Yon Je Louvri

Reducing Vulnerability to Sexual Violence in Haiti’s IDP Camps
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The Center for Human Rights and Global Justice (CHRGJ) brings together and expands the rich array of teaching, research, clinical, internship, and publishing activities undertaken within New York University (NYU) School of Law on international human rights issues. Philip Alston and Ryan Goodman are the Center’s Faculty co-Chairs; Sally Merry, Smita Narula, and Margaret Satterthwaite are Faculty Directors; and Veerle Opgenhaffen is Executive Director.

The Global Justice Clinic (GJC) at NYU School of Law provides high quality, professional human rights lawyering services to individual clients and non-governmental and inter-governmental human rights organizations, partnering with groups based in the United States and abroad. Serving as legal advisers, counsel, co-counsel, or advocacy partners, Clinic students work side-by-side with human rights activists from around the world. The Clinic is directed by Professor Margaret Satterthwaite. From Fall 2010 to Spring 2011, the GJC was co-taught with Adjunct Assistant Professor Jayne Huckerby; in Fall 2011 it was co-taught with Adjunct Assistant Professor Sarah Knuckey, who is also teaching it in Spring 2012; Diana Limongi is Clinic Administrator.

All publications and statements of the CHRGJ can be found at its website: www.chrgj.org.

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This report is dedicated to the Haitian people—especially to the women and girls who continue to live in IDP camps some two years after the earthquake and struggle daily to achieve their most fundamental human rights.

You are not forgotten.
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FOCUS ON: ACCESS TO JUSTICE FOR VICTIMS OF SEXUAL VIOLENCE IN HAITI

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<th>Bureau des Avocats Internationaux (BAI)</th>
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<td>Camp Committee, Place St. Pierre</td>
<td>Mission des Nations Unies pour la Stabilisation en Haïti (MINUSTAH), UN Police</td>
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<td>Mouvement des Femmes Haïtiennes pour l'Education et le Développement (MOUFHED)</td>
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<td>Patricia Fleming Fund</td>
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<td>UN Habitat</td>
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<td>Kodinasyon Nasyonal Viktim Direk (KONAMAVID)</td>
<td>WE-LEAD – HAITI, Heartland Alliance for Human Rights and Human Needs</td>
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### Table of Acronyms

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<td>ACF</td>
<td>Action Contre la Faim</td>
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<td>ACHR</td>
<td>American Convention on Human Rights</td>
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<tr>
<td>CAMEP</td>
<td>Centrale Autonome Métropolitaine d'Eau Potable</td>
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<tr>
<td>CCCM</td>
<td>Camp Coordination Camp Management</td>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
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<tr>
<td>CHRGJ</td>
<td>Center for Human Rights and Global Justice, New York University School of Law</td>
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<tr>
<td>CIDT</td>
<td>Cruel, Inhuman or Degrading Treatment</td>
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<tr>
<td>CMA</td>
<td>Camp Management Agency</td>
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<tr>
<td>CPD</td>
<td>Convention on the Rights of Persons with Disabilities</td>
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<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>CUNY</td>
<td>City University of New York</td>
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<td>DHS</td>
<td>Demographic and Health Surveys</td>
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<td>DINEPA</td>
<td>Direction Nationale de l'Eau Potable et de l'Assainissement</td>
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<td>DPKO</td>
<td>Department of Peacekeeping Operations</td>
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<td>ECHR</td>
<td>European Convention on Human Rights</td>
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<td>FGD</td>
<td>Focus Group Discussion</td>
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<td>GBV</td>
<td>Gender-Based Violence</td>
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<td>Groupe Haitien d’Étude du Sarcome de Kaposi et des infections Opportunistes</td>
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<td>GJC</td>
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<td>HAP</td>
<td>Humanitarian Accountability Partnership</td>
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<td>Human Rights Committee</td>
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<td>Inter-American Commission on Human Rights</td>
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<tr>
<td>IACtHR</td>
<td>Inter-American Court of Human Rights</td>
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<td>IASC</td>
<td>Inter-Agency Standing Committee</td>
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<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>IDP</td>
<td>Internally Displaced Person</td>
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<td>IFRC</td>
<td>International Federation of Red Cross and Red Crescent Societies</td>
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<td>IGLHRC</td>
<td>International Gay and Lesbian Human Rights Commission</td>
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<td>IJRH</td>
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<td>IRC</td>
<td>International Rescue Committee</td>
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<td>JP/HRO</td>
<td>J/P Haitian Relief Organization</td>
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<td>KOFAVIV</td>
<td>Komisyon Fanm Viktor pou Viktim (Commission of Women Victims for Victims)</td>
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<td>LERN</td>
<td>Lawyers’ Earthquake Response Network</td>
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<td>LGBT</td>
<td>Lesbian, Gay, Bisexual, Transgender</td>
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<td>MCFDF</td>
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<td>MJSP</td>
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<td>MSF</td>
<td>Médecins Sans Frontières</td>
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<td>NGO</td>
<td>Nongovernmental Organization</td>
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<td>NYU</td>
<td>New York University</td>
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<td>OCHA</td>
<td>Office for the Coordination of Humanitarian Affairs</td>
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<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
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<td>PIH</td>
<td>Partners In Health</td>
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<table>
<thead>
<tr>
<th>Abbreviation</th>
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<tr>
<td>PNH</td>
<td>Police Nationale d’Haïti (Haitian National Police)</td>
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<td>SOFA</td>
<td>Solidarité des Femmes Haïtiennes (Haitian Women's Solidarity)</td>
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<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
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<td>United Nations</td>
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<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
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<td>UPR</td>
<td>Universal Periodic Review</td>
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<td>VAW</td>
<td>Violence Against Women</td>
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<td>WASH</td>
<td>Water, Sanitation and Hygiene</td>
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EXECUTIVE SUMMARY

Two years after the 7.0 earthquake that devastated the capital of Haiti and shook the entire country to its core, more than half a million people in Port-au-Prince remain in camps for the internally displaced. Despite the massive humanitarian response to the disaster, living conditions in the temporary settlements are dire; accessing adequate food, water, and sanitation constitutes a daily struggle for camp residents, and reports of rape and other forms of sexual violence—especially against women and girls—continue at alarming rates. Tents and other makeshift shelters provide little protection against the elements, let alone against intrusion by assailants. But physical conditions inside the camps are not the sole factor rendering internally displaced persons (IDPs) particularly vulnerable to assault. Socioeconomic marginalization and lack of participation of IDPs in governance decisions regarding security and the management of essential resources have heightened the risk that displaced women and girls will experience sexual violence.

