

UNITED NATIONS HUMAN RIGHTS COMMITTEE

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**SUPPLEMENTARY INFORMATION ON HAITI REGARDING THE TREATMENT OF
LESBIAN, GAY, BISEXUAL AND TRANSGENDER INDIVIDUALS (LGBT)**

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Attention: Kate Fox Principi
Human Rights Committee Secretariat
8-14 Avenue de la Paix
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Sent via email to kfox@ohchr.org

Re: Submission to Country Report Task Forces for the adoption of lists of issues for the Government of Haiti, Scheduled for Review by Human Rights Committee during Session No. 107 (11-28 March 2013)

This letter is submitted to you by SEROVie; *Femmes en Action Contre la Stigmatisation et la Discrimination Sexuelle* (FACSDIS); KOURAJ; the International Gay and Lesbian Human Rights Commission (IGLHRC); the City University of New York (CUNY) International Women's Human Rights (IWHR) Clinic; MADRE; the Center for Gender and Refugee Studies, University of California Hastings College of the Law (CGRS); the Hastings to Haiti Partnership (HHP); and the Institute for Justice and Democracy in Haiti to assist the Human Rights Committee (HRC) Country Report Task Force for Haiti scheduled to meet in July 2012 to review the state party's compliance with the International Covenant on Civil and Political Rights (ICCPR) and formulate the list of issues. This letter focuses specifically on issues related to the treatment of lesbian, gay, bisexual and transgender individuals (LGBT), including recommendations for questions directed at the government. Our organizations have worked collectively on human rights issues in Haiti for more than a decade; so we hope this will be of use to the Committee as it sets the priorities for Haiti's upcoming review.¹

I. Widespread Violence and Discrimination Against LGBT Individuals Violates the ICCPR (Articles 2, 3, 17, 19, 26)

A. Discrimination Against LGBT Individuals is Deep-rooted and Pervasive in Haitian Society.

Discrimination and violence against the lesbian, gay, bisexual and transgender (LGBT) community have been a pervasive problem in Haiti. Homosexuality and transgenderism remain taboo within a largely conservative Catholic Haitian society, and as a result, the lives of many LGBT individuals in Haiti are, "characterized by secrecy, isolation, discrimination, and violence."² Organizations working with LGBT individuals have suggested that stigmatization and discrimination against LGBT individuals have become normalized. Some Haitian politicians

¹ Please note that this is a preliminary memo. Additional fact gathering and documentation is currently under way and will be provided to the Committee later this year.

² For more information, see INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION/SEROVIE, THE IMPACT OF THE EARTHQUAKE, AND RELIEF AND RECOVERY PROGRAMS ON HAITIAN LGBT PEOPLE 2 (2011), <http://www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/505-1.pdf> [hereinafter IGLHRC/SEROVIE].

allege that homosexuality is foreign to Haitian culture, and by implication, LGBT rights are therefore irrelevant.

Because of pervasive homophobia and violence against LGBT individuals, LGBT rights activism in Haiti has developed cautiously. The general intolerance of any real or perceived homosexual behavior forces the few organizations providing support and advocacy to LGBT individuals to conceal their identity as other outreach work, including, for example, education and services around HIV and AIDS. Some of the immediate dangers that LGBT individuals have faced have been minimized through the advocacy and awareness campaigns of these organizations. However, as discussed in further detail *infra*, the January 2010 earthquake rendered the already limited resources of these few organizations even scarcer.

B. Economic Opportunities Are Denied to LGBT Individuals.

Generalized discrimination forces many LGBT individuals to live in fear, secrecy, and isolation. Ostracism and discrimination by their families and communities leaves LGBT individuals with weak support from traditional kinship and community networks; many LGBT individuals have been thrown out of their homes and forced to live in the streets. Given that it can cost up to five hundred US dollars per month to rent a house in Port-au-Prince, many LGBT individuals are forced to live in run-down areas of the city where rates of crime and violence are higher.

Discrimination translates into fewer employment opportunities for LGBT persons. As a result, it is not uncommon for LGBT individuals to turn to sex work and sexual exchange for survival. LGBT individuals engaged in survival sex can be exposed to verbal humiliation, physical violence, and sexual abuse. Transgender persons are particularly at-risk.

The process of reconstruction following the earthquake has created some limited yet positive economic opportunities for Haitians. Working in the reconstruction programs, an individual might make as much as two hundred US dollars per month, enough to provide food, shelter and education for their family. However, local advocates report that LGBT persons are largely excluded from the reconstruction programs and do not benefit from these new economic opportunities. Although the Minister of Public Works has taken some preliminary steps to ameliorate the situation, LGBT individuals remain cut off from the reconstruction work.

