, the Minister of Social Affairs and Labor, Gerald Germain, the Minister of the Status of Women and Women's Rights, Marie Laurence Josselyne Lassegue, the President (a.i.) of the Supreme Court, Mr. George Moise, the Secretary of State for Justice, Mr. Daniel Jean, the Secretary of State for Public Security, Mr. Luc Eucher Joseph, the General Director of the National Police, Mr. Mario Andresol, the State Prosecutor for Port-au-Prince, Mr. Claudy Gassant, the Special Representative for the UN Secretary-General, Mr. Edouard Mulet, the Gender Advisor to the UN SRSG, MINUSTAH, the Chief of the Justice section, MINUSTAH, the Chief of the Human Rights section, MINUSTAH, the Police Chief Marie Louise Gautier, the National Coordinator of Women's Affairs of the Haitian National Police, the Police Chief of the Children's Division and members of Haitian human rights and women's rights organizations.

The Commission met with representatives of: Solidarité des Femmes Haitiennes (SOFA); APROSIFA; Kay Fanm; Enfofanm; Anne Sosin; Movement des Femmes a Cité Soleil (MOFECES); Association des Femmes Juges; Enfofanm; COHADDE; Danielle Magloire.

See IACHR, Annual Report 2004, Chapter IV: Haiti, available at

<http://www.cidh.org/annualrep/2004eng/chap.4b.htm>, para. 140; see also IACHR, Annual Report 2005, Chapter IV: Haiti, available at <http://www.cidh.org/annualrep/2005eng/chap.4c.htm>, paras.

242-243; see also IACHR, Annual Report 2006, Chapter IV: Haiti, available at

<http://www.cidh.org/annualrep/2006eng/Chap.4c.htm>, para. 125.

IACHR, *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser./L/V/II.123 doc. 6 rev. 1, 26 October 2006, para. 5.

IACHR, *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser./L/V/II.123 doc. 6 rev. 1, 26 October 2006, para. 5.

IACHR, *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser./L/V/II.123 doc. 6 rev. 1, 26 October 2006, para. 5.

IACHR, *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser./L/V/II.123 doc. 6 rev. 1, 26 October 2006, para. 5.

IACHR, *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser./L/V/II.123 doc. 6 rev. 1, 26 October 2006, para. 5.

IACHR, *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser./L/V/II.123 doc. 6 rev. 1, 26 October 2006, para. 5.

See IACHR, *Annual Report 2006*, Chapter IV: Haiti, available at <http://www.cidh.org/annualrep/2006eng/Chap.4c.htm>.

See IACHR, *Annual Report 2006*, Chapter IV: Haiti, available at <http://www.cidh.org/annualrep/2006eng/Chap.4c.htm>.

The IACHR delegation in which travelled to Haiti in the December 2006 visit was informed of a mass kidnapping of schoolchildren, which led to the early closing of schools in Haiti.

This may also be influenced by the changes introduced by the July 2005 Decree, according to which rape is now punished with forced labor penalties (which in practice translates into prison sentences), as opposed to the previous ‘sanction’ of ‘reclusion’. However, out of 41 cases of rape that were reported in the first semester of 2007, there was only one conviction. See Kay Fanm, “*Dossiers de Kay Fanm devant les tribunaux*”, *Note d’information*, August 13, 2007.

The Haiti Crisis: Health Risks available at:

<http://www.paho.org/English/DD/PED/HaitiHealthImpact.htm> (HIV prevalence ranges from 2-11.9% of the population); see also *The Challenge of Haiti, Health: A Right for All*, Pan American Health Organization report, available at:

<http://www.paho.org/english/d/csu/TheChallengeofHaiti.pdf>.

World Health Organization, Haiti, available at: <http://www.who.int/countries/hti/en/>.

UNFPA, *State of the World Population 2007*.

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UNFPA, *State of the World Population 2007*.

Interview with ICRC representative, Haiti On-Site Visit, April 2005.

See MSF News from Haiti: Last Operational Update 2006, available at:

www.doctorswithoutborders.org/news/haiti.htm; see also “Treating Sexual Violence in Haiti: Interview with Olivia Gayraud, MSF Head of Mission in Port-au-Prince,” (October 30, 2007), available at: <http://www.doctorswithoutborders.org/news/voices/2007/10-30-2007.cfm>

In response to the humanitarian situation as a result of the level of urban violence and loss of civilian life, the ICRC, the organization Doctors without Borders (*Medecins Sans Frontieres*) and the *IFES-Victims of Violence* project were some of the organizations that developed special services to treat victims of urban violence during 2004-2006. See also, MSF News from Haiti: Last Operational Update 2006, available at: www.doctorswithoutborders.org/news/haiti.htm and MSF News Update: Caught in Haiti’s Crossfire (April 2005), available at www.doctorswithoutborders.org/news/2005/04-01-2005.htm.

IACHR, Merits, Report No. 4/01, *Maria Eugenia Morales de Sierra* (Guatemala), January 19, 2001.

IACHR, Merits, Report No. 4/01, *Maria Eugenia Morales de Sierra* (Guatemala), January 19, 2001, para. 44.

IACHR, Merits, Report No. 4/01, *Maria Eugenia Morales de Sierra* (Guatemala), January 19, 2001, para. 52.

IACHR, Merits, Report No. 4/01, *Maria Eugenia Morales de Sierra* (Guatemala), January 19, 2001, para. 44.

Ministère de la Condition Féminine, Plan d’Action Ministériel, August 2006.

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Ministère de la Condition Féminine, Plan d’Action Ministériel, August 2006.

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Ministère de la Condition Féminine, Plan d'Action Ministériel, August 2006.
Ministère de la Condition Féminine, Plan d'Action Ministériel, August 2006.
Ministère de la Condition Féminine, Plan d'Action Ministériel, August 2006.
UNIFEM, *The Impact of Crisis on Haitian Women: Report of Fact-Finding Mission to Haiti*, January 2006, p. 16.
SOFA, *Cas de Violence Accueillis et Accompagnés Dans les Centres Douvanjou de la SOFA de Juillet à Décembre 2006*, January 2007.
IACHR, Merits, Report No. 4/01, *María Eugenia Morales de Sierra (Guatemala)*, January 19, 2001; IACHR, Merits, Report No. 54/01, *Maria Da Penha Fernandes (Brazil)*, April 16, 2001.
See also IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser.L/V.II.Doc. 68, 20 January 2007, section on Violence and Discrimination, p. 26.
Data provided by the Minister of Social Affairs and Labor in Haiti, cited in United Nations, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, Report on the Mission to Haiti, E/CN.4/2000/68/Add. 3, 27 January 2000, paras. 10 – 11.
Message by the Prime Minister on November 25, commemorating the anniversary of the International Day against Violence against Women [IACHR's Translation].
IACHR, *Report on the Situation of Human Rights in Haiti*, OEA/Ser.L/v/II.88 Doc. 10 rev., February 9, 1995.
IACHR, *Report on the Situation of Human Rights in Haiti*, OEA/Ser.L/v/II.88 Doc. 10 rev., February 9, 1995.
IACHR, *Report on the Situation of Human Rights in Haiti*, OEA/Ser.L/v/II.88 Doc. 10 rev., February 9, 1995.
See U.N. Report of the Secretary-General, "Children and Armed Conflict", (A/61/529-S/2006/826), October 26, 2006.
See Report of the UN Secretary-General to the Security Council, "Children and Armed Conflict", A/61/529- S/2006/826, 26 October 2006, 61st session, para. 39.
The "*Table de Concertation Nationale Contre la Violence Faites aux Femmes*," consists of a group of government institutions (the Ministry of Justice and the Ministry of Health), service groups and civil society organizations -some with broad geographical representation- formed to provide specialized services to women victims of violence, conduct research and data collection on national figures of violence and discrimination against women, and to engage in the promotion of gender equality and women's rights, especially women's health and access to justice. See *Table de Concertation Nationale contre les violences faites aux femmes, "Prise en charge et accompagnement des victimes de violences sexuelles: formation du personnel soignant," Livret de formation*, MCFDC/MSPP, March 2005.
See *Table de Concertation Nationale sur la Violence Spécifique Faites aux Femmes et leur Prise en Charge*, Rapport de la Commission de Collecte de Données (November 2005), p. 2. It is important to note that absent a comprehensive, national recording system for acts of violence generally, and women specifically; the statistics listed here may not fully represent the true dimension of the prevalence of violence against women in Haiti.
UN, Economic and Social Council, Commission on Human Rights, Sixty-first session, Item 19 of the provisional agenda, E/CN.4/2005/123, 24 January 2005, Advisory Services and Technical Cooperation in the Field of Human Rights: Situation of human rights in Haiti Report prepared by the independent expert, Louis Joinet, para 16, available at:
<http://www.ohchr.org/EN/countries/LACRegion/Pages/HTIndex.aspx>.

See World Aids Day, “In Haiti, Gender Can Mean Life or Death,” Amy Bracken. IPS, November 30, 2006.

SOFA, *Cas de Violence Accueillis et Accompagnés Dans les Centres Douvanjou de la SOFA de Juillet à Décembre 2006*, January 2007; Alter Presse, *Haïti: La SOFA recense 396 cas de violence contre des femmes et filles de 3 à 65 ans, dans 21 centres locaux, en 6 mois*, February 27, 2007.

Kay Fanm, *Violence envers les Femmes et les Filles, Bilan de l'Année 2006*, p. 18.

This also resulted in 101 civil lawsuits in cases of alimony, children's custody and legal separation. Kay Fanm, “Dossiers de Kay Fanm devant les tribunaux”, *Note d'information*, August 13, 2007.

UNDP, *Situation Économique et Sociale d'Haïti en 2005*, p. 21.

In April of 2004, UNICEF estimated that 120,000 girls worked as domestic servants in Haiti while this figure increased to 225,000 in March 2006. See UN News Centre, “Street children, girl servants severely affected by Haitian violence – UNICEF”, April 19, 2004, available at: <http://www.un.org/apps/news/story.asp?NewsID=10447&Cr=Haiti&Cr1>; see also UNICEF, “Haïti: SOS enfants en danger!”, March 2006, No. 2, p. 3, available at:

[http://www.unicef.org/french/childalert/haiti/content/Child%20Alert%20Haiti%20\(Fr\).pdf](http://www.unicef.org/french/childalert/haiti/content/Child%20Alert%20Haiti%20(Fr).pdf) (« Un enfant sur dix à peu près est employé comme domestique ailleurs que dans sa famille. Les filles comptent pour 75 pour cent des 300 000 travailleurs surnommés *restaveks* »).

UN, Economic and Social Council, Commission on Human Rights, Sixty-second session, Item 19 of the provisional agenda, E/CN.4/2006/115, 24 January 2006, Advisory Services and Technical Cooperation in the Field of Human Rights: Situation of human rights in Haiti Report prepared by the independent expert, Louis Joinet, paras. 13 and 14, available at <http://www.ohchr.org/EN/countries/LACRegion/Pages/HTIndex.aspx>.

Wooldy Edson Louidor, Alterpresse, « Haïti: Changement ou redéfinition de la politique générale du gouvernement ? » July 25, 2007, available at: <http://www.alterpresse.org/spip.php?article6241>.

See Doctors without Borders (MSF), “Treating Sexual Violence in Haiti: Interview with Olivia Gayraud, MSF Head of Mission in Port-au-Prince,” (October 30, 2007), available at: <http://www.doctorswithoutborders.org/news/voices/2007/10-30-2007.cfm>.

“The Minister for Social Affairs and Labour ... estimated that 90 percent of Haitian women were victims of violence; the situation was exacerbated by the still prevailing machismo culture.”

United Nations, Integration of the Human Rights of Women and the Gender Perspective, Violence against Women, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 1997/44, Addendum, Report on the mission to Haiti, E/CN.4/2000/68/Add.3, March 1, 2000.

See IACHR, *Violence and Discrimination against Women in the Armed Conflict in Colombia*, OEA/Ser/L/V/II. 124/Doc. 6, October 18, 2006; see also, IACHR, *Report on the situation of human rights in Haiti*, OEA/Ser.L/v/II.88, Doc. 10, February 1995, section 3 B); see also *Si'm Pa Rele*, National Commission of Truth and Justice (Haiti) 1995; and “Women, sometimes in their own right, and sometimes because their husbands were suspected of supporting Aristide, were beaten, raped, and disappeared. The military (during 1991 *coup d'état*) instituted a reign of terror, practiced torture, forced boys to rape their mothers, and them themselves raped women and young girls. They also burned houses and rendered women and children homeless,”

Marionne Benoit, National Coalition for Haitian Rights, “The Aftermath: Women in Post-war Reconstruction” conference, July 20-22, 1999, Johannesburg, South Africa.