In response to a need expressed by human rights advocates and women’s groups in Haiti, who were among the first to expose abuses being suffered by women and girls in the camps, the Center for Human Rights and Global Justice (CHRGJ) and the Global Justice Clinic (GJC) at New York University School of Law set out to examine the prevalence of sexual violence in IDP camps and the risk factors that were most contributing to it. Drawing on data gathered from a household survey conducted in four IDP camps one year after the earthquake, as well as focus group discussions (FGDs) and interviews with key informants throughout 2011, this Report provides a snapshot of the relationship between violations of economic and social rights in the camps and vulnerability to sexual violence. While the quantitative survey findings date from January 2011, they are reinforced by the results of qualitative research that the GJC completed in December 2011. The correlations that this Study reveals between access to essential resources, such as food, water and sanitation, and the experience of rape or unwanted touching remain devastatingly salient today. They offer important lessons as the government of Haiti and the international community look for ways to transition from relief efforts to more lasting reconstruction programs, while continuing to protect the rights of those who still lack permanent housing in the post-disaster period.

THE CONTEXT

When the earthquake struck on January 12, 2010, Haiti was already the most impoverished country in the western hemisphere. The majority of its people struggled to secure even the minimal requirements for daily survival. For decades, dire economic conditions coupled with a long history of entrenched social inequality and political turmoil, placed Haiti in a state of continual crisis—a perpetual cycle of emergency and intervention. “Goudou-goudou,” as Haitians named the massive earthquake that rocked the country two years ago, dealt a violent blow to an already critical situation, instantly displacing some 25 percent of the population and reducing much of the already fragile infrastructure in the capital city and its surrounding areas to rubble.

Over the weeks that followed, those who had lost their homes gathered in formal and informal camps for internally displaced persons; “tent cities” sprouted up amidst the rubble in public parks, soccer fields, and open areas throughout Port-au-Prince and its environs. As the first responders, Haitians mobilized to help one another even as they struggled to come to terms with the ruin and loss around them; neighbors and relatives, churches and community organizations provided essential assistance to survivors in the immediate aftermath of the earthquake. Governments and non-governmental organizations from all over the world soon came to their aid, providing food, water, and provisional shelter to hundreds of thousands. As the days wore on, relief poured in,
Yon Je Louvri: Reducing Vulnerability to Sexual Violence in Haiti’s IDP Camps

albeit inconsistently. A wide variety of domestic and international actors struggled to work together and systematize what was a chaotic and desperate situation.

Several weeks into the relief efforts, human rights groups sounded the alarm: women and young girls were being harassed, abused, and violated in what appeared to be unprecedented waves of violence. Women were being attacked while fetching water, waiting for food distributions, in latrines and at bathing sites, as well as in their tents. Months into the recovery efforts, the crisis continued, with sexual violence against women and girls becoming a daily occurrence in many of the country’s IDP camps. However, the chorus of voices crying out for greater protection in the camps was not met with equally urgent responses. While many in the humanitarian community struggled to effectively address demands, others argued that rates of sexual violence in Haiti had always been high and that it was far more important to concentrate on general relief efforts than to take on a pre-existing social problem. The debate only distracted from the crucial relationship between humanitarian aid and vulnerability to sexual violence.

Early indications suggested that inadequate access to food, water, sanitation, and safe housing were exacerbating the risks of sexual violence that women and girls faced. But little attention was paid to the links between pervasive violations of economic and social rights and vulnerability to rape or unwanted touching. The absence of accurate information about the prevalence of sexual violence and risk factors among IDPs made it more difficult to convince the international community and the Haitian government of the scale of needed protection efforts.

The Report

This Report responds to the need for data about vulnerability to sexual violence in IDP camps in Port-au-Prince. It is the result of a project launched by the CHRGJ and the GJC that aimed: 1) to undertake a mixed-methods, rights-based investigation of sexual violence and access to essential resources, grounded in rigorous quantitative and qualitative analysis; and 2) to generate concrete recommendations based on the human rights obligations of various actors intervening in post-earthquake Haiti to protect the right to be free from sexual violence and to ensure the fulfillment of fundamental economic and social rights.

Two years after the earthquake, the epidemic of sexual violence continues, as does the need for sound, empirically based analysis of the problem and potential solutions. The GJC’s comprehensive Study presented in this Report reveals broad consensus about the factors contributing to vulnerability to sexual violence in Port-au-Prince’s IDP camps, and gives rise to concrete recommendations for the government of Haiti, donor States, and the international community. Following an introduction to the crisis and description of the Study methodology, the Report presents the findings, which reveal a wide array of intersecting human rights violations and corresponding legal obligations on the part of multiple “duty-bearers.” The Report culminates in a set of recommendations regarding steps that should be taken to put an end to the crisis of sexual violence and to prevent its recurrence in the future.

The Introduction provides an overview of the disaster and the humanitarian response that followed, describing the context in which the earthquake occurred and introducing the key actors and entities involved in relief efforts on the ground. It paints a picture of the current conditions in the IDP camps and explains the concerns that provided the impetus for the Study itself.
Chapter 2 presents the design of the Study and the approach employed by the GJC research team. The GJC relied on several different investigative and research methods, including: a survey administered to 365 households spread across four different IDP camps in or near Port-au-Prince (Terrain de Golf, Place St. Pierre, Champs de Mars, and Parc Jean Marie Vincent); 18 focus group discussions among the residents of those same camps; 49 in-depth interviews with a wide range of key informants including actors from government, domestic and international NGOs, academia, humanitarian agencies, and grassroots groups; and finally, legal research to ground the findings in international human rights law and humanitarian best practices.

Following this methodological overview, Chapter 3 presents a detailed analysis of the Study’s findings, summarizing both quantitative and qualitative data collected. It first describes findings on victimization levels drawn from reported instances of sexual violence among households surveyed in the IDP camps and then combines that information with other qualitative data to compile a likely “victim profile.” This profile reflects individual, household, and camp-level characteristics that the Study determined to be associated with a heightened risk of sexual violence. Those most vulnerable to experiencing sexual violence in the camps are likely to:

- Be **young** and **female**. The average age of victims was under 21 years old and 86 percent were female;
- Reside in a household **with three or fewer members**. 66 percent of victims lived with three or fewer people;
- Suffer from **limited access to food**. Individuals who reported that they went at least one day without eating in the previous week were more than twice as likely to come from a victim household, as compared to those who did not report insufficient access to food;
- Confront **limited access to water**. The average victim household had less consistent access to drinking water than their non-victim counterparts. Four out of ten respondents from victim households did not obtain water from a free connection inside their camp during the previous week;
- Face **limited access to sanitation**. Participants who felt that the nearest latrine was “too far” from their shelter were twice as likely to live in a victim household, and among victim households, 29 percent indicated that they knew someone who was attacked while using the latrines;
- Live in a camp that **lacks participatory and responsive governance structures**. The survey found that camps with lower levels of consultation regarding camp management had a higher proportion of households reporting that one or more of their members had experienced sexual violence.

