

**SUBMISSION TO THE PRE-SESSIONAL WORKING GROUP OF THE
COMMITTEE FOR THE ELIMINATION OF DISCRIMINATION AGAINST
WOMEN FOR THE ADOPTION OF LIST OF ISSUES FOR THE
GOVERNMENT OF HAITI
63RD SESSION (27-31 JULY 2015)**

**SUPPLEMENTARY INFORMATION ON HAITI REGARDING THE
TREATMENT OF
LESBIAN, BISEXUAL AND TRANSGENDER (LBT) PERSONS AND
VIOLENCE AGAINST WOMEN'S HUMAN RIGHTS DEFENDERS**

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June 15, 2015

Attention: CEDAW Secretariat
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CH – 1201 Geneva 10
Switzerland

Sent via email to cedaw@ohchr.org

Re: Submission to the Pre-Sessional working group of the Committee for the Elimination of Discrimination against Women for the adoption of list of issues for the Government of Haiti 63rd Session (27-31 July 2015)

This letter is submitted to you by *Femmes en Action Contre la Stigmatisation et la Discrimination Sexuelle* (FACSDIS); SEROVie; the International Gay and Lesbian Human Rights Commission (IGLHRC); MADRE, and; the City University of New York (CUNY) International Women's Human Rights (IWHR) Clinic to assist the Pre-sessional Working Group of the Committee on the Elimination of Discrimination against Women for the adoption of the list of issues for the Government of Haiti, 63rd Session (27-31 July 2015). This letter focuses specifically on issues related to the treatment of lesbian, bisexual and transgender (LBT) persons, as well as women's human rights defenders, 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.

I. Systematic Violence and Discrimination Against LBT Persons Violates the CEDAW (Articles 1, 2, 3, 5, 11, 12, 14 and 15)

A. Violence, Harassment and Discrimination against LBT People (Articles 1-3, and 5)

Read together, Articles 1-3 of the Convention require that State Parties take affirmative steps to eliminate discrimination against women, as defined in Article 1, and ensure enjoyment of their civil, political, social, and economic rights on a basis of equality with men. States Parties' obligations are such that they must "ensure that there is no direct or indirect discrimination against women in their laws and that women are protected against discrimination - committed by public authorities, the judiciary, organizations, enterprises or private individuals - in the public as well as the private spheres."¹ Article 5 requires States Parties to combat gender-based stereotypes that hinder women's equality on the individual, legal, structural, and institutional level.

¹ CEDAW Comm., *General Recommendation No. 25: Temporary Special Measures*, ¶ 7, U.N. Doc. A/59/38 at 78 (2004).

Although all citizens are guaranteed general equality under Haitian law,² prevailing social norms in Haiti condemn homosexuality and gender non-conforming behavior and frequently conflate the two. For example the term “gay” is generally used synonymously with any person or thing that does not conform to traditional notions of gender, and violence and discrimination against “gay” persons targets individuals based on both their real or perceived sexual orientation and gender identity. Such widespread condemnation compels members of the LBT community to live in secrecy and isolation, under constant threat due to fear of violence, harassment and discrimination. For example, radio programs and newspapers have made inflammatory and hateful assertions blaming the LBT community for the earthquake in 2010 as “punishment for their lifestyle.” Moreover, during the February 2012 Carnival celebration, popular music stations played songs proclaiming, “kill the gays” and “gays are guilty of the situation in Haiti.”³ This creates an environment in which pervasive societal discrimination and gender-based violence against LBT persons is normalized.

Members of the LBT community are regularly harassed in their neighborhoods. For example, in one of many instances of harassment from her community, one lesbian was told that her neighborhood is “for poor people, not gays.”⁴

Unfortunately, these crimes go largely uninvestigated. Moreover, a major source of physical violence, discrimination, and harassment against LBT persons comes from the very police forces charged with protecting them. For example, interviewees reported that police officers routinely refuse to help LBT individuals, based on their actual or perceived sexual orientation and/or gender identity. Several lesbian individuals reported gang rapes committed by policemen.⁵ While these acts themselves violate the Convention, they also contribute to an overall lack of confidence in the Haitian government to protect LBT victims from violence and discrimination.