Interview by IACHR with Miriam Merlet, Chief of Cabinet, Ministry of Women, October 2006; Interview with a representative from AVSI, which is an international humanitarian NGO operating in Cité Soleil, December 2006; the division for minors of the Haitian National Police (HNP) reported an increase in the number of rapes committed against girls between the ages of 4 and 17 during the 2004-2006 period. It reported 23 complaints in 2004, 26 in 2005, 34 in 2006 and 12 in 2007.

See Doctors without Borders (MSF), “Treating Sexual Violence in Haiti: Interview with Olivia Gayraud, MSF Head of Mission in Port-au-Prince,” (October 30, 2007), available at: <http://www.doctorswithoutborders.org/news/voices/2007/10-30-2007.cfm>.

See Doctors without Borders (MSF), “Treating Sexual Violence in Haiti: Interview with Olivia Gayraud, MSF Head of Mission in Port-au-Prince,” (October 30, 2007), available at: <http://www.doctorswithoutborders.org/news/voices/2007/10-30-2007.cfm>.

See IACHR, *Annual Report 2004*, Chapter IV: Haiti, available at:

<http://www.cidh.org/annualrep/2004eng/chap.4b.htm>, para. 140; see also IACHR, *Annual Report 2005*, Chapter IV: Haiti, available at: <http://www.cidh.org/annualrep/2005eng/chap.4c.htm>, paras. 242, 243; see also IACHR, *Annual Report 2006*, Chapter IV: Haiti, available at: <http://www.cidh.org/annualrep/2006eng/Chap.4c.htm>, para. 125.

Radio Kiskeya, «Arrestation d’un adolescent de 15 ans pour implication présumée dans l’assassinat de la jeune Farah Natacha Kerby Dessources (20 ans), en novembre 2006 à Port-au-Prince», MINUSTAH Newsletter dated January 14, 2008; RNDDH, «Port-aux-Princes inflicted with Terror», Press release dated December 6, 2000; Radio Kiskeya, «Hystérie collective aux funérailles de Farah Natacha Dessources, une suppliciée du kidnapping», November 25, 2006; see also Panos Caraïbes, «Viol en Haïti : État des lieux accablants, le défi de contrecarrer le fléau», No. 15, February 2007, p. 4: «Les femmes violentées sont en outre soumises à des sévices corporels les plus cruels, à savoir: assassinat, matrices perforées, yeux crevés, blessures graves”. Wiza Loutis, «*Evaluation de la situation des femmes dans le cadre de la violence armée en Haïti (Commune de Port-au-Prince, des Cayes et des Gonaïves)*», Section conjointe DDR-PNUD/MINUSTAH, June 2006, pp. 22, 28.

Wiza, Loutis, «*Evaluation de la situation des femmes dans le cadre de la violence armée en Haïti*», June 2006: «brigades de vigilance, brigades de quartier, groupes de bandits, Organisations Politiques, les vagabonds. (...) Les filles et les femmes sont les principales victimes de ces groupes dans la mesure où le viol individuel ou collectif ainsi que le racket des marchandes fonctionnent comme des moyens de contrôle de la communauté.”

See *Table de Concertation Nationale sur les Violences Spécifiques Faites aux Femmes et leur Prise en Charge: Rapport de la Commission de Collecte de Données* (November 2005), p. 11.

During 2005-2006, Martissant and Carrefour Feuilles were overcome by violence, in addition to Cité Soleil, Bel Air and other areas of downtown. During the week of November 8-15, 2005, 29 cases of rape were recorded in Carrefour Feuilles alone.

See *Table de Concertation Nationale sur les Violences Spécifiques Faites aux Femmes et leur Prise en Charge: Rapport de la Commission de Collecte de Données* (November 2005), p. 11.

See *Table de Concertation Nationale sur les Violences Spécifiques Faites aux Femmes et leur Prise en Charge, Rapport de la Commission de Données* (November 2005), p. 11.

Wiza Loutis, «*Evaluation de la situation des femmes dans le cadre de la violence armée en Haïti (Commune de Port-au-Prince, des Cayes et des Gonaïves)*” Section conjointe DDR-PNUD/MINUSTAH, June 2006, p. 25.

Interviews by IACHR with victims and victims’ service groups during the IACHR working visit (December 2006) and the IACHR On-Site Visit (April 2007).

See “HIV in Haiti is spread by violence---and little is done to prevent the attacks,” Sarah Fort, The Center for Public Integrity, International Consortium for Investigative Journalists (“The stigma attached to rape means that its rarely reported. When it is, too often nothing is done. According to Anne Sosin, KOFIVIV, there has been only one successful prosecution of a rape case in Haiti in 2006”).

Kay Fanm; Reports by Radio Kontak Inter 94.9 FM in Cap-Haitien, Haiti.

For example, escorting the female detainee outside of the cell to a different part of the facility and returning her to the cell after having raped her. Interview with a detained woman, December 2006, Petionville Prison for Women and Girls.

Interviews by IAHCN with women’s service providers Kay Fanm and SOFA (December 2006 and April 2007).

UN, Economic and Social Council, Commission on Human Rights, Sixty-second session, Item 19 of the provisional agenda, E/CN.4/2006/115, 24 January 2006, Advisory Services and Technical Cooperation in the Field of Human Rights: Situation of human rights in Haiti Report prepared by the independent expert, Louis Joinet, para. 13, available <http://www.ohchr.org/EN/countries/LACRegion/Pages/HTIndex.aspx>. (“In the absence of standardized data, the following statistics can only serve to indicate trends. They show a worsening in the situation, which is all the more disquieting in that the number of women raped who go to a medical-social centre, does not reflect the true situation, even though their numbers have increased slightly. Young girls and adolescents are involved in 79 per cent of cases, such instances being reported more readily than cases involving adults”).

UN, Economic and Social Council, Commission on Human Rights, Sixty-second session, Item 19 of the provisional agenda, E/CN.4/2006/115, 24 January 2006, Advisory Services and Technical Cooperation in the Field of Human Rights: Situation of human rights in Haiti Report prepared by the independent expert, Louis Joinet, paras. 13-14, available at: <http://www.ohchr.org/EN/countries/LACRegion/Pages/HTIndex.aspx>.

“Une Réponse à la Violence Contre les Femmes. Rapport du Ministère de la Conditionne Féminine en collaboration avec UNIFEM-Haïti et le bureau d’Administration Technique, Formation et Administration (2007).

Table de Concertation Nationale sur les Violences Spécifiques Faites aux Femmes et leur Prise en Charge, Rapport de la Commission de Données (November 2005), p. 11.

Table de Concertation Nationale sur les Violences Spécifiques Faites aux Femmes et leur Prise en Charge, Rapport de la Commission de Données (November 2005), pp. 9 and 11.

«75% des femmes accueillies dans les Douvanjou (SOFA) sont victimes de violence conjugale», see *Solidarité Fanm Ayisyen – SOFA, Rapport Bilan III : cas de violence accueillis et accompagnés dans les centres Douvanjou de la SOFA de Janvier à juin 2006*, July 2006, p. 5.

SOFA, Rapport Bilan III : cas de violence accueillis et accompagnés dans les centres Douvanjou de la SOFA de Janvier à juin 2006, Juillet 2006, p. 7.

These various sources include: Panos Institute of the Caribbean, April 17, 2006; Syfia International, February 3, 2006; SOFA, July 16, 2006; AlterPresse, December 26, 2005, among others, cited in UNHCR, «Haïti: information sur la violence conjugale, et notamment sur la

protection, les services et les recours offerts aux femmes qui sont victimes de violence conjugale (2005-2006)” January 23, 2007, available at: <http://www.unhcr.org/home/RSDCOI/45f147452.html>.

Both government and non-government sources have assessed that domestic violence remains a silent issue due to the social dominant belief that it is a matter that falls within the private sphere, thus deterring women from reporting these acts of violence to the authorities.

Article 279 of the Criminal Code of Haiti, 11 August 1835.

UNHCR, «Haïti: information sur la violence conjugale, et notamment sur la protection, les services et les recours offerts aux femmes qui sont victimes de violence conjugale (2005-2006)” January 23, 2007, available at: <http://www.unhcr.org/home/RSDCOI/45f147452.html>.

Gheskio (*Groupe Haïtien d’Etude du Sarcome de Kaposi et des Infections Opportunistes*, Haitian Group for the Study of Kaposi Sarcoma and Opportunist Infections), Sofa and Kay Fanm.

III. THE DUTY OF THE STATE TO ACT WITH THE DUE DILIGENCE NECESSARY TO PREVENT AND ERADICATE VIOLENCE AND DISCRIMINATION AGAINST WOMEN

A. International and Regional Standards Applicable to Violence and Discrimination against Women

80. The right of women to live free from discrimination and violence has been reaffirmed in the regional and international human rights protection systems. International jurisprudence has established the duty of the State to act with due diligence to protect human rights, including those of women. This obligation entails four components: prevention, investigation, sanction and reparation of human rights violations.

81. The obligations of OAS Member States regarding human rights are derived from the OAS Charter and the American Declaration of the Rights and Duties of Man, as well as the regional human rights treaties that they have ratified. In the Americas, the principles of equality and non-discrimination are the core of the Inter-American human rights system and of binding instruments applicable to Haiti's situation, such as the American Convention and the Convention of Belém do Pará. This factor, as well as the priority granted by the Commission and its Rapporteurship to protecting the rights of women, also reflects the importance given to this area by the Member States themselves.

82. Haiti is a State Party to the American Convention since September 27, 1977. Article 1 of the American Convention provides that States Parties are obligated to respect and guarantee all rights and freedoms recognized therein, without discrimination based on sex, among other conditions. Additionally and in accordance with the principle of non-discrimination, Article 24 recognizes the right to equal protection under the law, and Article 17 establishes that the State must guarantee an equal recognition of the rights and "an adequate balance of responsibilities" for spouses within marriage. By recognizing the fundamental rights of all persons, without distinction, this Convention protects basic rights such as the right to life, liberty and personal integrity (Articles 4, 5 and 7, respectively). Trafficking of women is expressly prohibited under Article 6 and children's rights are subject to special protection measures under Article 19.

83. The main objectives of the regional human rights system and the efficacy principle require that these guarantees become a reality and are implemented. Consequently, when the enjoyment of any of these rights is not guaranteed *de jure* and *de facto* under their sphere of jurisdiction, the States Parties, pursuant to Article 2 of the American Convention, are committed to adopting legislative and other measures as needed to put them into practice. In addition, the American Convention requires the domestic system to provide a judicial recourse that is effective and accessible to persons alleging violations of their rights protected under national law or under the Convention. When these remedies are not accessible or effective, the Inter-American system provides a complementary avenue through the individual petitions system.

84. The Convention of Belém do Pará, ratified by the Haitian State on June 2, 1997, and the most ratified instrument of the Inter-American system, is particularly relevant to the analysis presented in this report. The adoption of this Convention reflects a uniform concern throughout

the Hemisphere about the discrimination women have historically suffered in American societies, its relationship to the problem of violence against women, and the need to adopt comprehensive strategies to prevent, punish, and eradicate these two alarming and prevalent problems. Among the most important principles enshrined in this Convention are the following:

- It expressly recognizes the relationship between discrimination and violence against women, indicating that such violence is a reflection of the historically unequal power relations between women and men, and that a woman's right to be free from violence includes the right to be free from all forms of discrimination and to be valued and educated free of stereotyped patterns of behavior;
- It defines violence against women as "any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere";
- It establishes that violence affects women in multiple ways, impairing their exercise of other fundamental rights of a civil and political nature, as well as economic, social and cultural rights;
- It provides that States Parties must act with due diligence to prevent, investigate prosecute and punish violence against women occurring in the public and private domains, within the home or in the community, perpetrated by individuals or State agents; and
- It provides that States must take special account of the situation of vulnerability to violence that certain groups of women can face by reason of their race or ethnic background; their status as migrants, refugees, or displaced persons; for being pregnant or disabled; for facing unfavorable economic conditions; affected by an armed conflict; deprived of their liberty; or for being girls.

85. In general, the inter-American system recognizes that violence against women and its root (discrimination) are serious human rights problems with negative consequences for women and their surrounding community, which directly hinder the recognition and enjoyment of all their human rights, including the respect of their lives and their physical, mental and moral integrity.