The “Victim Profile”
- Young and female
- Resides in a household with three or fewer members
- Has limited access to food
- Has limited access to water
- Has limited access to sanitation
- Lives in a camp without participatory and responsive governance structures
The findings chapter includes an in-depth examination of each of these “axes of vulnerability,” in order to inform interventions that target these risk factors and, ultimately, enable reduction of sexual violence. Among the Study’s most salient findings are that 14 percent of households reported that at least one member of the household had been a victim of sexual violence since the earthquake and that 70 percent of households surveyed are more worried about sexual violence since January 2010. These findings of alarming levels of sexual violence and fear in the camps were echoed in focus group discussions and key informant interviews, and are consistent with the conclusions of other studies and secondary sources.

Chapter 4 applies a legal lens to the axes of vulnerability identified through the Study findings, discussing the human rights implicated by sexual violence in IDP camps and the risk factors that contribute to it. It argues that the characteristics of the “victim profile” that emerged from the GJC survey data reflect underlying violations of basic human rights. Drawing on international, regional and domestic law, the legal analysis identifies the fundamental rights and guarantees that are relevant to sexual violence in IDP camps in and around Port-au-Prince, including:

- The rights to liberty and security of person, non-discrimination, and health, which together undergird the right to freedom from sexual violence;
- The right to an adequate standard of living, including the rights to food, water, sanitation, and housing, which were found to correlate with vulnerability to sexual violence in Haiti’s IDP camps; and
- The guarantees particular to disaster-affected and internally displaced persons under internationally recognized standards on protection and assistance in humanitarian crises and situations of internal displacement.

These rights and guarantees—particularly the right to be free from sexual violence—would have little meaning without corresponding responsibilities on the part of those with the capacity to make a difference in the lives of Haitians residing in IDP camps and other temporary settlements. Chapter 5 sets out to examine this question of responsibility for failures to fulfill the range of rights being violated in the IDP camps. It identifies the multiple duty-bearers obliged under international, regional, and domestic law, or through voluntary commitments (as in the case of humanitarian actors), to respect, protect, and fulfill the rights of those living in IDP camps. While the Haitian State may bear primary responsibility for preventing, investigating, and remedying sexual violence, it is imperative that all actors intervening in post-earthquake Haiti—whether public or private—work to improve the capacity of the Haitian State to fulfill its human rights obligations.

Finally, Chapter 6 concludes the report with a series of targeted recommendations aimed at ameliorating the crisis on the ground as quickly as possible. These rights-based recommendations draw on the Project’s key findings, while addressing the legal responsibilities and voluntary commitments of key actors engaged in the ongoing relief, recovery, and renewal efforts in Haiti.
Chief recommendations are outlined below.

### PRIORITY RECOMMENDATIONS

The Global Justice Clinic salutes the life-saving work of all actors involved in the post-earthquake effort to relieve the suffering of disaster survivors and to rebuild Haiti. The GJC offers recommendations with an appreciation for the difficult constraints of this work and an awareness of the many similar recommendations that have been made before—often by the relief and development community itself. In a world of limited resources, some objectives must receive priority over others. The GJC therefore highlights several practical recommendations that, if implemented immediately and with the full participation of the Haitian government and people, would translate into tangible improvements in the lives of many:

1) Provide IDPs who have been sexually assaulted in camps with free and immediate access to alternative shelter, medical services, and legal assistance
2) Expand security patrols in and around camps and install lighting and locks in sanitation facilities in camps
3) Prioritize creation of income-generating activities for women
4) Ensure all IDPs have access to free or affordable clean water
5) Stop forced evictions of IDPs

### RECOMMENDATIONS

1. **Take immediate action to reduce the vulnerability of women and girls to sexual violence in camps and other temporary settlements.**

   The government of Haiti, UN agencies, INGOs, and other actors working in the IDP camps and temporary settlements must take immediate, coordinated steps to reduce vulnerability to sexual violence in these settlements and to ensure that victims of sexual violence can access protective measures, medical care, legal services, and economic resources. Humanitarian best practices for preventing and responding to sexual violence must be adapted to the current situation and immediately implemented in Haiti’s remaining IDP camps.

2. **Increase security presence and improve patrolling of camps and temporary settlements.**

   In concert with protection experts, women’s rights leaders, and existing community-based security initiatives, the PNH and MINUSTAH should immediately implement effective, coordinated, and transparent processes for patrolling the camps that respond to the needs identified by IDPs themselves.

3. **Ensure access to improved medical, legal, and other support services for victims of sexual violence.**

   The government of Haiti, with support from donor States and UN agencies, must ensure that victims of sexual violence have greater access to support services and legal remedies following attacks. Many victims of sexual violence find themselves re-victimized by a system that often silences them and denies them access to justice.

4. **Prioritize economic empowerment and income-generating opportunities for women.**
The government of Haiti, donor States, UN agencies, INGOs, and other entities active in Haiti should prioritize relief and recovery activities that provide economic empowerment and sustainable, income-generating opportunities for women. Economic marginalization increases vulnerability to sexual violence and exploitation. Creating viable economic opportunities for women is the most durable strategy for reducing vulnerability to sexual violence.

5. **Strengthen coordination and communication, enhance accountability of relief and recovery efforts, and work to ensure the Haitian State can fulfill the rights of its citizens.**
All actors in the relief and recovery process must consult about their plans before acting, coordinate their efforts, and make themselves accountable to those they aim to assist. Meaningful accountability requires opportunities for informed participation by displaced individuals in decisions affecting their lives. Relief and recovery programs should be Haitian-led wherever possible.

6. **Implement a moratorium on forced evictions until permanent, safe, and sustainable housing solutions are found.**
The Haitian State, donors, and multilateral actors must undertake intensive efforts to ensure that all Haitians have access to permanent, safe, and sustainable housing. Until such solutions are found and as long as people continue to live in temporary settlements, the government of Haiti, supported by the international community, should institute a moratorium on forced evictions from IDP camps and other temporary settlements and ensure that funding streams are adequate to close gaps in basic protection and subsistence support for displaced communities.