In light of this pervasive prejudice and persecution, and the dearth of information addressing widespread harassment, discrimination, and violence against LBT persons presented in the State’s eighth and ninth periodic report, we request that the Committee inquire into the Haitian government’s efforts to provide support to the LBT community to protect these women from discrimination and violence in compliance with articles 1-3 and 5 of the Convention.

B. Discrimination and Violence by Government Authorities Toward the LBT Community Amounting to Torture or CIDT (Article 1-3)

Haitian community-based LBT rights organizations have documented numerous cases of

² The 1987 Constitution of Haiti recognizes the equality of men and women without discrimination on the grounds of gender. “Haitians are equal before the law, without prejudice to the advantages vested in Haitians by birth who have never given up their nationality” CONSTITUTION OF 1987 Art. 18, Title 3 March 10, 1987.

³ IWHR Clinic Interview, KOURAJ, October 23, 2012 (on file with authors).

⁴ IWHR Clinic Interview, FASCDIS, October 9, 2013 (on file with authors)

⁵ Multiple cases of police harassment and violence are documented in this submission. *See pages 4-5, 10-12, 14-17 24-29, and 36-37* for more information.

police violence and misconduct against LBT individuals.⁶ LBT individuals report that Haitian police officials often target individuals based on their actual or perceived sexual orientation or gender identity and commit acts of sexual violence and rape based on the belief that the victim is a member of the LBT community. Rights groups explain that incidents of police violence, discrimination, and abuse against LBT individuals generally go unreported to State officials out of fear of police brutality and discrimination or retaliation from perpetrators.⁷ The following examples both highlight police violence and misconduct against individuals based on their sexual orientation and gender identity, and demonstrate how this violence has prevented many individuals from reporting cases of anti-LBT violence to the police out of fear of further brutality and discrimination.

- In July 2013, two men approached a 27 year-old woman, hit her in the back of the head and tore her clothes as she tried to enter her home. The men then continued to beat her, stating, “Lesbians can’t come and live in this neighborhood.... if you stay here we will burn down your house!” Later that evening, while the woman was in her home, a group of neighbors began throwing rocks at her home and threatening again to burn down her house. She was forced to flee her home and is still unable to return for fear that the people in her neighborhood may harm her and her daughter. The woman did not report the incident to the police because she felt convinced the police would ignore her complaint, and harass her for being gay. While neighbors knew prior to 2013 that she was a lesbian, it was not until after the July 19, 2013 anti-LBT protest (*see page 5, Section D for more information*) that she began experiencing intensified violence and threats against her.⁸
- In September 2012, a member of FACSDIS was killed by her boyfriend. After discovering she was a lesbian, he beat her to death with a motorcycle chain. When the man appeared before a judge following her murder, he explained to the judge why he had killed his girlfriend, stating that she brought women to their home and, although he had instructed her not to, she continued to do so. The judge, who found the killer not guilty, called the woman “a vagabond and a delinquent.”⁹
- In January 2012, two women were leaving a festival. Approximately five police officers approached the women asking, “Where are you going?” The women replied that they were heading home. The police offered the women a ride and signaled them over to their truck. Since there were no available taxis after the event, the women agreed. However, when the two women walked over, the police officers forced them into the vehicle. Suspecting that the women were a couple, one officer stated, “Is this your woman? Ok, fine, get on top of her, have sex with her.” The police began to beat the women. When they started to cry, one officer said, “You have never been with a

⁶ IWHC Clinic Interviews, SEROVIE, FACSDIS, and KOURAJ, February 7, July 12, and October 9, 2013 (on file with authors).

⁷ *Id.* See also U.S. Department of State, 2012 Human Rights Reports: Haiti, Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity, available at <http://www.state.gov/j/drl/rls/hrrpt/2012/wha/204458.htm> (April 19, 2013).

⁸ IWHC Clinic Interview, LBT individuals in Haiti, December 4, 2013 (on file with authors).