86. According to this precedent, the responsibility of the State to act with due diligence to prevent the infringement of women's human rights in times of peace and conflict has a comprehensive nature. The State is directly responsible for acts of discrimination and violence perpetrated by its own agents, as well as those perpetrated by non-State actors and private parties, under its tolerance or acquiescence. Furthermore, the State's obligation is not limited to eradicating and punishing acts of discrimination and violence; it also includes the duty of prevention.

87. In that framework of international responsibility, the duties of the State under the instruments of the Inter-American human rights system have special connotations in the case of girls. Article 19 of the American Convention guarantees children the right to protection

measures that their condition as minors demands from their family, society and the State. The Inter-American Court has established that the UN Convention on the Rights of the Child is part of a comprehensive international *corpus juris* for the protection of children that helps to “establish the content and scope of the general provision established in Article 19 of the American Convention.” The UN Convention on the Rights of the Child, ratified by Haiti on December 29, 1994, contains legal provisions specifically aiming to protect children from arbitrary and illegal interference in their private life and from physical, mental or sexual abuse.

88. The Inter-American Court has stated that children “have the same rights as all human beings (...), and also special rights derived from their condition, and these are accompanied by specific duties of the family, society, and the State”. Therefore, the State has to adopt special measures geared towards protecting children, with greater care and responsibility in accordance with the Best Interest of the Child principle. This duty is reinforced by the special vulnerability and exposure girl children face to acts of violence against women, which is recognized by the Convention of Belém do Pará.

89. In this context, the UN World Report on Violence Against Children states that in order to effectively respond to violence against children, it is necessary for the State to adopt a range of coordinated approaches that integrate legal, social, educational and economic strategies to reduce risk factors and strengthen protection at the levels of the individual, the family, the community and society. More specifically, this report urges States and civil society to strive to transform attitudes that normalize violence against children, including stereotypical gender roles and discrimination. Furthermore, it establishes that States should invest in systemic education and training programs both for professionals and non-professionals who work with or for children and families to prevent, detect, and respond to violence against children.

90. As mentioned above, the Convention of Belém do Pará (Article 9) establishes that the State, on acting with due diligence in the face of violent acts, should be especially mindful of the particular exposure to violence and discriminatory acts that a woman may suffer because of her young age (under 18 years old), among other conditions of risk. The IACHR has established that this provision reflects that discrimination in its different expressions does not always affect all women equally: some women are more exposed than others to acts of violence and discrimination. Therefore, in the case of girls, the State has a reinforced duty to protect their human rights, on the basis of two factors, their minor age and their sex, and the obligation to adopt special measures of care, prevention and guarantee.

91. Also relevant for the present analysis are the international obligations adopted by the Haitian State promoting equality and non-discrimination, such as Articles 1 and 2 of the Universal Declaration of Human Rights, Articles 2 and 3 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Haiti is also a State Party to CEDAW, ratified by Haiti, on July 8, 1995, which provides that the State and its agents are obligated to act with due diligence to eliminate socio-cultural patterns and stereotypes that promote discrimination against women, in all its forms. CEDAW defines discrimination against women broadly in its Article 1 as:

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose

of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

92. This definition includes all differences in treatment based on sex that intentionally or in practice place women in a disadvantaged position and prevent the full recognition of their human rights in the public and private spheres. The Committee overseeing compliance with CEDAW has also established that the definition of discrimination in the Convention includes violence against women in all its forms, whether direct or indirect.

93. Regarding international instruments pertaining to violence against women, it is important to mention as complementary to CEDAW, the Declaration on the Elimination of Violence against Women approved in Vienna in 1993, which defines violence against women as a phenomenon including: forced prostitution, physical, sexual and psychological violence.

B. Measures Adopted by Haiti to Address Violence and Discrimination against Women

94. The Commission recognizes the important efforts of the government, in particular of the Ministry of Women, to make violence and discrimination against women priority issues to be addressed systematically and institutionally, in close collaboration with civil society organizations. Most notably, the Commission commends the establishment of the inter-sectoral network *Table de Concertation Nationale*, and notes its achievements and the critical role it plays in the advancement of protections for women victims of violence, through a variety of measures. The *Table de Concertation Nationale*, mandated to support victims of sexual violence, is composed of representatives from the Ministries of Women, Justice and Health, and several civil society organizations. Among its main activities are the provision of services to victims of violence, the collection and systematization of the statistics available on different forms of violence in the country and the implementation of prevention and sensitization programs oriented towards the general population. The types of services available include:

- *Shelters* where women can stay temporarily in cases of physical, sexual or intra-family abuse;
- *Legal assistance* for victims (filing complaints with authorities). Also, the services high in demand, and similarly provided, may include assistance in divorce or child custody proceedings, and intra-family violence matters;
- *Medical treatment* for victims of rape or sexual assault/abuse;
- *Psychosocial counseling* for victims of rape and sexual assault/abuse; and
- *Training and Promotion* designed to inform women of their rights, to provide women with information about available social services, including legal services, and to educate women on public health, including prevention and protection from the transmission of sexually transmitted infections.

95. In the realm of services, the Ministry of Women has also created a crisis response service through a special reception and referral unit, with staff that is trained to advise female victims who request aid throughout the 10 administrative departments of the country. Similarly, during 2007, the Office of the Public Prosecutor at the Court of First Instance in Port-au-Prince took measures to respond more promptly and effectively to complaints by starting a 24-hour telephone hotline to report a crime and having a public prosecutor on call 24/7 to respond to such complaints. The Public Prosecutor further indicated that a specialized investigation unit had been created within his office to address matters relating specifically to violence against women, as a result of a joint effort between his office and the Ministry of Women. Other governmental entities, such as the Ministry of Social Affairs and the Ministry of Justice, both have offices working with women and disadvantaged persons, respectively. However, according to the government, these are not very effective, due to the lack of resources. In Haiti, civil society is largely responsible for providing assistance to victims through the implementation of a formal program to achieve this end.

96. Among other institutional measures and services recently undertaken, the HNP created a specialized unit on children or “*brigade des mineurs*” in 2006, appointed to provide specialized treatment for children in conflict with the law and/or abandoned or abused children, including girls who may have been sexually abused. Additionally, the *Office du Protecteur du Citoyen* (OPC), an independent State entity with a mandate to receive and process complaints from the public on acts of misconduct or abuse by State agents, including human rights complaints, recently created an investigation and research unit on the situation of women and children. Since these initiatives were recently adopted, the lack of sufficient resources was noted as a common hurdle in the fulfillment of their mandates.

97. In regards to training and capacity-building efforts, the Ministry of Women has also established the “Gender Analysis Promotion Department” which is responsible for providing training to all government employees on gender issues and ensuring that government institutions tackle discrimination against women in their areas of work. In this context, the Ministry has organized various training sessions with ministries and government institutions to achieve the goal of including a gender mainstreaming analysis into public policies. Also, the Ministry of Women, in coordination with civil society and international agencies (URAMEL, MINUSTAH and UNFPA), has taken initiatives to include information on the treatment of women and violence against women in the training curriculum of police forces and personnel within the justice system.

98. The Commission further recognizes the efforts of the Ministry of Women to promote the protection of the rights of women through legislative and public policy means. On this point, the Commission notes the adoption and entry into force of the July 2005 decree modifying existing provisions on sexual violence in the criminal code of Haiti, which resulted in a greater punishment for cases of rape. Regarding this decree, the State informed the Commission that the minimum sentence for cases of rape is 10 years and it increases according to the circumstances and the gravity of the crime. In the case of girls, the minimum sentence is 15 years. Specifically, the law previously provided for a penalty of ‘reclusion’. The decree of 2005, in turn, provides for a punishment of up to ten years of forced labor. In this connection, it is important that legislative reform designed to prevent gender-based violence adequately responds

to the situation of women through a multidisciplinary approach, incorporating all forms and contexts in which violence against women occurs (including domestic, sexual, and criminal violence). On this point, the Commission is encouraged by other measures adopted by the Ministry of Women, which include the proposed drafting of new legislation addressing violence against women and its inter-ministerial efforts to provide a comprehensive response to the problem of gender-based violence.

99. In September 2006, the Ministry of Women furthermore submitted three draft laws to Parliament on the following issues: paternity (in order to render responsibility of fathers for their children more effective), cohabitation (guaranteeing common law unions legal rights equal to those of married couples), and on paid domestic workers. Further, the Government has indicated its intention to propose bills on violence against women and on gender equality. Finally, the Government plans to introduce new amendments to existing legislation to extend protection for women. As such, the Ministry's proposed amendments have been presented for public debate and have been submitted to a committee of jurists in order to be presented to Parliament. These draft laws are part of a greater action plan by the Ministry of Women, which includes the promotion of women's rights, increasing public awareness on the problem of violence against women, the analysis of the disparities between men and women in various sectors, and the reduction of poverty.

100. In the sphere of public policy, the Ministry of Women has designed a national plan of action and is in the process of developing a national policy on the promotion of gender equality and non-discrimination that aims to integrate principles and practices of non-discrimination across all public sectors. For example, in the area of education, some of the measures planned by the Ministry of Women are the revision of school curricula for the elimination of sexism and the promotion of higher education for women. In the justice sector, the Ministry of Women has planned to adopt, among others, the following measures: the harmonization of domestic legislation with international conventions on human rights and women's rights; the implementation of a system to supervise and monitor compliance and respect of women's rights by government institutions; the revision of the criminal, civil, labor and commercial codes; the creation of a program for legal assistance to victims of violence; and the promotion of women in the judicial system.

101. Specifically with regard to violence against women, the Minister of Women highlighted her concern over the State's incapacity to provide legal aid for indigent women and a shelter for abused women. The Commission therefore emphasizes the need for the national government to allocate adequate resources to the Ministry of Women for its initiatives and projects to be duly and effectively implemented in the future.

102. On the issue of prevention, the Commission notes the recent appointment of a Director for Women's Affairs at the Haitian National Police, a newly created position within the national police to address a range of matters, including to advise the Director General's Office on issues such as sexual harassment and violence against women by members of the force, and to develop policies and procedures to promote gender equality, and a mechanism to monitor and punish acts of sexual harassment and violence against women. In this trend, the Commission commends the implementation of a pilot project to provide special treatment for female victims at two police

stations. However, the Commission met with the Women's Affairs Unit of the HNP and its representatives who confirmed a variety of challenges that hinder the extent to which they can carry out their mandate, such as the lack of special funds for the Unit and the absence of police presence in rural areas. Thus, the Commission highlights the need to assign sufficient financial and human resources in order to implement these initiatives in the long-term.

103. In its observations to this report, the State of Haiti highlights a number of recent measures it has adopted to address the problems of violence against women and discrimination, in the form of legislation, public policies and programs. The government highlights its *National Plan on Violence against Women*, which was adopted by the Ministries of Women and Health on November 25, 2005. Both the *Table de Concertation Nationale* and the Ministry of Women heavily advocated for this plan to be the base of all state interventions related to violence against women and now it is in the process of being implemented. The State also informs that on April of 2008, the Ministry of Women has produced a document entitled: "Framework for a Gender Equality Policy", advocating the need to address women's priority issues in all state actions. The Ministry of Women as well is working towards on a new national plan of action focused on gender equality for 2009.

104. On March of 2008, the State also informs that a two-party protocol was signed between the Ministry of Women and the Ministry of Justice to mainstream gender issues in the work of the HNP, especially in matters related to the treatment afforded to female victims of violence in police stations. On 2008, the shelter *Yvonne Hakim Rimpel V-Day* was created to offer services to victims of violence against women, including the establishment of a telephone hotline to report these crimes. The State also developed a training curriculum for police officers regarding the problem of violence against women and the role of the police, which will be validated in January of 2009.

105. The State confirms that most of the public measures undertaken at the moment center around data-collection, prevention and a multi-disciplinary approach to the problem of violence against women. The government also highlights the development of a special form to register cases of violence against women to illustrate current tendencies. The last state compilation of cases between 2002 to August 2008 reveals that the number of incidents of violence against women reported has increased, due to more accessible range of services and awareness-raising campaigns. More victims of rape report cases at health centers, the number of gang rapes has decreased, domestic violence remains the same, and sexual crimes against girls seem to be increasing. More women are presenting complaints of rape due to the support of women's rights organizations.

106. In regards to CEDAW and the Convention of Belém do Pará, the State informed that since 2005, a national expert from Haiti participates in the follow-up mechanism to the Convention of Belém do Pará at the OAS level. Furthermore, Haiti reported before the Committee on the Elimination of Discrimination against Women on January 27, 2009 for the period of 1981-2006.