7. **Adopt a rights-based approach in which Haitians are at the helm of relief and recovery efforts.**
Response to humanitarian emergencies must always respect and protect the human rights of disaster survivors. All international actors in Haiti should adopt a rights-based approach to development that supports the Haitian people in efforts to claim their rights, and empowers the government of Haiti as the principal duty-bearer to fulfill these rights. A rights-based approach also demands that all international actors, both governmental and non-governmental alike, comply with their minimum obligations to do no harm and to uphold their commitments to support fulfillment of fundamental rights. This cannot be achieved without meaningful participation by the Haitian people and the Haitian State in all aspects of the recovery process. Haitians must be at the helm of their country’s post-earthquake revitalization.
CHAPTER 1
INTRODUCTION

I. THE CATASTROPHE

The earthquake that hit Port-au-Prince, Haiti, on January 12, 2010, has been called “the largest urban natural catastrophe in recorded history,” killing more than an estimated 222,570 people and injuring more than 300,000. Some 2.3 million people, almost 25 percent of the entire national population, were displaced. Many of the major landmarks in the city were destroyed, and ministries and infrastructure crumbled. Extreme poverty compounded the grave losses. At the time of the catastrophe, Haiti was the poorest country in the Western Hemisphere. Approximately three-quarters of the population were living on less than $2 a day, and access to potable water and adequate food was already a daily struggle.

II. THE RELIEF EFFORT

In the aftermath of the earthquake, survivors whose homes had been destroyed took the belongings they could salvage and fled to the closest or most familiar open spaces. Flocking to public squares, parks, schoolyards, and golf courses, Haitians set up makeshift shelters using whatever materials they could find. Neighbors and relatives came to each other’s rescue; churches organized shelters and food for the displaced; and Haitian nongovernmental organizations (NGOs) and community groups organized to work in solidarity with the displaced.

The world’s reaction was also swift. Within days, the U.S. military and international nongovernmental organizations (INGOs) were providing badly needed assistance to the city’s 1.5 million internally displaced persons (IDPs). Humanitarian agencies were expected to work closely together, coordinating themselves through the “Cluster Approach.” This is a voluntary method, developed at the international level and implemented in all major emergencies, through which INGOs, UN agencies, and local government counterparts gather as sectoral “clusters” under a lead agency to coordinate their work through information sharing, policy collaboration, and troubleshooting. Ideally, available services are coordinated within sectors through the clusters and at the camp level by camp management agencies (CMAs). The clusters also seek to enable the participation of local service providers, community leaders, and advocates. Due in part to a shortage of CMAs, neither of these ideals was fully achieved in Haiti.

The humanitarian system responded by setting up CMAs within the spontaneous settlements. These CMAs are governed by standard “Terms of Reference” and are charged with assessing the needs of residents, coordinating and prioritizing aid, liaising with governance systems in the camps, and assessing the sites for risk of landslide and flooding. CMAs are usually large INGOs with significant experience running IDP or refugee camps in emergencies around the world. Ideally, CMAs act in collaboration and consultation with the camp population, often through camp committees. A wide range of major INGOs were involved in the aftermath of the earthquake, but there were not nearly enough agencies available to manage the huge number of camps in Port-au-Prince. Instead, large numbers of camps remained without management agencies, and dramatic gaps developed between service levels in camps with and without CMAs.
As governance bodies, camp committees varied significantly in structure and efficacy. The committees were usually made up of residents of the camps. Most were self-selected, some were elected, and a smaller number were formed by or at the behest of CMAs or even landowners. Research has revealed extensive problems with camp committees. While some have functioned as genuine community leaders accountable to the camp population, others have been involved in corruption, sexual exploitation, and exclusion of preexisting community-based organizations.

Despite the shortcomings of the relief efforts, in the first six months of the humanitarian response, 1.5 million people received some form of shelter, 4.3 million people were given food, and 1 million people were provided access to potable water on a daily basis.

III. FROM RELIEF TO RECOVERY? CHANGE AND CONTINUITY IN PORT-AU-PRINCE

As of July 2011, some 73,000 transitional shelters had been constructed, and humanitarian partners had distributed 117,200 tents, 1,185,052 tarpaulins, and 2.5 million relief items. The majority of this aid has been targeted to IDP camps, the size and conditions of which have changed significantly since January 2010. From July 2010 to July 2011, the IDP population living in camps dropped by 61 percent, leaving an estimated 594,811 individuals living in 894 camps, compared to 1.5 million living in 1555 sites the year before. Camp reductions continued apace until February 2011, when the rate of decline slowed considerably. As of September 2011, the IDP camp population had dropped to as low as 550,600 persons, and by November 2011 it was reportedly down to 520,000. While these falling numbers might appear to signal recovery—even if at a slower pace than earlier—in fact the decrease is in significant part attributable to eviction by private landowners, leading to further displacement of IDPs. According to the Camp Coordination and Camp Management (CCCM) Cluster, 371 IDP sites in 12 communes have been threatened with eviction. As of September 2011, 58,508 individuals had already been evicted since records of such actions began in July 2010, and more than 100,000 were still under threat of eviction.

In early 2012, the situation in the camps remained precarious and had become increasingly perilous for many. The government of Haiti halted general food distributions in March 2010, and by late 2011 the UN reported that the population of Port-au-Prince was experiencing “Stressed and Crisis” levels of food insecurity. Most deadly, the cholera epidemic that began in October 2010, less than a year after the earthquake, had infected nearly 5 percent of the population and killed more than 6000. As of November 2011, 492,000 cases of cholera were reported across the country. In response to the outbreak, 15,000 kits of oral-rehydration salts and 34,000 water-purification tablets were distributed to targeted communities in camps. Partners In Health (PIH) was scheduled to initiate a cholera vaccination program in January 2012, targeting 100,000 people. Two years after the earthquake, maintaining the health and welfare of more than half a million people remained an ongoing and ever-compounding dilemma.