C. LGBT Individuals Face Verbal, Physical and Sexual Abuse.

KOURAJ, a grassroots organization that works in defense of LGBT individuals in Port-au-Prince, has documented severe violence committed against LGBT individuals. For example, *masisi*—a derogatory term used to describe effeminate gay males—are allegedly subject to daily verbal harassment and violent assaults.³ LGBT individuals shared stories with KOURAJ

³ Masisi has also been defined as a “male playing the role of a woman during sexual relations” and “by being in general more effeminate.” The term is not synonymous with “homosexual.” The term is also used within the gay community to address other gays, and is not necessarily an insult in that particular context. A host of derogatory language is widely used against LGBT individuals, including for example the term “gateras”, meaning “one who makes stale a race of people, who dirties the blood of his family and, hence, must be excluded to preserve the purity of the family.”

regarding violence they have personally faced. For example a man believed that he shared mutual affection with a male friend. When he expressed his love, the friend broke a bottle and sliced open his stomach. When he approached the police, the officer refused to help, explaining, “we don’t take those kind of cases in Haiti.”

D. Haiti Lacks Legal Protections for LGBT Individuals.

There are no specific laws that protect the rights of LGBT individuals in Haiti. Moreover, LGBT individuals lack confidence in the capacity and willingness of police to provide protection against rape or other forms of violence, actions that are considered human rights violations and obligate the State’s protection regardless of the victim’s sexual orientation or gender identity. FACSDIS, a Haitian grassroots organization serving sex workers, lesbians and transgender people, reports that lesbians who are raped are afraid to tell police that their rape was motivated by their sexual orientation. According to one FACSDIS member, “If we told them it would be like we were being raped all over again, they just tell us it’s our fault.” Local advocates report that crimes against LGBT individuals are committed with impunity because many police officers refuse to accept or believe complaints from “*masisi*”.

E. The Earthquake Brought Heightened Risk of Violence and Discrimination Against LGBT Individuals.

In April 2010, November 2011, December 2011 and February 2012, advocates interviewed government officials and community organizations in Port-au-Prince that provided services to LGBT individuals in an effort to investigate the earthquake’s impact on the lives of the LGBT community. In the days following the earthquake, SEROVie, a Haitian grassroots organization based in Port-au-Prince that provides HIV education and direct services to members of the LGBT community, offered counseling services, as well as access to limited stocks of rice, cornmeal, and hygiene kits to gay men and transgendered women at its community center in central Port-au-Prince. SEROVie’s capacity to provide outreach and aid to LGBT community members in the post-earthquake context is, however, an anomaly. Findings indicate that fifty-seven percent of all organizations providing HIV/AIDS services in Haiti prior to the earthquake were located in the areas most affected by the earthquake, which decimated the already limited physical spaces, social networks and support services available to these organizations and the communities they serve.

The earthquake disrupted patterns of movement, relationships, and structures that had provided some measure of safety to LGBT individuals. This devastation exacerbated the violence and intolerance against the LGBT community, especially within internally displaced persons (IDP) camps. In the weeks following the earthquake, radios broadcast stories and churches sermonized that the “*masisi*” and other “sinners” were to blame for incurring the wrath of God and causing the earthquake. As a result of increased stigmatization, gay and bisexual men reported adopting a more masculine demeanor as a way to avoid harassment both inside and outside the camps.

The following are some incidents of abuse reported by LGBT Haitians since the earthquake:

- In March 2010, a Haitian man was threatened and physically attacked for supposedly

flirting with a man on a local public bus in Port-au-Prince. When he reported the attack to a nearby policeman he told the officer that he was “a victim of theft because, he said, “I knew that [the police] would only help me if I told them I had been robbed. If the police knew I was gay, they would have attacked me instead of the man who beat me.”

- In April 2010, a gay man told interviewers from IGLHRC and SEROvie that, “my brother and I were having an argument. I went to the police looking for help. When my brother told them that I was *masisi*, they slapped me and laughed. They beat me even worse than he did.”
- In July 2010, a young lesbian woman was raped by ten men. NGOs have called the incident a ‘corrective rape,’ which suggests that the crime was motivated by the desire to alter the victim’s sexual orientation.
- In July 2010, eight men raped a 23-year-old woman who was open about her sexuality. FACSDIS believes that a woman she was involved with had a boyfriend who discovered the affair; the boyfriend beat her, and subsequently recruited a group of his friends to rape her.

F. LGBT Individuals Living in Rural Haiti Similarly Face Discrimination and Intolerance.

In February 2012, UC Hastings conducted interviews with government representatives and NGO workers in Jérémie, Haiti, to shed light on the situation for LGBT individuals in rural Haiti. As in Port-au-Prince, openly LGBT individuals in rural communities like Jérémie are routinely harassed and ostracized. LGBT individuals often do not feel safe admitting their sexuality, fearing discrimination from their families, close-knit communities, and deeply traditional religious cultures. To prevent discrimination and ostracism, many LGBT individuals in rural communities hide their sexuality, choosing instead to live as though they were heterosexual. There are no reported complaints of abuse by government officials against LGBT individuals in Jérémie, but some community workers in Jérémie suggested that LGBT individuals do not feel safe reporting incidents of abuse or harassment as a result of cultural bias against homosexuality and transgenderism. Despite dozens of groups representing the victims of gender-based violence and human rights violations in Jérémie, no known groups directly represent the interests of LGBT individuals or provide training and resources related to LGBT issues. There also are currently no LGBT organizations present in Jérémie or the larger Grand’Anse Department, and thus LGBT individuals do not have a formal support network.⁴