C. Access to Justice for Victims: Deficiencies in the Investigation, Prosecution and Punishment of Acts of Violence against Women

107. While the Commission recognizes the efforts of the State, particularly of the Ministry of Women, to adopt a legal, political and institutional framework and State programs to address the problem of discrimination and gender-based violence, certain remedies continue to exist mainly on paper and not in practice. Pursuant to the Convention of Belém do Pará, Haiti has the obligation to pursue, by all appropriate means and without delay, actions to prevent, punish and eradicate violence against women, and in particular, to apply due diligence to prevent, investigate and impose penalties for acts of violence against women. However, most cases of discrimination and violence against women are never formally investigated, prosecuted and punished by the justice system in Haiti. The Commission observes an alarming pattern of systematic impunity that sends a social message that discrimination and violence against women will be tolerated.

108. The Commission is particularly troubled by the fact that female victims of discrimination and violence are disinclined to turn to the justice system. Victims and their families are often mistreated when attempting to avail themselves of judicial remedies, and have no confidence in the ability of the justice system to right the wrongs committed. This combination of factors leaves the victims with a sense of insecurity, defenselessness and mistrust in the administration of justice.

109. The Commission highlights that the deficiencies in the administration of justice identified in previous reports of the IACHR on Haiti and on women deeply affect the capacity of the State to prevent, investigate, prosecute and punish discrimination and violence against women. Some of the failures of the administration of justice sector that negatively impact the State's due diligence obligation noted by the delegation during its visits were the lack of basic economic and human resources for the police and judges to address these cases; the absence of justice institutions in rural and marginalized areas; the lack of legal assistance for victims; the need for training on human rights issues; and the need for the strengthening of specialized units within the police and the judiciary. The delegation also received consistent reports of corruption inside the police force and the lack of independence and impartiality of the judiciary.

1. Investigation, Prosecution and Punishment of Human Rights Violations

110. During the visits of the Commission, a variety of State and non-state sources confirmed that most cases of violence against women are still not duly investigated and punished.

111. The Commission recognizes the efforts of the judicial system to prosecute and punish perpetrators of rape against women since the July 2005 Decree. These have resulted in at least fifteen documented convictions for rape; the first of their kind in the history of Haiti. According to the government, this decree is fueling a change in the justice system's perception of rape cases, promoting convictions and harsher penalties for the perpetrators.

112. However, the Commission also notes that in comparison to the number of registered cases of rape in recent years, cases of violence against women are extremely slow in reaching the stage of prosecution and punishment. During its visits, the Commission received information about only five cases since 2005 that have received a court judgment, all of which were brought

with the support of civil society and services organization SOFA.

113. SOFA provided legal assistance in one criminal trial in 2005, to four cases in 2006 and is presently supporting two more cases scheduled for trial in Jacmel (Southeast department). In one of the cases, a mother and daughter were raped and after reporting the abuse, the daughter was killed. The mother continued to receive threats by the aggressors after the death of her daughter. A trial was held and the perpetrators were convicted – one to life in prison and the other one to approximately twenty years in prison. In two other cases, two minors were raped and the perpetrators were sentenced to 9 and 10 years in prison.

114. The civil society and services organization Kay Fanm shared with the delegation a case that displays the kind of challenges women face to obtain an adequate investigation, prosecution and punishment when they report crimes of gender-based violence. The perpetrator in the case is James Montas, a police officer, who orchestrated the collective kidnapping and rape of Carline Sèide, a 20-year-old woman. Kay Fanm describes the facts of the case as follows:

On November 2, 2003, at Delmas 19, the police officer James Montas (a.k.a Roudy) attacked Carline Sèide, a 20 year-old-woman, when she was returning to her home. He threatened her with his gun, brought her to his home, tied her up to a bed and raped her. James Montas then called six (6 of his accomplices) for them to rape her and then he raped her a second time. Notwithstanding Carline’s desperate cries for help, no one came to help her. After having committed the rape, James Montas threatened her with death if she reported him and released her. [IACHR’s translation]

115. Kay Fanm and the legal defense organization CARLI provided legal, medical and shelter assistance to the victim throughout the judicial process. Even though the perpetrator was sanctioned, Kay Fanm documented the revictimization of the victim throughout the process. It mainly criticized the actions of the defense lawyers, in statements denigrating the victim based on her sex, including disrespect for her integrity and dignity throughout the process. Furthermore, the family of the perpetrator, communicated to the victim “harmful, threatening and sexist statements”. Lastly, the sentence provided by the criminal code was life in prison, but the Judge decided to sentence the perpetrator only to 6 years in prison, due to his position of authority. Civil society organizations reported that the process to achieve the conviction required a great deal of lobbying on their part since the justice system still does not assume the responsibility to punish these acts.

116. Civil society organizations also communicated to the Commission the immediate and recurrent release of many perpetrators who have been arrested for acts of violence against women. The civil society organization SOFA documented the following emblematic case illustrating this problem:

D.E., a 16-year-old young woman and high school student lives with her mother in Bizoton, community of Carrefour, and like almost all the girls in her age group, has a boyfriend (...). On July 15, 2006, in the afternoon, her boyfriend, out of jealousy, and after beating her, poured gasoline on her and set her on fire (...). The doctor who examined the young woman diagnosed “hypertrophic severe scars on her scalp and in a part of her body.” The young man was arrested,

but was released after a month in detention and has made death threats to D.E. [IACHR's translation]

117. In cases related to family matters, civil society and services-organizations also communicated to the Commission delegation key challenges they face in seeking to obtain judgments. For example, in cases where the female victim claims alimony, the procedure is slow and costly, with legal costs and filing fees between 15,000 and 20,000 Gourdes plus attorney's fees. Moreover, the amounts set by the judges for alimony are often insufficient to respond to the real needs of children. Furthermore, there is a notable absence of monitoring mechanisms to guarantee compliance with judicial decisions in alimony matters. The kidnapping of children can be used as a strategy by the fathers to avoid providing alimony or to pressure the mothers psychologically. In cases of divorce, even though women hold the main responsibilities for their children, some fathers claim and obtain custody as retribution. In these cases, the children are cared for by the new wife or partner of the husband.

118. In cases of violence, the problems described previously are compounded by the fact that the authorities do not regard acts of discrimination and violence against women as equally serious as other crimes. Therefore, complaints by female victims are often trivialized by the courts, and resolution of the matter may end in the payment of a fine or financial compensation to the victim by the perpetrator, without pursuing a criminal trial or imposing additional sanctions. Justice officials may disregard evidence that is critical in identifying the guilty parties and victims, and their next of kin can be mistreated and disrespected during the investigation phase of the process.

119. One of the most important challenges to the adequate investigation of cases is the increasing reliance on testimonial evidence due to the absence of resources, equipment and a strong forensic medicine system to obtain other kinds of evidence. The Commission's report - *Access to Justice for Women Victims of Violence in the Americas*- recommends that protocols be designed for all officials involved in the investigation, prosecution and punishment of violence against women cases to facilitate and promote "the effective, uniform, and transparent investigation of acts of physical, sexual, and psychological violence, including a description of the probative complexity of such cases, and the variety of evidence to be gathered to provide adequate grounds for conviction, including scientific, psychological, and physical evidence, and testimony." This recommendation is very relevant to the investigation of cases in Haiti.

120. One notable advance is the requirement that doctors issue a certificate in the case of injuries linked to sexual assault and that the issuance of this certificate is free. The certificate is considered an essential piece of evidence to bring cases of rape to the courts. In 2006 a protocol was signed between the Ministries of Health, Justice and Women to ensure that the certificate was issued free of charge. Subsequently, this requirement was also advertised in the newspaper by the Ministry of Women, the National Network on Violence against Women and the United Nations Population Fund. Despite this directive, the Commission was informed in August 2007 that it was not yet being enforced and that the requirement of issuing the certificate is only binding on doctors practicing in public health facilities.

2. Treatment of Women Victims and Access to Legal Assistance

121. Haiti has the duty to establish fair and effective procedures for women who have been subjected to violence which include protective measures, a timely hearing and an effective access to procedures. Additionally, the State is bound to 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.

122. At present, there is no state sponsored legal assistance program in Haiti able to effectively meet the needs of indigent clients, including women victims of violence. The Ministry of Women informed the Commission that many civil society organizations currently provide critical legal assistance to victims, to overcome the voids in the current State-provision of services. Even so, only a handful of organizations offer such services compared to a much greater population in need of them. As such, the Commission underscores the need for the State and the international community to prioritize the provision of legal assistance for indigent populations, including women victims of violence. Further, the Commission stresses the importance of training the staff that provides services to women who have been the victims of violence in the context of legal assistance programs.

123. The Commission is particularly troubled by the fact that female victims of violence are disinclined to turn to the justice system. Even though there has been a notable increase in reports of abuse, most cases of violence against women still go unreported. There is also a strong mistrust in that the justice system will be able to remedy the acts suffered due to the pattern of impunity towards human rights violations in Haiti. Several sectors, including the government, civil society organizations and service-providers, noted how these problems are compounded by the lack of accessible and effective legal services free of charge for victims to pursue a claim before the courts. The civil society services organization SOFA documented a case that is emblematic of the reasons why victims are hesitant to turn to the justice system when they are victims of violence:

This is a case of the repeated rape of a 10-year-old girl. Over 4 years, the perpetrator repeatedly raped and beat her. Following the December 6, 2006 assault, the girl's sister found her crying and she revealed what had happened. Her parents, who had just found out, took their child to a private clinic to undergo a gynecological exam and determine if she was pregnant or if she had contracted a STD or AIDS. The doctor confirmed that the girl had been a victim of repeated sexual assaults. As a medical certificate provided by a private doctor is not valid in the eyes of the courts, the victim was referred to a medical center and l'Hopital de l'Université d'État d'Haiti. This institution issued a medical certificate which confirmed the victim's allegations. In fact, the physical and gynecological exam demonstrated that the girl's hymen reflected old tearing. Until now, the parents of the victim remain hesitant to turn to the justice system due to fear of reprisals by the perpetrator. [IACHR's translation]

124. Civil society organizations and service providers furthermore reported that victims and their families are often mistreated when they attempt to avail themselves of judicial remedies and have no confidence in the ability of the justice system to remedy the wrongs committed. Other factors that fuel this hesitation are the secondary victimization that women victims experience by State officials when they attempt to report the violence perpetrated against them,

particularly the police; the lack of judicial protections and guarantees to safeguard the dignity and safety of victims and witnesses during the prosecution of cases; the economic cost of judicial proceedings; and the geographic location of the judicial bodies where such complaints would be filed (typically far removed from the communities where such violations occur). The justice system is largely absent from areas outside of Port-au-Prince, which makes it very difficult for victims to report violent crimes.

125. With respect to the cases that do reach the justice system, parties are frequently willing to reach a financial settlement of the case *in lieu* of prosecution, a convenient arrangement proposed by the perpetrator to avoid punishment, and conceded to by the judge and the victim who receive monetary compensation. Kay Fanm communicated to the delegation that rape cases, for example, are still considered "crimes of honor" by the families of the victim, and therefore, they prefer to financially settle with the perpetrator rather than to go through a public judicial process. UNIFEM has described this issue as follows, citing statements from civil society organizations:

The reports of the Citizen Forum, which are constructed from fieldwork on the ground across the country, describe a discriminatory and exclusionary penal system that confirms the Haitian saying "justice belongs to the rich". The formal character of procedures demands the assistance of advocates and practitioners; in the absence of a legal aid system, most Haitians simply cannot afford justice. Kay Fanm also mentioned that one of the major obstacles for helping victims of gender-based violence is the prohibitive cost of justice.

126. Moreover, several civil society organizations communicated to the delegation how major segments of Haitian society do not have access to education and therefore to basic information on the workings of the justice system. Furthermore, most legal texts are written in French, while the majority of the population only speaks Creole. Service-providers such as Kay Fanm, communicated to the delegation the increasing demand of victims for information on existing legal services and processes in family matters, including marriage, divorce, separation, division of goods, child custody, and alimony, among others.

3. Response by Justice Officials to Cases of Violence and Discrimination

127. While the failure to promptly and effectively process cases involving violence against women is often attributed to structural, economic and personnel-related factors; the failure to investigate the facts reported and the inefficacy of the justice system in prosecuting and punishing these cases can also be attributed to discriminatory socio-cultural patterns that influence the behavior of officials at all levels of the justice system. Justice officials do not regard incidents of violence against women as a priority, do not take female victims seriously, disregard evidence critical in identifying the guilty parties, and are disrespectful to the victims and their relatives when they try to cooperate in the investigation.