⁹ IWHC Clinic Interview, FACSDIS/SEROVIE, February 5, 2013 (on file with authors).

man? You're not a real woman. We'll make you one." The police officers then raped the two women.¹⁰

- In 2009, a transgender woman, and member of FACSDIS was arrested in her home in the Turgeau neighborhood of Port-au-Prince after the police raided a party there. Police officers entered the party with their weapons drawn, proceeded to ransack the house and forced everyone in attendance to assemble. When the Port-au-Prince prosecutor arrived, he asked everyone for identification. Upon discovering the woman was transgender, the prosecutor accused her of hosting an orgy, telling her, "You're not a woman, you're a man!"¹¹ Police officers then proceeded to harass her, demanding that she undress in front of them in order to discover whether she was a "real woman." According to interviews with the victim, the police repeatedly referred to her as an "element" and "non-human."¹²

These are but a few examples of denial of access to justice as well as persistent abuse, assaults, and sexual violence carried out by law enforcement officials against LBT individuals and groups. Such violations, coupled with a dearth of laws that expressly protect the rights of LBT persons in Haiti contribute to an overall lack of confidence in the Haitian government to protect LBT victims from violence and discrimination. In particular it raises questions as to 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. Therefore, we request that the Committee inquire into the State's failure to provide legal protection or access to justice for LBT persons who have experienced violations of their rights, and specifically police abuse that breeds lack of trust in the justice system within the LBT community.

C. Lack of Access to Medical Treatment Amounting to CIDT and Torture (Articles 1-3, and 12)

Article 12 requires States to take all appropriate measures to eliminate discrimination against women with regard to health care in order to ensure full access to health care services. Advocates report that LBT individuals are particularly discriminated against and stigmatized when seeking medical treatment, even in grave circumstances. Because of the stigmatization and humiliation they experience in public health facilities, LBT individuals are often too afraid or ashamed to seek medical attention, resulting in the deterioration of preventable health problems, and sometimes resulting in death.¹³ As one example, after the 2010 earthquake, a transgender woman suffered a broken leg. She went to a public hospital for treatment. The health care providers began treating her and cleaning up the injured leg. However, once the providers learned that she was not born with female genitalia the provider told her, "all these good people need help and look at

¹⁰ *Id.*

¹¹ IWHR Clinic Interview, FACSDIS, SEROVie, June 24, 2012 (on file with authors).

¹² *Id.*

¹³ IWHR Clinic Interview, FACSDIS/SEROVie, February 8, 2012 (on file with authors).

this masisi!”¹⁴ The woman was subsequently refused further treatment. She now goes to a private doctor who, upon discovery of the sex assigned to her at birth, significantly raised the price for treatment. In addition, she is forced to go to the Dominican Republic for hormone treatments because she has no access to these treatments in Haiti.¹⁵

The Haitian government’s complacency with regard to harmful, discriminatory acts carried out within the healthcare sector against LBT persons must be addressed in order to be in compliance with the State’s obligations under the Convention. We therefore request that the Committee inquire as to the measures taken to ensure access to healthcare for all lesbian, bisexual and transgender persons in Haiti.

D. Violations of the Right to Exercise Freedom of Movement Without Fear of Repercussions or Violence Against LBT Persons (Articles 1-3, and 15)

Article 15 requires that States accord to men and women the same rights with regard to the law relating to the movement of persons. The Haitian Constitution further recognizes the right to freedom of movement for all of its citizens.¹⁶ Though these freedoms are enshrined, LBT persons experience violations of these rights on a regular basis. They are vulnerable to violations both as members of a minority group, and as agents of Haitian LBT human rights organizations. Extreme hostility and discriminatory attitudes toward LBT members are pervasive in Haiti. The mere perception that an individual may be an LBT member can place her life directly at risk. This risk becomes especially pronounced when LBT persons gather together in community with other LBT members, or manifest expressions of their cultural identity or sexuality through their manner of speech or dress.