Recognizing the vulnerability of IDP camps to cholera and other water-related illnesses, and alongside an independent panel’s acknowledgment that the UN was likely the source of the outbreak, the UN Office for Project Services (UNOPS) worked to repair nearly 700 latrines in 52 IDP camps by November 2011. This action benefited nearly 40,000 people. However, these services did not make up for the gap left as humanitarian services began to shut down in the camps. During the summer and fall of 2011, INGOs started to shift their focus away from camps as
funding for camp services diminished, landowners aggressively evicted IDPs, and the international community emphasized the need to move “beyond” the camps.30

The shift away from servicing IDP camps laudably aimed at ensuring the settlements did not become a de facto permanent and horribly inadequate “solution” for hundreds of thousands of Haitians who were left homeless after the earthquake. However, the lack of viable alternatives for the 520,000 people still in camps in early 2012 meant that such households faced greater obstacles than ever to accessing basic services and goods. In August 2011, the International Organization for Migration (IOM) confirmed through a 15,000-respondent survey that most households remained in camps because they had no other option.31 As of October 2011, only a reported 6 percent of IDP camps had water services.32 The Haitian government adopted an official policy of halting free water trucking to camps at the end of November 2011 in an effort to redirect resources toward sustainable water solutions.33

Two years after the earthquake, the Haitian government’s willingness and ability to manage the reconstruction process and to ensure the rights of those still living in IDP camps is in doubt. This uncertainty has increased since President Michel Martelly took office in May 2011. The Interim Haiti Recovery Commission (IHRC), co-chaired by former U.S. President Bill Clinton and charged with overseeing efforts to rebuild Haiti, was dissolved in October 2011 when the Haitian government failed to renew its mandate.34 As of December 2011, Prime Minister Garry Conille was reportedly still developing a new panel,35 but uncertainty remained about which authorities were actually providing direction and oversight to the reconstruction process. President Martelly has also been heavily criticized for his plans to restore the Haitian national army in order to create jobs. In November 2011, Nobel laureate and former Costa Rican President, Oscar Arias, warned Martelly that armed forces in the region have historically served to quash democratic values, and recommended investing in areas such as education and health.36

The institutional capacity of the current government and the challenges it faces must be understood not only in the context of the massive January 2010 earthquake and its aftermath, but also against the backdrop of decades of crisis and intervention.

Box 1. The International Humanitarian System

The formal humanitarian aid system comprises a wide array of actors who share the purpose of assisting disaster-affected communities in their quest for survival and dignity. Alongside the International Federation of Red Cross and Red Crescent Societies (IFRC), key UN agencies concerned with crisis, such as the Office for the Coordination of Humanitarian Affairs (OCHA), the Department of Peacekeeping Operations (DPKO), and the emergency departments of the UN Children’s Fund (UNICEF) and the UN Population Fund (UNFPA); as well as donor governments.37 This formal system has developed institutions, networks, and practices that stretch across the globe, springing into action with set coordination structures, including sectoral “clusters,” joint funding mechanisms, and common understandings of best practices.

The formal system operates alongside an “informal” humanitarian system that includes affected governments, militaries, and local communities. This informal system is routinely part of crisis response, but its composition, relationship to the formal system, and degree of participation in the various structures created by the international humanitarian community is context-dependent and
widely variable. In 2007 and 2008 alone, the formal humanitarian system responded to 52 humanitarian emergencies worldwide.\textsuperscript{38} In 2008, there were an estimated 26 million IDPs in the world.\textsuperscript{39} By the end of 2010, this number had increased to 27.5 million,\textsuperscript{40} although the global IDP population still made up only a sliver of the estimated 215.1 million people in developing countries who were affected by natural disasters that year.\textsuperscript{41} In 2008, there were about 210,800 emergency and rehabilitation workers responding to crises.\textsuperscript{42} The six largest INGO federations had a combined expenditure of more than $4 billion, with $1.7 billion allocated specifically to disaster programming.\textsuperscript{43} Just over half of these resources come from private (individual, foundation, and corporate) sources, with the remainder provided by multilateral and state donors.\textsuperscript{44} The broader crisis industry, which includes for-profit enterprises, has been estimated to command $10 billion per year.\textsuperscript{45}

Box 2. UN Entities Relevant to the Study

The United Nations is an intergovernmental entity with myriad components and agencies. Some of the most relevant to this Study include:

- **United Nations Stabilization Mission in Haiti (MINUSTAH):** The UN peacekeeping mission in Haiti, MINUSTAH, has been present in the country since 2004, and in 2011 and 2012 had a budget of almost $800 million. Originally approved by the Security Council as a peacekeeping force, MINUSTAH was given an expanded mandate following the earthquake and is now involved in efforts to combat cholera, “to restore a secure and stable environment, to promote the political process, to strengthen Haiti’s Government institutions and rule-of-law-structures, as well as to promote and to protect human rights.”\textsuperscript{46} As of November 2011, MINUSTAH comprised some 12,438 total uniformed personnel (8,856 troops and 3,582 police), 573 international civilian personnel, 1,351 local civilian staff, and 240 UN Volunteers.\textsuperscript{47}

- **United Nations Children’s Fund (UNICEF):** One of the UN’s functional agencies, UNICEF has a key role in emergency settings around the world. In Haiti, UNICEF has been in leadership positions in the Water, Sanitation, and Hygiene (WASH) Cluster, the Nutrition Cluster, the Child Protection Sub-Cluster, and the Education Cluster. Its work in Haiti extends broadly across these sectors and has included water and sanitation services, child registration, education services, emergency vaccinations, and prevention of child trafficking and gender-based violence (GBV).

- **International Organization for Migration (IOM):** The IOM has been a central actor in post-earthquake Haiti. It has played a leadership role in the Camp Coordination Camp Management (CCCM) Cluster, which has been responsible for tracking and responding to the needs of IDPs in camps. IOM work in Haiti has included initiatives concerning migration management, GBV, health, IDP registration, and shelter.

- **United Nations Entity for Gender Equality and the Empowerment of Women (UN Women):** In Haiti, UN Women has been active in efforts to prevent and respond to GBV by partnering with Haitian governmental and non-governmental entities.\textsuperscript{48}
United Nations Population Fund (UNFPA): “UNFPA’s work in Haiti focuses on: assistance in the area of maternal and reproductive health for the affected population; protecting women and girls against gender based violence; helping young people recover and collecting reliable data on the affected population and their needs.” Alongside the Haitian government’s ministry for women’s affairs, UNFPA has been a leader of the Gender-Based Violence Sub-Cluster (GBV-SC) in Haiti, which has been charged with coordinating and consolidating action to improve prevention and response to GBV in the aftermath of the earthquake.

Box 3. Haitian Government Agencies Relevant to the Study

- Ministère à la Condition Féminine et aux Droits des Femmes (MCFDF): The Ministry of Women’s Condition and Women’s Rights, created by decree in 1994, is charged with formulating and implementing public policies to advance the status of women in Haiti. Combating violence against women has been a central goal of the MCFDF. The MCFDF has co-led the Gender-Based Violence Sub-Cluster with UNFPA and at the time of writing was working actively on a draft law on violence against women, the Avant-projet de loi sur la prévention, la sanction et l’élimination des violences faites aux femmes.