128. Furthermore, the Commission has established that violence and discrimination against women are still condoned in American societies, as evidenced by the manner in which officials in the justice system and the police respond to and treat cases of violence against women. The Commission has received information from a variety of sources confirming the need to create

and strengthen programs to train officials and personnel in the justice system and the police about the problem of violence against women as a serious human rights violation and about their obligation to treat women victims in a respectful and humane fashion when they turn to the police and the courts for protection. The Commission considers a positive development that network organizations, which promote the protection of the rights of women, such as CONAP, have designed training programs for justice officials. However, the Commission underscores the need for the programs created to be institutionalized, and to include accountability mechanisms to ensure permanent change.

D. Challenges in the Current Legislative, Public Policy and Institutional Framework to Address Violence and Discrimination against Women

129. The visits of the Commission confirmed that there has been a noticeable and historical absence of the State -in the spheres of legislation, public policies and institutions- in addressing the issues of discrimination and violence against women. Haiti is obligated to act with due diligence by organizing its state structure to prevent and eradicate acts of discrimination and violence against women. Notwithstanding the human rights obligations of the Haitian State, the Ministry of Women communicated to the delegation that since 2003, public servants have been unable to respond to the prevalence of discrimination and violence against women, particularly in the justice, police and health sectors, and that the State lacks the resources needed to provide the services required by the victims.

1. Legislative and Public Policy Framework

130. The Commission received information from a variety of sources confirming notable omissions in the existing legislative framework to address violence against women. In this sense, Haiti is still lacking a comprehensive set of laws to address all forms of violence against women in the public and private spheres. The government, however, is presently developing an ensemble of laws to enhance the protection of women's rights in the spheres of discrimination and violence against women.

131. With respect to the operating legal framework, Haitian courts apply a set of legal codes adopted from the French legal tradition, which have not been reformed to comply with human rights standards protecting women against discrimination and violence, although the Haitian Constitution of 1987 embraces the principles of equality and non-discrimination. However, the Haitian civil and penal codes require significant reforms in order to harmonize these texts with Haiti's international obligations under the Convention of Belém do Pará and CEDAW.

132. The Haitian Civil Code was partially amended in October of 1982. Before then, the code contained discriminatory provisions towards women based on stereotypes of their social roles, including the husband's obligation to protect the wife and to support her, and the wife's obligation to obey the husband, and to live and follow him wherever he chose to reside. The 1982 amendment decree still places the male spouse in a position of authority with respect to his wife, especially in regards to the administration of property and resources within the marriage. Apart from the civil code of Haiti, the Haitian Government issued a specific decree in February

1981 on the elimination of racial discrimination, which included a definition of discrimination that specifically referred to discrimination based on sex in Articles 8 and 9.

133. With respect to the normative framework on violence against women, and given Haiti's ratification of the Convention of Belém do Pará in 1996, an Executive Decree was issued in July 2005. This Decree introduced changes to existing provisions in the Haitian criminal code regarding the penalties for acts of sexual violence against women, and modified other provisions that were deemed to be discriminatory and in violation of Haiti's obligations under the Convention of Belém do Pará.

134. For example, prior to the adoption of the Decree, rape was categorized as "*attentats aux mœurs*" (offense against morals) and the penalty was limited to 'reclusion'. The July 2005 Decree reclassified rape as a crime of "*agressions sexuelles*" (sexual aggression). Accordingly, the July 2005 Decree modified the penalty for rape and all other acts of sexual aggression to ten years of forced labor and further elaborated on the elements constituting rape or acts of sexual aggression. Specifically, Article 2 of the Decree provides that:

Article 278 of the criminal code from now on reads as follows: Anyone who has committed a crime of rape, or is guilty of any other sexual aggression, consumed or attempted with violence, threats, surprise, or psychological pressure against a person, regardless of sex, will be punished with ten years of forced labor. [IACHR's translation].

135. Furthermore, the Decree provides for a more specific penalty when the crime of rape or sexual aggression is committed against a person younger than fifteen years old. In this case, the Decree specifies the penalty as fifteen years of forced labor, whereas the criminal code provided the penalty of forced labor without specified time duration.

136. Further, the law on adultery previously reflected unequal treatment between women and men, excusing a husband from criminal liability for the murder of his wife if caught in the act of adultery, while a woman could be charged and sentenced to prison for up to two years for committing the same offense. In this sense, Article 10 of the July 2005 Decree states:

Article 269 of the criminal code from now on reads as follows: Murder of a spouse by the other spouse, regardless of sex, is not excusable unless the life of the spouse who has committed the murder was endangered at that time. [IACHR's translation].

137. Even though the Haitian State has ratified the Convention of Belém do Pará and CEDAW, and noticeable efforts have been made in the sphere of legislation in recent years, cases of rape continue to be seldom prosecuted and justice officials have not been trained on how to appropriately address these cases. Efforts to implement laws are also challenged by the prevalence of discriminatory socio-cultural beliefs and practices that perpetuate the treatment of women as inferior and the social acceptance of different forms of violence against women.

138. The Ministry of Women has identified a number of challenges that negatively influence the effective implementation of existing legislation and public policies to address discrimination and violence against women in all sectors. Among these are the deficient national

funding for specialized services for women; a consistent reliance on international assistance; the concentration of most attention services in Port-au-Prince; the need to construct shelters for victims of violence; and the need for a centralized information system. Furthermore, international organizations such as UNIFEM have identified political and parliamentary instability as obstacles to legislative change, because legislative decrees only become effective when a new parliament is formed.

a. Preventive Measures to Reduce the Incidence of Violence against Women

139. Notwithstanding the abovementioned state sponsored initiatives to respond to the situation of violence and discrimination against women, the Commission observes a notable gap between the State's obligations and the effective protection of women from violence. The Commission is particularly concerned by the absence of legal measures to protect and prevent imminent acts of violence against women. Both State and non-state sources confirm that State authorities -the police in particular- fail to fulfill their duty to protect women victims of violence against imminent threats. Civil society organizations communicated to the delegation that women do not trust that the police will be able to respond upon notification of an imminent act of violence.

140. The report of the Commission on access to justice for women victims of violence in the Americas found that state authorities –the police in particular- are not fully complying with their duty to protect women victims of violence against imminent threats throughout the Hemisphere, particularly severe in the case of intra-family violence. The inaction on the part of state authorities is in part explained by their tendency to disbelieve the allegations made by women victims of violence and their perception of intra-family violence as a private and low-priority affair. In many cases, women have been killed even after seeking the State's preventive protection; in some cases, restraining orders were issued to protect women but then not properly enforced or monitored. The United Nations Special Rapporteur on violence against women has recently expressed concern over the conduct of the police and their failure to intervene to prevent acts of violence and to implement protection orders, and has ranked this among the main obstacles to the practice of due diligence at the global level. Conducts of this kind are a breach of the States' obligation to practice due diligence to prevent violence against women.

141. The inaction on the part of Haitian State authorities is partially attributable to an inherent tendency to be suspicious of the allegations made by women victims of violence and the perception that such matters are low priority within the insecurity context in Haiti. For example, the services organization Kay Fanm communicated to the delegation that the treatment of the victim by the police when filing a complaint of violence, depends heavily on the way the victim looks or is dressed. Furthermore, they communicated that the police treats sexual violence cases as more serious than intra-family violence cases, despite the fact that most of the victims seeking assistance from civil society organizations are in fact victims of intra-family violence. The Director General of the Haitian National Police communicated to the delegation that discrimination against women is prevalent within the police force, and confirmed the need to train officers to treat women with integrity and dignity.

2. Institutions and Services

142. The Commission observes with particular concern the historical absence of the State in providing needed services for women victims of violence. There are few specialized services provided to women victims of violence and the majority of these are provided by non-state service groups and human rights organizations. To date, there is no state-run entity charged with providing legal, health, shelter, counseling and support services to women who are victims of violence.

143. The Commission received information from the Ministry of Women confirming that the State is largely unable to provide these services due to resource and capacity constraints. According to information provided by the government, the national budget does not allocate specific funds for prevention, punishment and elimination of violence against women. Hence, most services are offered by civil society organizations such as Fanm Deside, Gheskio, SOFA, Kay Fanm and ENFOFANM. In the interim, the Ministry of Women has signed an agreement with these organizations to provide services for victims. Service-providers consulted for this report in turn highlighted numerous challenges in providing services for victims, most notably the lack of human and financial resources. In this sense, the government recognizes that the number of crisis centers is “far from adequate” to meet the needs of female victims, considering the high number of cases of violence received.

144. In regards to the services that are indeed provided by the State, information collected during the Commission’s visits reveals that they are slow to be implemented and are not yet fully operational. Furthermore, the Commission notes that the initiatives are not necessarily supported with the required human and financial resources for their operations to be effective. During the visits, the Ministry of Women particularly regretted the absence of a state-run shelter for women and the lack of free legal services for indigent women victims of violence. Minister Lassegue indicated that the existing shelters for abused or victimized women are run by civil society organizations, which have limited space for the numbers of women in need of assistance. In the interim, civil society organizations have developed an expertise in providing specialized services, and have been critical in meeting the needs of women victims of violence. However, the availability of such services across the country appears to be much lower than the numbers of women affected by violence.

145. The Commission stresses that it is important that the State enhances its capacity to provide specialized services to women affected by violence. Similarly, the Commission encourages the strengthening of the network established by the Ministry of Women (the *Table de Concertation Nationale*), in order to ensure that a greater number of women can access specialized services.

a. Impact of Violence against Women and Access to Medical Services

146. Violence affects women in various ways, including consequences on their physical, psychological and emotional health in the short and long term. In some cases it deprives women of the opportunity to work or engage in economic activities to support themselves and their families. The Commission has identified some of the effects of such violence on victims: the trauma that accompanies the act; the rejection and stigmatization by their communities, families

and partners; unwanted pregnancies; sexually transmitted infections; chronic pain; physical disability; drug abuse and depression; among others.

147. According to service providers in Haiti, the immediate consequences of physical and sexual violence on women can be significant and seriously damaging, requiring urgent and specialized attention. The Haitian services organization Kay Fanm describes the effects of violence against women as follows:

As direct victims of violence, women suffer serious consequences to the physical health (hemorrhages, broken limbs, multiple injuries and bruises) and to the mental health (loss of self-confidence and sense of self-worth, feelings of guilt, fear of sexual relationships, anxiety attacks, psychosis and depression). The victims rarely benefit from appropriate care. Not only due to the insufficiency, inaccessibility (both geographic and economic) and the inadequacy of public health facilities, but also because victims usually experience violence in isolation, which results from their exclusion or their marginalization from the public sphere (they find it difficult to establish relationships) and their social “invisibility.” Their feelings of shame make victims avoid addressing the consequences of the abuse suffered. [IACHR’s translation]

148. The Commission, based on findings by the World Health Organization and the Pan American Health Organization (hereinafter "PAHO"), recognizes the need for victims of gender-based violence to receive a range of specialized and multi-disciplinary State services to mitigate the impact of the acts suffered including health services and information on where to file complaints to obtain a remedy.

149. In cases of violence against women in Haiti, some of the effects of violence may include gunshot wounds, injuries from physical attacks with knives or machetes, beatings, psychological abuse, and other forms of cruelty. Furthermore, acts of gang rape, in some cases coupled with other forms of abuse, have been more frequent in recent years. Such practices have resulted in victims suffering from serious bodily injuries and in some cases irreparable harm to their reproductive organs, long-term health problems and emotional trauma.

150. Haiti has the highest rate of adults affected with HIV in all of the Caribbean. PAHO reported that the total number of Haitian adults infected with HIV to be 240,000. Of these, 120,000 are women between the ages of 15-49, or 50% of the adult population infected with HIV. In contrast, PAHO reports that 1.4 million people are living with HIV/AIDS in Latin America (30% of which are women), and 420,000 in the Caribbean (50% of which are women).

151. Available information reveals the overall HIV prevalence in Haiti to be estimated at 3.5% to 4%. With respect to the HIV infection rate within Haiti, UNAIDS indicated that “one-third of Haiti’s HIV cases are in the country’s West department, which includes Port-au-Prince, and most of them are among women. The Ministry of Public Health further reported in 2006, that the HIV rate amongst young girls is twice as great as that of boys.”