On July 19, 2013, over 1,000 people gathered in the streets of Port-au-Prince, Haiti to protest LBT rights.¹⁷ The protest was marked by the use of extreme homophobic language and threats of violence, including a song in which the protesters chanted threats “to burn down parliament if its members make same-sex marriage legal.”¹⁸ Some protesters, armed with knives, sticks, blocks, and other objects, began attacking people they perceived of being homosexuals.¹⁹

¹⁴ Masisi has been defined as a “male playing the role of a female during sexual relations” and “by being in general more effeminate.” The term is not synonymous with “homosexual.”

¹⁵ IWHR Clinic Interview, KOFAVIV, October 10, 2012. (on file with authors).

¹⁶ Articles 41 and 41.1 of Haiti’s Constitution proclaim freedom of movement for all Haitians. Article 28 of the Haitian Constitution enshrines the right to freedom of opinion and expression. The right to peaceful assembly is enshrined in article 31 of the Haitian Constitution, stating that freedom of unarmed assembly and association for political, economic, social, cultural or any other peaceful purpose is guaranteed. Article 1 of the Haitian Constitution protects the freedom of association and sets forth that Haitians are free to join together in associations, which are protected and guaranteed by articles 31, 31.1 and 31.3. CONSTITUTION OF 1987, March 7, 1987.

¹⁷ “More Than 1,000 Show up for Haiti Anti-Gay Protest,” ABC NEWS, July 19, 2013, <http://abcnews.go.com/International/wireStory/thousand-show-haiti-anti-gay-protest-19713866>.

¹⁸ Dan Littauer, “Two men beaten to death during Haiti anti-gay demonstration,” LBTQ NATION, July 20, 2013, <http://www.LBTqnation.com/2013/07/two-men-beaten-to-death-during-haiti-anti-gay-demonstration>.

¹⁹ “Haiti: Two assumed homosexuals beaten to death by protest mob,” THE SENTINEL, July 19, 2013,

On June 25, 2013, the organizers of the protest held a nationally televised press conference and announced plans to march against homosexuality and in protest of recently passed same-sex marriage legislation in other countries. During the press conference, a spokesperson for the organization stated, “God does not agree nor do we because we rely on God, and because we saw the misfortunes it brought to Sodom and Gomorrah. So, because we do not want to experience the same misfortunes, we are compelled to take a position.”²⁰

In anticipation of the demonstration, Haitian LBT rights groups, SEROvie, FASCDIS, KOURAJ, and Gran Lakou, mobilized to denounce the scheduled protest out of concern for the safety of both LBT human rights defenders and members of the LBT community-at-large. Concerned that the rally would incite hatred against LBT people and lead to an increase in violence against them, the organization issued a press release voicing these concerns and reaffirming the legal guarantee of universal human rights for all.²¹ Additionally, the Bureau des Avocats Internationaux (BAI), a public interest law office in Port-au-Prince, and KOURAJ held a press conference condemning “a series of threats targeting” the country’s “small gay community.”²²

The LBT community continues to suffer from egregious acts of humiliation and violence subsequent to the protests. Between July 17th and 24th, 2013, SEROvie and FASCDIS documented forty-seven cases of physical aggression and threats—including eight cases of attacks with a knife and 19 cases of beatings with pieces of wood or cement blocks.²³

Haitian law enforcement officials were well aware of the anti-LBT protests and the high likelihood of violence against the LBT community resulting from the protests. The organizers of the protest announced on national television their intention to hold a massive rally, threatening and inciting violence and discrimination against the LBT community. In addition, LBT rights groups and lawyers publicly warned the State that the LBT community would suffer cruel, inhuman or other degrading treatment and torture as a result. Yet, the State failed to protect against the subsequent violence or conduct investigations against the perpetrators. The IACHR found this to be a grant of impunity to the perpetrators and stated that the State’s inaction “fosters the chronic repetition of these crimes, leaving the victims and their families defenseless.”²⁴

<http://www.defend.ht/news/articles/crime/4786-haiti-two-accused-homosexuals-beaten-to-death-by-protest-mob>.

²⁰ “Groups Condemn Threats Against Haiti’s Gay Society,” ABC NEWS, July 17, 2013, <http://abcnews.go.com/International/wireStory/groups-condemn-threats-haitis-gay-society-19691244>.