- Ministère de Justice et de la Sécurité Publique (MJSP): The Ministry of Justice and Public Security was created by decree in 1984 and is responsible for governmental policy concerning the administration of justice and supervision of the activities of the courts, tribunals, and prosecutor’s offices. One of the ministries most severely impacted by the earthquake, the MJSP is also responsible for oversight of the Police Nationale d’Haiti.

- Police Nationale d’Haiti (PNH): The Haitian National Police force was created through legislation passed in 1994. Comprising 9700 officers nationally before the earthquake, the PNH lost about 80 officers in the disaster, and its buildings and equipment were badly damaged. The PNH is charged with maintaining order and enforcing the law in the entire country of Haiti.

- Direction Nationale de l’Eau Potable et d’Assainissement (DINEPA): Created through legislation in 2009, DINEPA is charged with regulation and supervision of the water and sanitation sector in Haiti. DINEPA was established to rationalize and regulate the previously existing water and sanitation agencies. In Port-au-Prince, the most important actor in addition to DINEPA is the Centrale Autonome Métropolitaine d’Eau Potable (CAMEP), the public-water supplier, which had set up Komites Dlo, neighborhood-based water-user committees that manage public standpipes, including through the implementation of social tariffs in some poor neighborhoods. DINEPA had only recently begun the reorganization of the water sector when the earthquake, and the subsequent cholera epidemic, hit. DINEPA has co-led the WASH Cluster with UNICEF since the earthquake.
IV. CONTEXT

Haiti’s recent history has been one of “permanent crisis.”58 Since 1994, when the U.S. military restored then-president Jean-Bertrand Aristide to power by ousting the ruling de facto regime, international engagement in Haiti has been conducted through the concepts and frameworks of state failure and cyclical emergency.59 These frameworks shorten planning horizons and prioritize quick action over long-term change or justice.60 This has meant, in material terms, that aid flows that would otherwise be targeted to building, improving, and expanding Haiti’s public infrastructure and government systems have in large part been channeled to INGOs, Haitian NGOs, and other donor-influenced entities charged with implementing programs.61 As a result, foreign aid de-capacitated the already weak and ineffective State in significant ways instead of strengthening it.62

This meant not only that governance was weakened, but also that systems—such as those providing health care, education, and potable water—were starved of resources for significant periods of time. As an example, the U.S. Institute of Peace reported that in 2007–2008, USAID allocated $300 million to Haitian projects, funneling it all through NGOs; “[t]hese projects often had more money than the entire Haitian Ministry of Planning.”63 To be sure, INGOs and some Haitian NGOs have been successful in improving and saving many lives, but the impact of this dynamic was that the resulting systems did not belong to the State, were in important respects unregulated, and could not be counted on to sustainably provide services to all in a traditionally accountable manner.64 By the time of the earthquake, Haiti was ranked number 12 out of 177 states in the Fund for Peace’s Failed States Index (where higher rankings signify greater failing) and 129 out of 141 states in the Index of State Weakness in the Developing World (where lower rankings signify greater weakness).65

When the earthquake hit, it decimated the already weakened public sector in Haiti. In total, 27 of 28 national government buildings were destroyed, and somewhere near 20 percent of the whole Haitian civil service was killed or injured.66 Until November 2011, when a USAID-funded Parliament building complex was finally opened, surviving legislators and staff members were working in the Police Academy.67 Unsurprisingly, the massive humanitarian effort bypassed the badly shocked Haitian government in the first few weeks of the crisis: As of the end of January 2010, less than one percent of the earthquake aid had gone to the government of Haiti.68 While it may have been understandable in those first few weeks, this circumvention of the government has been a remarkably constant feature of the international response as it has transitioned from humanitarian relief to reconstruction and development. As of July 2010, UN Deputy Special Envoy to Haiti, Dr. Paul Farmer, reported, “of $1.8 billion for earthquake relief sent to Haiti, less than 2.9% has so far gone to the government.”69 By March 2011, disbursement to the government was back down to one percent.70

While Dr. Farmer argues that in order to “revitalize Haitian institutions, we must channel money through them,”71 the international community remains wary of risking precious funds with a government it perceives to be lacking essential capacities. Commenting on the Martelly administration in August 2011, the UN Stabilization Mission in Haiti (MINUSTAH) expressed its concern about:

the lack of progress in establishing a Government and the continuing stand-off between the executive and legislative branches of Government. In addition, it is regrettable that the status of the constitutional reform process remains unclear. At a
time when Haiti so desperately needs a committed leadership with a common set of priorities, antagonisms between opposing political forces are casting a shadow on the country’s recent democratic success and threatening its progress towards lasting stability.72

Not only has 99 percent of the more than $2 billion in donor funds provided since the earthquake been disbursed to actors other than the Haitian government,73 but Haitian NGOs also appear to have been largely bypassed in early spending.74 This meant that a wide range of governments, multilateral institutions, and international NGOs spent the money used to provide services for earthquake victims, especially IDPs living in camps.

This massive humanitarian intervention by actors other than the Haitian State significantly affected the rights of camp residents. First and foremost, the relief effort saved lives and provided shelter for hundreds of thousands of people. However, the Study presented in this Report finds that certain shortcomings of the response may have inadvertently exacerbated vulnerabilities to sexual violence in IDP camps, which by many accounts reached alarming levels in the wake of the disaster. The next sections describe the impetus for this Study, its design, and key findings.

Box 4. International Law and Standards Relevant to Post-Earthquake Haiti

- **Haitian Law:** The Haitian legal system rests upon the 1987 Constitution, which recognizes crucial human rights, including the right to life, the right to health, the right to respect for the human person, and the principle of equality, and requires affirmative measures to ensure these rights are protected and fulfilled.75 Haiti’s **Penal Code,** though dating to the early 1800s, contains provisions prohibiting rape and sexual exploitation; these provisions were updated by the **Decree of 6 July 2005.**76 At the time of this writing, Haiti was considering a draft law on violence against women, the *Avant-projet de loi sur la prévention, la sanction et l’élaboration des violences faites aux femmes.*

- **International Human Rights Law:** Haiti has ratified numerous international and regional human rights instruments relevant to this Report. These include: the **Convention on the Elimination of All Forms of Discrimination against Women** (CEDAW), the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (the “Convention of Belém do Pará”), the **International Covenant on Civil and Political Rights** (ICCPR), and the **Convention on the Rights of the Child** (CRC). The 1987 Constitution provides that international treaties or agreements that have been approved and ratified by the State are self-executing and automatically become part of the law of the country.77 In addition to these formal treaty sources, international soft law instruments, such as the **Guiding Principles on Internal Displacement,** which are an authoritative interpretation of international law relevant to internally displaced persons, provide standards applicable to government action and humanitarian intervention in post-earthquake Haiti.78 Haiti is also bound by the customary international law of human rights, which protects a wide variety of civil, political, economic, and social rights. These sources of law are explored further in Chapter 4.