152. In this context, sexual violence constitutes a key vehicle in the spread of HIV/AIDS infection and other STI’s amongst women. The HIV transmission through acts of sexual violence is understood by many practitioners to be very high, especially when the majority of gang members are in a high-risk category and do not regularly use protection against sexually

transmitted infections.

153. Furthermore, many rape cases result in involuntary pregnancies, which place additional burdens on the victims, especially those of an economic nature. A number of first hand accounts received by the Commission indicate that once the family of a victim is aware that the young woman or girl is pregnant, she is either forced to marry the perpetrator (in cases where the perpetrator is a neighbor or resident in the community), or thrown out of her home (in cases where the perpetrator is a member of an armed gang, or in cases of intra-family violence where the perpetrator is a relative of the victim).

154. Female victims of physical and sexual violence also experience emotional and psychological trauma. Due to the fact that this is considered a taboo subject, women victims tend to suffer in silence for fear of being rejected by their families and community. Women victims experience depression and social alienation, fear for their safety or lives, and in some cases, commit suicide due to the lack of support from their community or the failure to receive psycho-social counseling services. In particular, since 2004, there have been a higher number of suicides amongst women victims of violence due to the inability to speak publicly about their situation.

155. Women's rights advocates and social workers stressed the serious impact of violence against women on the economic livelihood of the victim and her family, given the current socioeconomic conditions of Haitians, and particularly Haitian women. While studies show that a majority of women in Haiti are single heads of households, first-hand accounts from residents indicate, and humanitarian workers in affected communities confirm, that armed groups have increasingly targeted female heads of households on the premise that women are less likely to resist intrusion.

156. The Commission observes that women's access to medical treatment for injuries due to physical or sexual violence constitutes one of the primary and most immediate types of services required. The Convention of Belém do Pará states that victims of sexual violence are entitled to the recognition, enjoyment, exercise, and protection of all their human rights, including the civil, political, economic, social, and cultural rights enshrined in regional and international human rights instruments. The Commission has underscored that women cannot fully enjoy their human rights without having a timely access to comprehensive health care services, and to information and education in this sphere. The Commission has also established that the health of sexual violence victims should be treated as a priority in legislative initiatives and in the health policies and programs of Member States.

157. Some victims lack awareness of and information about the negative health consequences of sexual violence and the urgent measures required to prevent further harm. Consequently, most victims do not seek medical treatment after being raped unless they have sustained serious injuries requiring medical attention. To illustrate this point, one humanitarian worker in Cité Soleil confirmed that for many women living in the poorest communities, rape constitutes the first sexual experience. The Independent Expert for the United Nations Secretary-General's Study on Violence against Children has identified this phenomenon as a global issue. Furthermore, it is frequent to find cases where the victim has been repeatedly violated prior to

seeking medical assistance.

158. The Commission has found that the accessibility and quality of public health facilities in Haiti available to the general public remains extremely poor. Within this context, the availability of specialized services for women victims of violence is even more limited. In 2007, the Ministry of Public Health released a report that provides the most updated figures on the situation of Haiti's public health sector and the services available nationwide for women victims of violence. The report notes that sexual violence constitutes a serious problem in Haiti and expresses concern for the impact of the rate of sexual violence on the growth of the HIV infection rate in the country. For a population of approximately 8.5 million inhabitants, the report states that there are 33 health care centers nationwide providing specialized treatment for victims of sexual violence. However, the distribution of these centers is extremely imbalanced amongst the ten administrative departments of the country: (8) West; (1) South-east; (4) North; (1) North-east; (5) Artibonite; (8) Center; (3) South; (1) Grande Anse; (1) Nippes; (2) North-west.

159. The West department, comprised of the capital city and 14 administrative zones, is the most populated sector of the country and where most acts of armed violence have occurred since 2004. This department has a total of 213 public health care centers, eight of which provide specialized services for victims of sexual violence. Finally, the Ministry of Public Health reported that for residents of Port-au-Prince a victim of sexual violence has a 4% chance to access specialized services, while in the rest of the 14 communities of the West department, there is a 0% probability for victims to access specialized services.

160. In conclusion, while public health care facilities equipped with specialized services for victims of sexual violence exist in several parts of the country, this number remains largely inadequate in comparison to the percentage of victims in need of medical attention as a result of sexual violence. Aside from poor accessibility to public health care facilities, the Commission notes additional factors adversely affecting women's access to medical services. In particular, women victims of violence tend to reside in poor and marginalized communities, which have also been severely affected by armed violence. This has created an especially vulnerable situation for the women living in these districts.

3. Truth, Justice and Reparations

161. International principles uphold the right of victims of human rights violations to "adequate, effective, prompt and appropriate" reparation that is proportional to the wrong suffered. The reparation must be comprehensive and should include guarantees of restitution, compensation, rehabilitation, satisfaction and non-repetition. The Commission has established that this right also applies to women victims of violence and discrimination.

162. The Convention of Belém do Pará urges States to establish the judicial and administrative measures necessary to ensure that women who have been subjected to violence and discrimination effectively access restitution, reparation of the damage, or other just, and effective means of compensation. Similarly, Resolution 1325 of the United Nations Security Council underscores "the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, war crimes including those relating to

sexual violence against women and girls, and in this regard, stresses the need to exclude these crimes, where feasible from amnesty provisions.”

163. In this context, it is indispensable that the Haitian State guarantees the rights of women in the investigation and punishment of acts of violence and discrimination which have occurred in the past and are occurring in the present, as well as ensures the adequate reparation of the harm done, through measures of restitution, indemnity and rehabilitation.

IV. CONCLUSIONS AND RECOMMENDATIONS

164. In this report, the Commission conveys and reiterates its grave concern over the suffering of Haitian women due to a situation of widespread and systematic violence and discrimination. The Commission also underscores the importance of considering the specific needs of women in the public and institutional response to these problems and the overall security situation in Haiti. Under the current circumstances, Haitian women cannot fully exercise their rights under the American Convention, the Convention of Belém do Pará, and other international instruments. The problems of discrimination and violence against women remain taboo and hidden issues in Haiti, which leaves the victims with a sense of insecurity, defenselessness and mistrust that the acts suffered will ever be remedied, and that their physical and emotional scars will ever be healed.

165. As discussed in this report, the problems of discrimination and violence against women in Haiti are inter-connected and involve an extremely complex set of social, cultural and economic factors, demanding comprehensive and multidisciplinary solutions that can no longer be postponed. Pursuant to its human rights obligations, the Haitian State is obligated to exercise due diligence to prevent, punish, and eradicate the widespread discrimination and violence against women.

166. The recommendations in this report are geared towards the design and enforcement of a national State policy that considers the forms of discrimination and violence that affect women in Haiti, during times of peace and political unrest, in order to achieve progress in the diagnosis, prevention and response to these problems, and the incorporation of the specific needs of women in the public agenda. In the current context, the Commission is encouraged by the demonstrated good will and commitment of the Ministry of Women in developing an action plan to eradicate discrimination and violence against women in Haiti and its efforts to involve a number of sectors in the implementation of said plan.

167. The Commission underscores that it is important that this plan include a multi-sectoral approach to address these problems, supported by an adequate allocation of human and financial resources to make its provisions a reality. The Commission also emphasizes the role and responsibility of all government sectors to actively participate in its national implementation. Some steps that the State has undertaken display an understanding of the gravity of the existing problems and its commitment to consider the specific needs of women in the adoption of measures to prevent, punish and eradicate existing discrimination and violence against women.

168. Since violence against women is a symptom and consequence of discrimination, the recommendations in this report also call on the Haitian State to adopt urgent measures to educate

the general population with the objective of eradicating socio-cultural patterns that promote the treatment of women as inferior and perpetuate their unequal treatment in society. Such actions are critical in order to eradicate the problem of discrimination and the structural inequalities women currently face, as well as to prevent further acts of violence.

169. The IACHR wishes to thank the State of Haiti for the cooperation and support provided during the several on-site and working visits of the Commission to Haiti to investigate the human rights situation and conduct research in preparation of this report. Further, the Commission expresses its sincere appreciation to non-governmental organizations, civil society institutions and international agencies for their contributions in the preparation of this report. Finally, the IACHR Rapporteur on Haiti would like to especially thank the victims and victim's groups for their enriching contributions and insights which enabled the Commission to gain an intimate understanding of the complex nature of the problem, and wishes to commend these individuals on their courage to share their experiences with the Commission, despite the risks and difficult circumstances in which they live, and without which this report could not have been written.

General Recommendations

1. To adopt an integral state policy to address the specific needs of women and the problems of discrimination and violence they face, supported by sufficient human and financial resources, and implemented by all key sectors and Ministries.
2. To adopt public policies and programs designed to reconfigure the stereotypes and social conceptions about the role of women in society and to promote the eradication of discriminatory social patterns that obstruct their full access to justice; these public policies should include training programs and comprehensive prevention policies.
3. To adopt legislation, public policies and programs to effectively address inequalities between men and women in the Haitian society, especially in the labor, education, health, political participation and family spheres.
4. To swiftly adopt legislation that adequately protects women and girls from acts of violence –physical, sexual and psychological– in the private and public spheres. To earmark sufficient resources and to enact the necessary regulations to ensure their effective implementation nationwide.
5. To develop educational programs for the public, from a formative and early age, in order to cultivate respect for women as equals, the recognition of their particular needs, and their right to be free from violence and discrimination.
6. To strengthen the capacity of institutions to combat the pattern of impunity in cases involving violence and discrimination against women, through effective criminal investigations that bring cases to trial, thereby ensuring that the crimes are properly punished and victims receive reparations.

7. To provide female victims with accessible and effective legal services free of charge to pursue a claim before the courts and to create specialized centers to provide multidisciplinary services to victims of violence, including legal, medical and psychological.

Specific Recommendations

Legislation, Public Policies, Programs and Services

8. To adopt integral and multi-disciplinary measures for the strengthening of the existing judicial and legal framework with the objective of guaranteeing the adequate protection of women from acts of violence and discrimination, according to the State's international obligations, particularly the Convention of Belém do Pará.

9. To scrutinize all norms, practices and public policies that create differences in treatment based on sex or that can have discriminatory effects with respect to women by the legislative, executive and judicial branches of the Haitian State.

10. To adopt government programs that seek to provide support services to women victims of violence to assist them in coping with the emotional trauma and psychological effects caused by acts of violence, in particular sexual violence. To create specialized centers accessible to all women victims of violence -regardless of their geographic location-, in order to provide multidisciplinary services to victims of violence, including legal, medical and psychological, and to allocate sufficient human and financial resources for their effective functioning.

11. To allocate resources to sustain the efforts of key civil society organizations providing legal assistance and shelters for women victims of violence in Haiti.

12. To adopt measures to ensure that doctors and medical personnel comply with the requirement that medical certificates are issued for free to victims of sexual violence.

Administration of justice

13. To create a nationwide system for recording statistical and qualitative data on acts of discrimination and violence against women within the administration of justice system, which should include up-to-date, reliable statistics providing information on all the actors that perpetuate discrimination and violence against women in Haitian society.

14. To strengthen the functioning of the specialized units created within the Office of the Ombudsman and the Haitian National Police ("Brigade des Mineurs") to address the specific needs of women and girls, through the adequate assignment of human and financial resources, the institutionalization of appropriate training and capacity-building programs, and the strengthening of police presence in rural areas.

15. To circulate information nationwide about the judicial resources available to women victims of violence, in Creole and French.

Investigation, Prosecution and Punishment of Acts of Violence and Discrimination against Women

16. To adopt measures to prevent and punish acts of violence and discrimination against women while in detention, by State actors, including security forces and prison guards. To create effective complaint mechanisms for women in detention.

17. To strengthen the capacity of judicial institutions, including the public prosecutor's office, the Haitian National Police and the courts, by increasing the financial and human resources they have to combat the pattern of impunity in cases involving violence and discrimination against women.

18. To design protocols to facilitate and promote the effective, uniform and transparent investigation of acts of physical, sexual and psychological violence, which include a description of the detailing of the evidence and an itemization of the minimum evidence that needs to be gathered to properly substantiate a case: scientific, psychological, physical evidence and testimony. Multidisciplinary investigation of these crimes needs to be encouraged.

19. To take steps in order to provide female victims with accessible and effective legal services free of charge to pursue violence and discrimination claims before the courts and to take efforts to address the challenge of the absence of justice institutions in rural and marginalized areas.