²¹ SEROvie, FASCDIS, and KOURAJ, Note de Presse (Press Release), (July 2, 2013) (calling upon the Haitian government and the international community to prevent the scheduled protest in order to deter increase violence and threats against LBT individuals).

²² Mario Joseph, “The BAI denounces religious leaders’ march against Haiti’s LBT community,” BUREAU DES AVOCATS INTERNATIONAUX (BAI), July 17, 2013, <http://www.ijdh.org/wpcontent/uploads/2013/07/LBT-Press-Release-Final-with-Letterhead.pdf>.

²³ IGLHRC and MADRE Interviews, SEROvie, July 24, 2013 (on file with authors).

²⁴ Inter-American Commission on Human Rights (IACHR), Press Release, *IACHR Condemns Recent Wave of Violence Against LGBTI Persons in Haiti* (July 30, 2013).

Due to the recent escalation in violence against LBT Haitians, UNHCR called for a series of trainings to foster collaboration, strengthen accountability, and begin much needed dialogues on how to prevent and address both the abuses committed against LBT persons, and the resulting displacement crisis in the LBT community.

Attacks against LBT persons in Haiti not only occur while gathering peacefully to share in community together in public spaces, but also in the privacy of someone's home. Haitian LBT organizations have documented physical attacks, robberies, and murders committed on the basis of a victims' gender-nonconforming demeanor, style of dress, or association at private gatherings with other LBT members in the community.²⁵ For example, in August 2013, a group of individuals attacked a leader of a prominent Haitian lesbian organization, throwing rocks and bottles at her home, shouting, "We do not want the gays!" "We are going to burn down this house! The gays are ruining the neighborhood. Leave!" "Gays and lesbians cannot stay here!" They continued to throw rocks and bottles at her home for two hours, during which time the victim and her houseguests hid in their bedrooms in fear. The next morning, a man from the neighborhood came to her home. He told her he gathered the group of people together the night before because he did not want any gays in the area. Immediately following this incident, the victim left her home and has not returned because she fears for her safety.²⁶

The Committee has further made clear under article 15 that LBT persons have the right to be protected from arbitrary arrest and detention, and that they have an inherent right to dignity. However, the Haitian government has failed its treaty obligations to ensure that LBT persons are not stigmatized and discriminated against, and that their movement is not restricted as a result of arbitrary arrest and detention by police officials. Local LBT rights-based groups report numerous incidents of police discrimination and stigmatization leading to arbitrary arrests.²⁷

Although Haiti does not criminalize same-sex sexual conduct between consenting adults, police use other laws to arbitrarily criminalize their conduct and harass LBT individuals. For instance, law enforcement officials use "public indecency" laws to harass, question, and arrest individuals they perceive to be LBT.²⁸ In addition, the unwarranted stops and invasions of privacy often lead to physical violence against LBT individuals. The following are examples of such violence and discrimination committed against LBT persons by law enforcement officers.

- In July 2010, a transgendered woman hosted a pool party at her private home and invited other members of the LGBT community. Several police officers and a prosecutor came to the home and witnessed men holding hands with other men and

²⁵ Documented by FACSDIS and SEROVie.

²⁶ *Id.*

²⁷ IWHR Clinic Interview, SEROVie, FACSDIS, and KOURAJ, February 7, July 12, and October 9, 2013 (on file with authors).

²⁸ U.S. Department of State, 2012 Human Rights Reports: Haiti, Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity 33, available at <http://www.state.gov/j/drl/rls/hrrpt/2012/wha/204458.htm> (April 19, 2013).

women kissing women. They then began arresting people at the party. The police said, “What kind of shit is this? Men and men together, women and women together, we’re going to arrest everyone.” Ten individuals were still in their bathing suits at the time of arrest and when they were taken into police custody. The police claimed to be arresting them for “public indecency” even though the party was in a private home.²⁹

- In October 2012, four members of FACSDIS were pulled over by the police and asked for their identification cards. When the women replied that they did not have their cards, the police officer said, “What will you give me to make me not arrest you?” Two of the women had sex with the police officers out of fear of harm and imprisonment. The other two women were put in prison after refusing to engage in sexual relations with the police officers.³⁰

These are not isolated incidents, but are part of a larger systemic problem faced by the LBT community.³¹ However, violations to freedom of movement of LBT persons are unaddressed in the State’s eighth and ninth periodic report. The Haitian government must address violation of rights to freedom of movement and arbitrary arrests that are preventing compliance with its obligations under article 15. We therefore request that the Committee inquire into efforts by the State to ensure freedom of movement of LBT persons, prevent repercussions or violence against them, and especially deter the arbitrary harassment, detention and arrest of LBT community members.