II. Arbitrary Arrests and Detention of LGBT Individuals Violate the ICCPR (Articles 3, 14, 16, 17, 19, 26)

While same-sex acts are not criminalized under Haitian law, LGBT individuals are frequently harassed by police and arrested for what appears to amount to criminalization of their basic identity. SEROvie and FACSDIS report that their outreach workers and peer counselors are often attacked and beaten while engaging in their work in displacement camps and poor

⁴ Interview with the Haitian Health Foundation (Mar. 7, 2012); Interview with Women’s Ministry (Mar. 7, 2012).

neighborhoods. Furthermore, peer counselors and outreach workers experience ongoing harassment from civil society actors and police officers during the course of everyday life and activities. KOURAJ also reported that gay men are often arrested for fabricated crimes after they file complaints about their attackers.

Examples of such arbitrary arrest and harassment include:

- FACSDIS reports that in 2010, the Port-au-Prince prosecutor's office raided a community awareness party frequently held by FACSDIS in Turgeau. The prosecutor's office accused FACSDIS of holding an orgy and arrested all the attendees, who were detained through the weekend. A transgender woman organizer arrested that night was harassed by police officers that demanded she undress in front of them. According to interviews with SEROvie and FACSDIS, "the police kept calling her element and non-human."
- In the summer of 2011, a gay couple was arrested after getting into an argument with a group of men attending a party across the street from their home. The men were sitting outside when a group of people demanded they move inside because they were bothering the guests. The argument escalated into a fight and when the police arrived only the gay couple was arrested and taken to prison on public indecency charges. SEROvie attempted to provide the couple with a lawyer, but lawyers are reluctant to accept cases involving LGBT individuals, and those willing to represent them increase their fees. Ultimately, the lawyer merely encouraged the couple to pay the complainants and provided no defense.
- On September 13, 2010, forty women were arrested in the Champs de Mars displacement camp. The media first reported that the women had been arrested on suspicion of practicing "woman on woman" activities in the tents. The women were ultimately charged with immorality and indecency. While the women were released from detention after two days, advocates believe the initial arrests were the result of, "the conflation of lesbianism with sex work...and [that] transgressors of gender norms should be punished."
- In July 2011, a group of teenage peer counselors from SEROvie conducting outreach were attacked while attending a festival in Saut d'Eau. A group of people burned down the peer counselors' tent, chased them and threatened to kill them. The outreach workers were forced to flee and hide in the bushes to avoid being beaten by the crowd.

III. Inadequate Access to Food and Healthcare Violates the ICCPR (Articles 3 & 26)

After the earthquake, LGBT individuals have reported an inability to access food, housing, healthcare, and food-for-work programs. Gay and bisexual men are particularly affected because international aid is distributed through private voluntary organizations that prioritize the distribution and availability of aid to women. Moreover, SEROvie reports that transgender individuals face added obstacles to accessing medical treatment. Transgender individuals are unable to obtain hormone treatment or psychological services in Haiti, and as a result, many are forced to travel to the Dominican Republic to receive hormone treatment. The inaccessibility of food and healthcare to members of the LGBT community has been reported. For example, a young MSM-identified Haitian, was ejected from an emergency food distribution line at Sylvio Cator Stadium and was called the derogatory term "chichi man" because he was visibly

effeminate.

IV. Proposed Questions for the Government of Haiti:

- What measures have been taken to prevent discrimination against persons because of their sexual orientation and gender identity? Please also provide information on the steps adopted to prevent attacks on homosexuals, to investigate such incidents, and to prosecute and punish the perpetrators;
- Please indicate the legislative reforms and specific measures adopted to combat discrimination against lesbian, gay, bisexual and transgender persons;
- What measures is the government taking to ensure that state actors, particularly the police and public officials, are being educated, trained and sensitized to issues of LGBT rights? What are specific accountability mechanisms in place to ensure that violations do not occur?;
- What specific policies will government implement to ensure that LGBT individuals are not subject to physical and mental abuse by law enforcement officials?;
- What measures does the government intend to take to make sure that peaceful demonstration and gatherings organized by LGBT groups are not systematically obstructed by local authorities in violation of the right to freedom of assembly?;
- How does the government intend to address speech and actions aimed at public incitement to violence against LGBT people?;
- What measures is the government taking to ensure that transgender persons have effective access to appropriate gender reassignment services, and that these be provided under health insurance on the same basis as other medically necessary treatment?;
- What steps are being taken to ensure equal access for LGBT individuals to HIV/AIDS awareness, testing, and treatment programs, and to accurately educate Haitian citizens about the sexual transmission of HIV/AIDS?