Treatment of Victims by Judicial Protection Entities

20. To take immediate steps to ensure that the public officials involved in prosecuting cases of violence and discrimination against women (including prosecutors, police, judges, court-appointed attorneys, administrative personnel and forensic medicine professionals) are properly educated about women's rights so that they apply the domestic and international laws to prosecute these crimes properly and so that the integrity and dignity of the victims and their relatives are respected when the complaints are filed and during their involvement in the judicial process.

21. To provide effective judicial protections and guarantees so that women victims are able to report acts of violence, including measures to effectively safeguard the safety of complainants, survivors and witnesses, and measures to protect their privacy, dignity and integrity when filing reports and throughout the criminal proceedings.

Measures of Protection

22. To adopt legal measures to protect women from imminent acts of violence.

23. To devise and institutionalize training programs geared toward all state officials involved in the monitoring and supervising protective measures and initiatives intended to prevent acts of violence against women -particularly in the case of the police-, to instruct them about the need to ensure proper enforcement of and compliance with these measures, and the consequences of non-compliance and non-enforcement. To adopt measures to sanction state

officials who do not properly monitor these measures.

ANNEX

The Rapporteurship on the Rights of Women of the IACHR and its mandate

The Rapporteurship on the Rights of Women of the IACHR (hereinafter "Rapporteurship") was created in 1994 with the initial mandate to review the extent to which Member States legislation and practice that affect the rights of women comply with the general obligations of regional human rights instruments such as the American Convention on Human Rights ("American Convention") and the American Declaration of the Rights and Duties of Man ("American Declaration"). By creating the Rapporteurship, the IACHR reaffirmed its commitment to promote the full respect of the rights of women within each Member State.

Since its creation, the Rapporteurship has collaborated in the daily work of the Commission by publishing thematic studies, supporting the formulation of new jurisprudence within the individual case-system, and by promoting the investigation of themes affecting the rights of women in specific countries in the region through on-site visits and country reports.

After extensive study and analysis, the IACHR and the Rapporteurship first published its *Report on the Status of Women in the Americas* to provide an overview of the situation and formulate recommendations to assist Member States to eradicate discrimination from their legislation and practice, at the same time establishing priorities for future measures by the Rapporteurship and the IACHR. The human rights principles of equality and non-discrimination are still the guiding points in selecting the topics to be addressed by the Rapporteurship. The IACHR and its Rapporteurship also place special emphasis on the problem of violence against women, which in itself is a manifestation of gender-based discrimination, as recognized by the Convention of Belém do Pará.

The Rapporteurship facilitates the clear understanding of which additional measures are needed to enable women to fully exercise their basic rights and issues special recommendations geared toward reinforcing compliance by Member States with their priority obligations regarding equality and non-discrimination. The Rapporteurship also promotes the use of the Inter-American Human Rights system mechanisms, such as the individual petition system, to enhance the protection of women's rights; prepares specialized studies and country reports on these issues; and helps the IACHR respond to petitions and other reports on violations of these rights in the region. Two of the reports of the Rapporteurship are *The Situation of the Rights of Women in Ciudad Juarez, Mexico: the Right to be Free from Violence and Discrimination* and *Violence and Discrimination against Women in the Armed Conflict in Colombia*, which can be found in the web portal of the IACHR, <http://www.cidh.oas.org>.

Moreover, the work program of the Rapporteurship during the past two years has been designed to address a priority challenge for the rights of women throughout the Hemisphere: how to ensure that women can effectively access justice, particularly women who have been subjected to violence and discrimination. As a result of this process, the Rapporteurship in 2007 launched the

regional thematic report: *Access to Justice for Women Victims of Violence in the Americas*, where it examines the main obstacles that women encounter when they seek effective judicial protection to redress acts of violence. In the report, the IACHR draws conclusions and makes recommendations about what States need to do to act with the due diligence necessary to offer an effective and prompt judicial recourse when these incidents occur. The report's analysis is based on findings drawn from the data compiled from a variety of sources, including the justice systems, civil servants and government representatives, civil society, academia and women of differing races, ethnic backgrounds and socio-economic circumstances. The Rapporteurship prepared the present report for the last two years, with financial support from the Government of Finland. The information compiled has been coupled with the results of the work of the IACHR: its case decisions, the thematic hearings held at headquarters, its thematic reports, the country reports' chapters on women's rights, and *in loco* visits organized by the IACHR and the Rapporteurship.

The priority granted by the IACHR and by its Rapporteurship to the protection of the rights of women reflects the importance granted to these issues by the OAS Member States. In particular, the Action Plan adopted by the Heads of State and Government during the Third Summit of the Americas recognizes the importance of empowering women and fully and equally involving women in the development, political life and decision-making at all levels. To this effect, the Action Plan underpins the Inter-American Program to Promote Women's Human Rights and Gender Equity and Equality, as well as other regional initiatives geared toward implementing the commitments stipulated in the Declaration of Beijing and its Action Platform.

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See I/A Court H.R., *Velásquez Rodríguez Case*. Judgment of July 29, 1988. Series C No. 4. A series of Inter-American Conventions also establish the express obligation of the State to act with due diligence to protect human rights. See, for example, Article 6 of the Inter-American Convention against Torture and Article 7(b) of the Convention of Belém do Pará.

According to the official documents deposited at the OAS Department of International Law, on April 3, 1996, the legislative branch of the Haitian State signed the Convention of Belém do Pará.

See Convention of Belém do Pará, Preamble, Articles 4 and 6. The Commission has discussed the serious consequences that discrimination against women and the stereotypical notions of their role in society can have, including violence against women. See IACHR, *Merits Report*, N° 4/01, *Maria Eugenia Morales de Sierra (Guatemala)*, January 19, 2001, para. 44.

See Convention of Belém do Pará, Article 1.

See Convention of Belém do Pará, Preamble, Articles 4 and 5.

See Convention of Belém do Pará, Articles 2 and 7.

See Convention of Belém do Pará, Article 9.

The principle of due diligence was initially established by the Inter-American Court of Human Rights in its ruling on the case of *Velásquez Rodríguez*, Judgment of 29 July 1988, stating: "It is the obligation of the Member States to 'guarantee' the free and full enjoyment of rights recognized in the Convention for all persons subject to their jurisdiction [.....] As a consequence of this obligation, States must prevent, investigate and punish all violations of the rights recognized by the Convention," I/A Court H.R., *Velásquez Rodríguez Case*. Judgment of July

29, 1988. Series C No. 4. para. 166.

I/A Court H.R., *Case of the "Mapiripán Massacre."* Judgment of September 15, 2005. Series C No. 134, para. 178.

IACHR, Merits, Report No. 54/01, *Maria Da Penha Fernandes* (Brazil), April 16, 2001, para. 56.

Article 19 of the American Convention must be interpreted as a complimentary right that the treaty establishes for human beings given their physical and emotional development, which require special protective measures. I/A Court H.R., *Juridical Condition and Human Rights of the Child*. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, para 54. I/A Court H. R., *Case of the "Juvenile Reeducation Institute"*. Judgment of September 2, 2004. Series C No. 112, para. 147.

I/A Court H.R., *The "Street Children" Case (Villagrán Morales et al.)*. Judgment of November 19, 1999. Series C No. 63, para. 194. In this trend, the Inter-American Court has established that "[i]n the light of Article 19 of the American Convention, the Court wishes to record the particular gravity of the fact that a State Party to this Convention can be charged with having applied or tolerated a systematic practice of violence against at-risk children in its territory." I/A Court H.R., *The "Street Children" Case (Villagrán Morales et al.)*. Judgment of November 19, 1999. Series C No. 63, para. 191.

See for example Articles 16, 19 and 34 of the UN Convention on the Rights of the Child.

I/A Court H.R., *Juridical Condition and Human Rights of the Child*. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, para. 54.

I/A Court H. R., *Case of the Gómez Paquiyauri Brothers*. Judgment of July 8, 2004. Series C No. 110, paras. 124, 163-164 and 171; I/A Court H. R., *Case of Bulacio*. Judgment of September 18, 2003. Series C No. 100, paras. 126 and 134; I/A Court H.R., *The "Street Children" Case (Villagrán Morales et al.)*. Judgment of November 19, 1999. Series C No. 63, paras. 146 and 191; see also I/A Court H.R., *Juridical Condition and Human Rights of the Child*. Advisory Opinion OC-17/02 of August 28, 2002. Series A No. 17, paras. 56 and 60.

The UN World Report on Violence Against Children, Paulo Sérgio Pinheiro, Independent Expert for the United Nations Secretary-General's Study on Violence against Children, 2006, p. 317, available at: <http://www.violencestudy.org/a553>.

The UN World Report on Violence Against Children, Paulo Sérgio Pinheiro, Independent Expert for the United Nations Secretary-General's Study on Violence against Children, 2006, pp. 19-20, available at: <http://www.violencestudy.org/a553>.

IACHR, *Violence and Discrimination against Women in the Armed Conflict in Colombia*, OEA/Ser/L/V/II.124/Doc.6, October 18, 2006, para. 140.

United Nations, Convention on the Elimination of All Forms of Discrimination against Women, *General Recommendation 19, Violence against Women*, U.N. Doc. HRI/GEN/1//Rev.1, p. 84, para. 11 (1994).

UN, Declaration on the Elimination of Violence against Women, General Assembly Resolution 48/104 dated December 20, 1993, Doc. A/RES/48/104, 85th Plenary Meeting, 23 February 1994.

The current President of Haiti also issued a statement on November 25, 2006, the international day against violence against women, calling for action to address the prevalence of the issue. The majority of organizations that met with the Commission during its visits highlighted the importance of this initiative.

Some of the members of the *Table de Concertation Nationale* that provide specialized medical services receive limited financial support from the State for the treatment of sexual violence

cases. The first shelter for women victims of violence established in Haiti was Kay Fanm. This organization offers women and girls temporary refuge and support. Some other institutions offering the same types of services are SOFA, MOUFED, URAMEL, among others.

Interview by IACHR delegation with (Commissaire du Gouvernement en Chef près du Tribunal de Premier Instance a Port-au-Prince) Chief Public Prosecutor of Port-au-Prince at the Court of First Instance, April 2007 and September 2007; Cindir, Amos, *Le Nouvelliste*, « Combattre les stéréotypes sexuels », November 27, 2007, available at: <http://lenouvelliste.com/article.php?PubID=1&ArticleID=51330&PubDate=2007-11-27>

Inter-American Commission on Women, Report OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.24/06 (12 July 2006) para. 178.

Inter-American Commission on Women, Report OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.24/06 (12 July 2006) para. 178.

Inter-American Commission on Women, Report OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.24/06 (12 July 2006) para. 178.

Décret modifiant le Régime des Agressions Sexuelles et Eliminant en la Matière les Discriminations contre la Femme” *Le Moniteur* (Journal Officiel de la République d’Haïti) 11 Août 2005.

Observations of the State of Haiti to the draft report “The Right of Women in Haiti to be Free from Violence and Discrimination”, received by the IACHR on February 4, 2009, note JUR/09/PTM/jmm-0070.

Observations of the State of Haiti to the draft report “The Right of Women in Haiti to be Free from Violence and Discrimination”, received by the IACHR on February 4, 2009, note JUR/09/PTM/jmm-0070.

Article 20 of the Criminal Code of Haiti (11 August 1835) states: “every person of either sex condemned to a penalty of ‘reclusion’ will be held in a house by force, with the possibility to work and retain partial profit, under the supervision of the government. The duration of this penalty ranges from three to nine years”. [IACHR’s translation].

Articles 279 and 20, Criminal Code of Haiti, 11 August 1835. Sources confirm that following the July 2005 Decree, courts have sentenced perpetrators to prison penalties *in lieu* of forced labor, according to the practice of Haitian courts.

Observations of the State of Haiti to the draft report “The Right of Women in Haiti to be Free from Violence and Discrimination”, received by the IACHR on February 4, 2009, note JUR/09/PTM/jmm-0070.

Interview by IACHR with Myriam Merlet, Chief of Cabinet, Ministry of Women, October 2006. See OAS, Inter-American Commission on Women, Questionnaire on the Evaluation of the Application of the Convention of Belém do Pará (Haiti), OEA/Ser.L/II/7.10, MESECVI/CEVI/doc.25/06, July 12, 2006.

Ministry of Women, MCFDF/Priorités 2006-2011, Proposition/Document de travail, September 2006.

Information confirmed by the State of Haiti in its observations to the draft report, “The Right of Women in Haiti to be Free from Violence and Discrimination”, received by the IACHR on February 4, 2009, note JUR/09/PTM/jmm-0070.