E. Violence against LBT people is not investigated and victims are frequently prevented from seeking justice (Article 1-3).

Article 2 of the Convention requires states to establish legal protection of the rights of women and to ensure through public institutions the effective protection of women against any act of discrimination. Article 15 further affords to women a legal capacity identical to that of men and the same opportunities to exercise that capacity.

Unfortunately, in addition to fear of discrimination and abuse by police officials, a lack of confidence in and limited capacity of the Haitian judicial system often deter victims from reporting crimes to authorities. Human rights defenders have documented systematic harassment by civil society as well as from police when victims try to report crimes.³²

Crimes, including murder and serious assault, are rarely investigated further when police suspect they involve “homosexual issues.”³³ LBT persons, victims of violence, have also

²⁹ IWHR Clinic Interviews, SEROVIE, FACSDIS, and KOURAJ, February 7, July 12, and October 9, 2013 (on file with authors).

³⁰ *Id.*

³¹ *Id.*

³² MADRE et al., Supplementary Information on Haiti Regarding the Treatment of Lesbian, Gay, Bisexual, and Transgender Individuals (LBT), transmitted by letter dated April 27, 2012 address to the Secretariat of the U.N. Human Rights Comm., 105th Sess., July 9-27, U.N. GOAR, 3 (April 27, 2012.)

³³ IWHR Clinic Interview, witness, June 23, 2012 (on file with the authors).

reported that lawyers are reluctant to represent some individuals due to strong religious affiliations or fear of being associated with the LBT community.³⁴

We therefore ask the Committee to inquire as to the measures taken by the State of Haiti to ensure access to justice for LBT victims of violence without fear or harassment.

F. Economic Opportunities Are Denied to LBT Persons (Articles 1-3, and 11).

LBT persons are frequently denied economic opportunities, and relegated to a standard of living that heightens the risk of homelessness, disease, and violence. This is in direct violation to Article 11 of CEDAW, which states that State Parties shall use appropriate measures to eliminate discrimination in the employment field. Article 11 further states that women have the right to healthy work environments and safe working conditions. However, only feeble efforts have been made by the State to provide employment opportunities for women in Haiti and none of these efforts are directed specifically at LBT individuals.

As noted above, generalized discrimination forces many LBT persons to live in fear, secrecy, and isolation. Ostracism and discrimination by their families and communities leaves LBT persons with weak support from traditional kinship and community networks; many LBT persons 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 LBT persons 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 LBT persons. As a result, it is not uncommon for LBT persons to turn to sex work and sexual exchange for survival. LBT persons engaged in survival sex can be exposed to verbal humiliation, physical violence, and sexual abuse. Transgender women are particularly at-risk. The process of reconstruction following the earthquake 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 LBT persons were and are largely excluded from the reconstruction programs and do not benefit from these economic opportunities. Although the Minister of Public Works has taken some preliminary steps to ameliorate the situation, LBT persons remain cut off from the reconstruction work.

In its eighth and ninth periodic report, the Haitian government notes that lack of access to resources have lead women to resort to prostitution or survival sex in order to support themselves and their families. However, the report does not address LBT persons and the particular discrimination they face due to their sexual orientation and gender identity that leads to sex work or loss of employment opportunities. We request that the Committee inquire as to the Haitian government's efforts to ensure viable employment opportunities for LBT persons in safe and healthy work environments and to address employment

³⁴ IWHR Clinic Interview, KOURAJ, October 8, 2013 (on file with the authors).

barriers and discrimination faced by these women due to their sexual orientation and gender identity.