- **Humanitarian Standards and Norms:** See Box 5.
Box 5. Humanitarian Standards and Norms

To regulate and improve the performance of the massive humanitarian aid system and to respond to some of its earlier failures, humanitarian INGOs have set up a variety of quality and accountability initiatives. Some have created standards and norms to guide humanitarian action. The UN and its partners established the Inter-Agency Standing Committee (IASC) as a forum for coordination between UN and non-UN entities involved in humanitarian response. INGOs set up the Active Learning Network for Accountability and Performance (ALNAP) and the “Standards Project” in 1997, aimed at formulating standards for humanitarian assistance. The Standards Project became the Sphere Project, which seeks to “improve the quality and accountability of performance by humanitarian professionals” through the development of substantive standards and measurable indicators.79 By 2000, Sphere had created a set of standards, indicators, and guidance notes through an extensive consultative process.80 The standards were organized by sector: water supply and sanitation; nutrition; food aid; shelter and site planning; and health services.81 The first print version of the standards was published in the Sphere Project Handbook in 2000; it soon became ubiquitous in field settings. To ensure the standards and indicators remained state-of-the-art, a fully revised version with greatly expanded emphasis on the protection of emergency-affected populations was published in 2004, and a third edition was released in 2011.

The Sphere Project Handbook is joined by other important guiding norms in different sectors. In relation to accountability, the Humanitarian Accountability Partnership (HAP) has devised the HAP Standard,82 which is now in its second edition. The IASC has published several norms directly relevant to this Study: the IASC Guidelines for Gender-based Violence Interventions in Humanitarian Settings,83 the IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disaster,84 and the Handbook for the Protection of Internally Displaced Persons.85

V. THE NEED FOR THE STUDY

A. THE IMPETUS FOR THE STUDY: REPORTS OF SEXUAL VIOLENCE IN THE IDP CAMPS

Six months following the earthquake, human rights advocates sounded the alarm: Rape and other forms of gender-based violence (GBV) were increasing, perhaps precipitously, in the camps.86 A report by the Institute for Justice and Democracy in Haiti (IJDH), MADRE, TransAfrica Forum, and the international human rights clinics at the Universities of Virginia and Minnesota found in July 2010 that, “[h]aving no other options, Haitian grassroots women’s groups [such as KOFAVIV and FAVILEK] have resorted to taking charge of their own security.”87 Organizations with which the Global Justice Clinic (GJC) at the New York University School of Law had worked in Haiti—especially Komisyon Fanm Viktim pou Viktim (Commission of Women Victims for Victims; KOFAVIV), IJDH, and the Bureau des Avocats Internationaux (BAI)—documented disturbing cases of GBV in IDP camps in Port-au-Prince. Responses to these reports were organized through the Lawyers Emergency Response Network (LERN), a coalition providing legal assistance to earthquake survivors, led by IJDH and BAI.
In December 2010, the Inter-American Commission on Human Rights (IACHR) granted a petition for precautionary measures brought by a coalition of organizations, calling on relevant actors in Haiti to take urgent actions to protect women and girls from gender-based and sexual violence in camps within Port-au-Prince. A December 2010 Amnesty International report found that the response to GBV had been inadequate and that “the risk of rape and other forms of gender-based violence in Haiti’s camps ha[d] increased dramatically” since the earthquake. In May 2011, the UN High Commissioner for Refugees reported: “In spite of an absence of quantitative data, it is generally accepted that sexual and gender-based violence against women and girls in the camps are widespread in Haiti. Anecdotal evidence suggests that Sexual and Gender-Based Violence (SGBV) is on the rise due to increased economic and social vulnerabilities of persons living in camps.”

According to an August 2011 Human Rights Watch report, women and girls also face additional hardships: lack of access to family planning, prenatal and obstetric care; a need to engage in survival sex to buy food for themselves and their children; and sexual violence. The crisis is reflected in pregnancy rates in displaced person camps that are three times higher than in urban areas before the earthquake, and rates of maternal mortality that rank among the world’s worst.

In September 2011, the UN Special Rapporteur on Haiti highlighted the continuing problem of sexual violence, and decried the lack of robust data on the phenomenon. Despite this widespread recognition, the scope and prevalence of sexual violence remain uncertain and have, at times, been the subject of intense debate.

B. THE GJC’S CONTRIBUTION: AN INTERDISCIPLINARY HUMAN RIGHTS STUDY

In the context of this debate, it became clear that the GJC could make a contribution by collecting and analyzing statistical data that would offer concrete evidence of GBV prevalence in IDP camps while also examining the connections between sexual violence and violations of economic and social rights. Building on the GJC’s expertise and previous interdisciplinary studies conducted in Haiti, and in response to a need identified by Haitian human rights advocates, the Study combines quantitative and qualitative methods to assess correlations between various forms of vulnerability. It applies a human rights framework to understand the connections between the enjoyment of civil and political rights, such as the rights to bodily integrity and freedom from discrimination, and economic and social rights, such as the rights to food, water, and sanitation. The Study was designed using a rights-based approach and aimed to be inclusive by involving Haitians affected by the earthquake in the study design and implementation.

The GJC Study was comprehensive. The GJC surveyed for incidence data and quantified perceptions; engaged in detailed conversations with community members in focus group discussions (FGDs); and conducted in-depth interviews with a broad range of community leaders, experts, and officials. The resulting data demonstrate a consensus. The survey results, focus group findings, and key informant data point in the same broad direction and are consonant with the results of studies by other researchers. While certain debates still linger, two years after the earthquake some broad and clear conclusions can be drawn. Sexual violence in the camps has occurred at alarmingly high rates, and certain patterns of service provision or lack thereof have contributed to camp residents’ vulnerability. However, it is not too late. These patterns can be changed, vulnerabilities can be mitigated, and sexual violence can be prevented. The Study data not only highlight the scope
of sexual violence, but also emphasize the urgent need for a series of targeted policy reforms to reduce the prevalence of sexual violence now. They further point the way toward lessons that can be learned and applied in future humanitarian crises.

NOTES


4 Id. at 5; see also Haiti: Overview, WORLD FOOD PROGRAMME, http://www.wfp.org/countries/Haiti/Overview (last visited Jan. 12, 2012). In addition, more than half of the population lives on less than $1.00 per day. Id.; see also Haiti at a Glance, WORLD BANK (Aug. 12, 2006), http://siteresources.worldbank.org/INTHAITI/Resources/Haiti.AAG.pdf (comparing development indicators for Haiti and Latin American and Caribbean countries).