Information confirmed by the State of Haiti in its observations to the draft report, “The Right of Women in Haiti to be Free from Violence and Discrimination”, received by the IACHR on February 4, 2009, note JUR/09/PTM/jmm-0070.

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See IACHR, *Haiti: Failed Justice or The Rule of Law: Challenges Ahead for Haiti and the International Community*, OEA/SER/L/Vii.123 (2005). See also, IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser.L/V.II.Doc. 68, 20 January 2007.

The State has confirmed in its observations that between the period of April and September of 2008, fifteen criminal processes resulted in 15 convictions of rape. Observations of the State of Haiti to the draft report “The Right of Women in Haiti to be Free from Violence and Discrimination”, received by the IACHR on February 4, 2009, note JUR/09/PTM/jmm-0070. Information provided during the Commission’s visit to Haiti by civil society organizations pointed to at least five documented convictions for rape.

Observations of the State of Haiti to the draft report “The Right of Women in Haiti to be Free from Violence and Discrimination”, received by the IACHR on February 4, 2009, note JUR/09/PTM/jmm-0070. In its observations, the State mentions as an example of the effect of the 2005 Decree the case of a female TV artist who was killed by her spouse and how the justice system undoubtedly convicted the perpetrator.

This case took place at the Tribunal Civil, Gonaives, on July 29, 2005. The accused was found guilty and sentenced to 18 months. See SOFA, *Programme d’Accueil et d’Accompagnement des femmes/filles victimes de violence, Femmes accueillis à la SOFA – Accompagnement Juridique: Informations sur cinq (5) procès de viol.*

1) The accused was found guilty and sentenced to 6 years and 250.000 gourdes in damages (Tribunal Civil, Gonaives, July, 19 2006); 2) the accused was found guilty and sentenced to forced labor for life and 500.000 gourdes in damages (Tribunal Civil, Port-au-Prince, March 8-22, 2006); 3) the accused was found guilty and sentenced to 3 years in prison and 50.000 gourdes in damages (Tribunal Civil, Port-au-Prince, July 24, 2006); 4) the accused was found guilty and sentenced to 7 years in prison (South East, June 19, 2006). See SOFA, *Programme d’Accueil et d’Accompagnement des femmes/filles victimes de violence, Femmes accueillis à la SOFA – Accompagnement Juridique: Informations sur cinq (5) procès de viol.*

Interview by IACHR with Margarete Jean Pierre, SOFA, August 26, 2007.

Kay Fanm, *Note de Presse, Procès pour Viol, James Montas, policier de la 14eme promotion de la PNH*, Port-au-Prince, Haiti, August 3, 2006.

Kay Fanm, *Note de Presse, Procès pour Viol, James Montas, policier de la 14eme promotion de la PNH*, Port-au-Prince, Haiti, August 3, 2006.

Kay Fanm, *Note de Presse, Procès pour Viol, James Montas, policier de la 14eme promotion de la PNH*, Port-au-Prince, Haiti, August 3, 2006.

SOFA, *Cas de Violence Accueillis et Accompagnés Dans les Centres Douvanjou de la SOFA de Juillet à Décembre 2006*, January 2007.

SOFA, *Cas de Violence Accueillis et Accompagnés Dans les Centres Douvanjou de la SOFA de Juillet à Décembre 2006*, January 2007, p. 22. At the time of writing this report, the currency exchange was approximately 40 gourdes to US\$1.00

SOFA, *Cas de Violence Accueillis et Accompagnés Dans les Centres Douvanjou de la SOFA de Juillet à Décembre 2006*, January 2007, p. 22.

SOFA, *Cas de Violence Accueillis et Accompagnés Dans les Centres Douvanjou de la SOFA de*

Juillet à Décembre 2006, January 2007, p. 22.

SOFA, *Cas de Violence Accueillis et Accompagnés Dans les Centres Douvanjou de la SOFA de Juillet à Décembre 2006*, January 2007, p. 22.

Kay Fanm, *Violence envers les Femmes et les Filles, Bilan de l'Année 2006*, p. 30.

IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser.L/V.II.Doc. 68, 20 January 2007, Recommendations.

The State verified in its observations to this report that the Protocol was signed on November 24, 2006. Observations of the State of Haiti to the draft report "The Right of Women in Haiti to be Free from Violence and Discrimination", received by the IACHR on February 4, 2009, note JUR/09/PTM/jmm-0070.

Avis, *Ministère de la Condition Feminine et aux Droits des Femmes, Concertation Nationale Contre les Violences Faites aux Femmes, Fond des Nations Unies pour la Population, Le Nouvelliste*, March 4, 2007. See also, Protocole d'accord sur l'octroi et la gratuité du certificat médical relativement aux agressions sexuelles et/ou conjugales, Ministère à la Condition Féminine et aux Droits des Femmes, Ministère de la Santé Publique et de la Population, Ministère de la Justice et de la Sécurité Publique, January 17, 2007; Circulaire à l'adresse des juges et des commissaires du gouvernement, « Accueil de victimes de violence sexuelle/et ou conjugale », February 8, 2007. This information was confirmed by the State in its observations to the draft report "The Right of Women in Haiti to be Free from Violence and Discrimination", received by the IACHR on February 4, 2009, note JUR/09/PTM/jmm-0070.

Convention of Belém do Pará, Article 7 (f)(g).

SOFA, *Cas de Violence Accueillis et Accompagnés Dans les Centres Douvanjou de la SOFA de Juillet à Décembre 2006*, January 2007, p. 16.

UNIFEM, *The Impact of Crisis on Haitian Women: Report of Fact-Finding Mission to Haiti*, January 2006, p. 32.

Kay Fanm, *Violence envers les Femmes et les Filles, Bilan de l'Année 2006*, p. 35.

IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser.L/V.II.Doc. 68, 20 January 2007.

Soledad Larrain and Elisa Fernández, Ministère de la Condition Féminine et Banque Interaméricaine du Développement (BID), *Une Réponse a la Violence Faite aux Femmes En Haïti*, in collaboration with UNIFEM/Haïti and TAG, 2007.

Articles 197 and 198 of the Civil Code of Haiti, 27 March 1825.

For example, Article 8 provides that "les époux administrant conjointement la communauté. En cas de désaccord, le mot du mari prévaut, sous réserve de la disposition prévue a l'article 6 » and Article 5 « ils choisissent de concert la résidence de la famille. Cependant, le domicile conjugal demeure celui de mari».

The Commission notes that the decree entered into force on August 11, 2005, during the provisional government under former President Boniface Alexandre. The preamble of the Decree states: "[c]onsidering that the Legislature is, at the moment, inoperative, the Executive is in a position to legislate by decree in the public interest" [IACHR's translation]. The State confirmed this information in its observations to the draft report, "The Right of Women in Haiti to be Free from Violence and Discrimination", received by the IACHR on February 4, 2009, note JUR/09/PTM/jmm-0070.

See « *Décret Modifiant le Régime des Agressions Sexuelles et Eliminant en la Matière les Discriminations contre la Femme* » Le Moniteur (Journal Officiel de la République d'Haïti) 11 Août 2005; the decree modified articles of the criminal code, including: 269, 270, 278, 279, 280,

281, 282, 283 and abrogated articles 284, 285, 286, and 287.

See *supra* note 190. Articles 279 and 280, Criminal Code of Haiti, 11 August 1835.

See Article 2 of the *Décret Modifiant le Régime des Agressions Sexuelles et Eliminant en la Matière les Discriminations contre la Femme*» Le Moniteur (Journal Officiel de la République d'Haïti) 11 Août 2005.

See Article 3 of the *Décret Modifiant le Régime des Agressions Sexuelles et Eliminant en la Matière les Discriminations contre la Femme*» Le Moniteur (Journal Officiel de la République d'Haïti) 11 Août 2005.

See Articles 269 and 285 Criminal Code of Haiti, 11 August 1835.

See Article 10 of the *Décret Modifiant le Régime des Agressions Sexuelles et Eliminant en la Matière les Discriminations contre la Femme*» Le Moniteur (Journal Officiel de la République d'Haïti) 11 Août 2005.

Soledad Larrain and Elisa Fernández, Ministère de la Condition Féminine et Banque Interaméricaine du Développement (BID), *Une Réponse a la Violence Faite aux Femmes En Haïti* (2007), en collaboration avec UNIFEM/Haïti et TAG.

UNIFEM, *The Impact of Crisis on Haitian Women: Report of Fact-Finding Mission to Haiti*, January 2006.

IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser.L/V.II.Doc. 68, 20 January 2007.

United Nations, *Report of the Special Rapporteur on violence against women, its causes and consequences*, Yakin Ertürk, *The Due Diligence Standard as a Tool for the Elimination of Violence against Women*, E/CN. 4/2006/61, para. 49.

See Inter-American Commission on Women, Report OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.24/06 (12 July 2006).

See Inter-American Commission on Women, Report OEA/Ser.L/II.7.10 MESECVI/CEVI/doc.24/06 (12 July 2006).

Interview by IACHR delegation with Minister Marie-Laurence Lassegue, Minister of Women, Haiti (April 2007).

IACHR, *Violence and Discrimination against Women in the Armed Conflict in Colombia*, OEA/Ser.L/V/II. Doc. 67, 16 October 2006, para. 61.

Kay Fanm, *Violence envers les Femmes et les Filles, Bilan de l'Année 2006*, p.17.

IACHR, *Violence and Discrimination against Women in the Armed Conflict in Colombia*, OEA/Ser.L/V/II. Doc. 67, 16 October 2006, para. 61.

PAHO, "Gender and HIV/AIDS," <http://amro.who.int/english/ad/ge/Gender-HIV1.pdf>, Accessed July 1, 2008.

PAHO, "Gender and HIV/AIDS," <http://amro.who.int/english/ad/ge/Gender-HIV1.pdf>, Accessed July 1, 2008. Similarly, another study reports that "In 2003, nearly 2 million people between the ages of 15 and 49 were living with HIV in Latin America and the Caribbean. 49% of all infected adults in the Caribbean are women, with young women 2.5 times more likely to be infected than young men". United Nations Development Fund for Women, "Facts and Figures on HIV/AIDS," July 2004, also available at http://www.unifem.org/gender_issues/hiv_aids/facts_figures.php#2.

UNFPA, Report on the State of the World Population 2007, available at: <http://www.unfpa.org/swp/2007/english/introduction.html>.

See Amy Bracken, World Aids Day, "In Haiti, Gender Can Mean Life or Death," IPS, November, 30 2006.

See Amy Bracken, World Aids Day, “In Haiti, Gender Can Mean Life or Death,” IPS, November, 30 2006; see also “HIV in Haiti is spread by violence and little is done to prevent the attacks,” Sarah Fort, The Center for Public Integrity, International Consortium for Investigative Journalists. (“Medical care is necessary, [says Yolette Jeanty, KAY FANM] because more cases are very violent. Many times, rapists use sharp metal instruments attached to themselves to assault women. Most victims of those kinds of attacks can’t bear children and ‘usually have long term hemorrhaging.”)

See also UNFPA News, “Haití: Curbing Sexual Violence at a Time of Political Turmoil”, 25 November 2005, available at: <http://www.unfpa.org/news/news.cfm?ID=718>.

Interview by IACHR with Miriam Merlet, Chief of Cabinet, Ministry of Women’s Condition and the Rights of Women, October 2006.

IACHR, Friendly Settlement Report N° 21/07, Petition 161-02, Paulina del Carmen Ramirez Jacinto (Mexico), March 9, 2007, para. 19.

IACHR, Friendly Settlement Report N° 21/07, Petition 161-02, Paulina del Carmen Ramirez Jacinto (Mexico), March 9, 2007, para. 19.

Interview by IACHR delegation with AVSI representative, December 2006.

“For many adolescents, the first experience of sexual intercourse is unwanted or actively coerced...much of this initial sexual coercion is perpetrated by peers, including in the context of an intimate relationship. [...] Research indicates that the younger the age of sexual initiation, the more likely that it was coerced in some way. This is particularly true for girls, who face a greater risk of forced first sex than boys”. The UN World Report on Violence against Children, Paulo Sérgio Pinheiro, Independent Expert for the United Nations Secretary-General’s Study on Violence against Children, 2006, p. 292, available at: <http://www.violencestudy.org/a553>.

See Table 318 in Report of the Ministry of Public Health, 2007.

United Nations, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, G.A. Res. 60/147, U.N. Doc. A/RES/60/147 (2005).

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See UN Security Council, Resolution 1325, S/RES/1325/2000.