G. LBT Persons Living in Rural Haiti Similarly Face Discrimination and Intolerance (Articles 1-3, and 14).

Articles 1-3 require States Parties to report on the measures taken to protect women from gender-based violence during times of armed conflict.³⁵ Article 14 requires States Parties to take appropriate measures to ensure that the Convention's provisions apply to women in rural areas. Article 14 requires that State Parties' take into account all of the problems faced by LBT persons and use all of the appropriate measure to eliminate discrimination and establish equality and inclusion in rural development, access to self-help groups based on their specific needs and the ability to enjoy proper living conditions.³⁶

In February 2012, UC Hastings conducted interviews with government representatives and NGO workers in Jérémie, Haiti, to shed light on the situation for LBT persons in rural Haiti.³⁷ As in Port-au-Prince, openly LBT persons in rural communities like Jérémie are routinely harassed and ostracized. LBT persons often do not feel safe openly expressing their gender identity, fearing discrimination from their families, close-knit communities, and deeply traditional religious cultures. To prevent discrimination and ostracism, many LBT persons in rural communities deny their true gender expression, choosing instead to adopt external characteristics and behaviors that conform to socially defined gender roles and norms. These facts are in direct violation of the Convention, whose basic purpose is to prevent discrimination against women, including those discriminated against based upon sexual orientation and gender identity. While there are no reported complaints of abuse by government officials against LBT persons in Jérémie, some community workers in Jérémie suggested that LBT persons 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 LBT persons or provides training and resources related to LBT issues. There also are currently no LBT organizations present in Jérémie or the larger Grand'Anse Department, and thus LBT persons do not have a formal support network.³⁸

In light of the aforementioned circumstances, and the absence of information on efforts undertaken to support LBT persons in rural communities in its eighth and ninth periodic report, we request that the Committee inquire into the efforts of the State to provide support, resources, and protection against discrimination for LBT persons in rural Haiti, and to ensure that LBT persons gain equality within their communities.

³⁵ CEDAW, art. 1-3.

³⁶ CEDAW, art. 14.

³⁷ Interview with the Haitian Health Foundation (Mar. 7, 2012); Interview with Women's Ministry (Mar. 7, 2012).

³⁸ *Id.*

H. Haiti's Failure to Investigate and Prevent Threats and Violence against Women Human Rights Defenders (Articles 1-3).

Articles 1-3 of the Convention also seek to eliminate discrimination against women who act to defend and speak out for themselves and other women in their society, in order to ensure the realization of fundamental freedoms in all political, civil, economic, and other assorted fields.

Women's human rights defenders in Haiti are regularly threatened with violence. The Haitian government, however, has done little to investigate, follow up, or to hold the perpetrators accountable for these threats. In some instances, grassroots leaders have filed complaints with police, but police refused to assist, providing reasons such as the human rights defenders' work "caused too much trouble."³⁹

Women's human rights defender Malya Villard-Apollon, co-founder of KOFAVIV, has faced numerous threats and acts of violence with little redress. As a result of the increased visibility of her work, these threats and acts against Malya's life and the lives of her family and colleagues have become increasingly severe over recent months. On August 22, 2013, gunshots were fired at Malya's home in the middle of the night while she and her children slept. In September 2013, Malya's two dogs were fatally poisoned at her home. Her children reported being followed to and from school. As a result of the threats against Malya, her family has been forced to leave their home and temporarily live elsewhere on multiple occasions. Malya has also received threatening, anonymous phone calls and voicemails at the KOFAVIV center. In October 2013, a man arrived on a motorcycle at the KOFAVIV center. He was armed and demanded Malya come outside the center. Fearful of what he might do, Malya remained trapped inside for several hours until police finally arrived. As of May 2014, the individual accused of orchestrating this intimidating and threatening visit to Malya is behind bars, pending further investigation. The KOFAVIV member who identified the accused's whereabouts to police authorities has since received numerous death threats and was forced to relocate.

Other members and employees of KOFAVIV have also been targeted for violence as a result of their affiliation with the organization. KOFAVIV accompanies rape victims to and from the hospital or police station in a clearly marked KOFAVIV vehicle. On September 4, 2013, the driver of the KOFAVIV vehicle, KOFAVIV's accountant, and a female KOFAVIV outreach worker were in the vehicle, returning from the bank. Two armed men on motorcycles blocked the vehicle and robbed them at gunpoint. One of the assailants hit the driver on the head with the handle of his gun, while the other held his gun in the female outreach worker's side. The men attempted to steal the KOFAVIV vehicle, but ran away when police officers happened to pass by.⁴⁰ As a result of these

³⁹ KOFAVIV, International Women's Human Rights (IWHR) Clinic at City University of New York (CUNY) School of Law, MADRE, et al., Inter-American Commission, *In re Women and girls victims of sexual violence living in 22 internally displaced persons camps*, Precautionary Measures No. MC-340-10 Haiti, issued Dec. 22, 2010.

⁴⁰ IWHR Clinic Interview, KOFAVIV, October 10, 2012. (on file with authors).

threats, other KOFAVIV members fear for their own lives and have discontinued their work at the center.⁴¹

In January 2013, two women, well known as the daughters of KOFAVIV leaders, visited a displacement camp to conduct educational trainings for women. At the training, they saw another former outreach worker pointing them out to a group of gang members, identifying them as daughters of KOFAVIV leaders. The women notified a nearby police officer, who drove them away from the site. The gang members pursued the women but eventually gave up.⁴² The two women had been followed on numerous occasions prior to this incident, and believe this is a result of their association with and work for KOFAVIV.⁴³

In February 2012, FAVILEK, another Haitian grassroots women's group for victims of sexual and gender-based violence, reported that two of its outreach workers were violently raped by four men in an internal displacement camp in September 2011. The women were visiting the camp as part of a community education mission. Before the assault, the women were asked about their FAVILEK badges, which identified them as agents of the human rights organization.⁴⁴

Given the failure of the Haitian government to address threats and violence committed against women human rights defenders in its eighth and ninth reports, as well as the documented failure to provide protection to women who lend support to women and girl victims of sexual violence and abuse, we request that the Committee inquire as to any measures taken to implement immediate and effective steps to investigate threats against women human rights defenders, specifically those perpetrated against the members of KOFAVIV.

II. Proposed Questions for the Government of Haiti:

- What measures have been taken to prevent violence, harassment and discrimination against LBT persons because of their sexual orientation and gender identity? Please also provide information on the steps adopted to prevent attacks on LBT persons, to investigate such incidents, and to prosecute and punish the perpetrators.
- Please indicate any legislative reforms and specific measures adopted to combat discrimination against lesbian, 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 LBT rights? What are specific accountability mechanisms in place to ensure

⁴¹ *Id.*

⁴² The outreach worker who identified the women never returned to the KOFAVIV center after that day and was assumed to be working in association with the gang members.

⁴³ IWHR Clinic Interview, KOFAVIV, October 10, 2012. (on file with authors).

⁴⁴ IWHR Clinic Interview, FAVILEK, February 8, 2012 (on file with authors).

that violations do not occur?

- What specific policies will the government implement to ensure that LBT individuals are not subject to physical and mental abuse by law enforcement officials?
- How does the government intend to address speech and actions aimed at public incitement to violence against LBT people?; What LBT rights media campaigns has the government launched to spread awareness amongst the general populace?
- 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 measures is the government taking to ensure that all LBT persons are not denied access to basic medical treatment?
- What steps are being taken to ensure equal access for LBT persons to HIV/AIDS awareness, testing, and treatment programs, and to accurately educate Haitian citizens about the sexual transmission of HIV/AIDS?
- What measures is the government taking to support LBT rights organizations or organizations that lend support to issues that deal with the LBT community? What steps are being taken to protect LBT human rights defenders?
- How does the government intend to support the extension of LBT outreach to rural communities?
- What steps is the government taking to provide LBT persons with equal economic opportunities in both rural and urban communities that include offering access and variety to employment opportunities?
- What measures are being taken by the Government of Haiti to implement immediate and effective steps to investigate threats against women human rights defenders?