5 As Other Worlds reported, “[t]hough their efforts have not been recognized, everyday Haitian citizens, acting on their own, have comprised by far the largest force of first responders, relief workers, and aid providers” after the earthquake. See Beverly Bell, From Charity to Solidarity in Haiti: Lessons for the Policy Makers (Part III) OTHER WORLDS (Apr. 27, 2010, 09:24 AM) http://www.otherworldsarepossible.org/another-haiti-possible/charity-solidarity-haiti-lessons-policy-makers-part-iii. For a report published by Other Worlds detailing some of the different humanitarian efforts employed in Haiti post-earthquake, see OTHER WORLDS, FROM DISASTER TO SOLIDARITY: BEST PRACTICES IN MEETING THE NEEDS OF HAITI’S EARTHQUAKE SURVIVORS (2010), available at http://www.otherworldsarepossible.org/another-haiti-possible/disaster-aid-report.


8 The Cluster Approach had been implemented in Haiti prior to the earthquake, and an evaluation of its first few years—before 2010—found that although the approach had improved coordination, it had not reached its potential in Haiti. See ANDREA BINDER & FRANÇOIS GRÜNEWALD, IASC CLUSTER APPROACH EVALUATION, 2ND PHASE, COUNTRY STUDY: HAITI 7 (2010). An evaluation of the use of the Cluster Approach during the initial months after the earthquake found “a missed opportunity to translate the quick setting up of cluster coordination and the availability of substantial resources in the form of money, military assets and staff into timely results.” FRANÇOIS GRÜNEWALD & ANDREA BINDER WITH YVIO GEORGES, INTER-AGENCY REAL-TIME EVALUATION IN HAITI: 3 MONTHS AFTER THE EARTHQUAKE 8 (2010).


11 See, e.g., U.N. Office for the Coordination of Humanitarian Affairs (OCHA), Haiti Earthquake Situation Report No. 34, at 2 (Apr. 16, 2010), available at
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http://onerresponse.info/Disasters/Haiti/Coordination/publicdocuments/OCHA%20sitrep34.pdf (noting that less than a quarter of these camps have Camp Management agencies).


13 See id. at 29.


22 Id.


26 Disaster Risk Reduction and Cholera Prevention in Haiti, supra note 24.


29 Disaster Risk Reduction and Cholera Prevention in Haiti, supra note 24.

31 The IOM Chief of Mission in Haiti explained that “[t]he intention survey debunks the notion that people are living in the camps out of choice. The survey indicates that it is extreme poverty, worsened by the earthquake which has kept hundreds of thousands of Haitians homeless for so long.” See Press Release, IOM & Agency for Technical Cooperation and Development, Overwhelming Majority of Haitians Living in Displacement Camps Want to Leave but Have Nowhere to Go (Aug. 5, 2011), available at http://reliefweb.int/node/439158.

32 Schuller, supra note 30 (citing international agency staff).


35 Id.


38 Id. at 13.


42 Harvey et al., supra note 37, at 18.

43 Id. at 20.

44 Humanitarian Accountability Report, supra note 39, at 17.


Keith Crane et al., Rand Corporation, Building a More Resilient Haitian State 59, 69 (2010).


Id.; see also Greg Beckett, Phantom Power: Notes on Provisionality in Haiti, in Anthropology and Global Counterinsurgency 39, 46–47 (John D. Kelly et al. eds., 2010) (analyzing the operation of the “twin concepts of state failure and the state of exception” in relation to the forced removal from power of President Jean-Bertrand Aristide in 2004).

See Erica Caple James, Democratic Insecurities: Violence, Trauma, and Intervention in Haiti 178–222 (2010).


Mark Schuller, Seeing Like a “Failed” NGO: Globalization’s Impacts on State and Civil Society in Haiti, 30 Pol. & Legal Anthropology Rev. 67, 72–73 (2007) (noting that as foreign aid was directed to NGOs, the Haitian state became an “apparent state”) (internal citations omitted).


Farmer Testimony, supra note 66, at 5.

71 Id. at 2.


73 HAS AID CHANGED?, supra note 70, at 2.

74 For example, only two Haitian NGOs received funding for projects listed in the first “flash appeal” (joint funding appeal) from the international community. Id. at 16.

75 CONST. D’HAÏTI (1987), art. 19 (recognizing the right to life, health, respect for the human person, and the principle of equality); id. art. 23 (noting that there is an affirmative obligation on the State to “ensure for all citizens in all territorial divisions appropriate means to ensure protection, maintenance and restoration of their health by establishing hospitals, health centers and dispensaries”).

76 For a discussion of the relevant sections of the penal code, see Chapter 4 of this Report.


80 Id. at 2.


87 OUR BODIES ARE STILL TREMBLING, supra note 86, at 4.

In order to address the “pattern of sexual violence and a series of acts of violence against the women and girls residing in [22 internally displaced persons] camps,” the Inter-American Commission implemented precautionary measures for displaced women and children living in these camps. \textit{Id.} Specifically, the Commission:

called on the State [of Haiti] to ensure the availability of adequate medical and mental health care for the victims of sexual violence located in accessible areas; to provide adequate security at the camps for internally displaced persons, including the lighting of public spaces, regular patrols within the camps as well as outlying areas, and to increase the presence of female police officers assigned to patrol details and local police precincts; to ensure that the law enforcement agencies tasked with responding to incidents of sexual violence receive the necessary training to respond appropriately to reported cases of sexual violence and provide the necessary security to the camps; to promote the establishment of special investigative police units within the Office of the Attorney General with a view to investigating rape cases and other crimes of sexual violence; and to ensure that grassroots women’s groups fully participate in and have a steering role in the planning and implementation of policies and practices aimed at combating and preventing rape and other forms of sexual violence in the camps.

\textit{Id.}

\textsuperscript{89} AFTERSHOCKS, \textit{supra} note 86, at 2.


\textsuperscript{93} Because the focus of the Study was on the dynamics underlying vulnerability and victimization and not the actions of specific individuals or groups, the Report does not include direct citations to individual interviews for information that appears in the text.
CHAPTER 2
STUDY DESIGN AND METHODS

I. A RIGHTS-BASED, MIXED METHODS APPROACH

This Study builds on the GJC’s previous work concerning human rights and public health in Haiti.1 Staff and students enrolled in the GJC at the Center for Human Rights and Global Justice at the New York University School of Law designed and implemented the Study alongside a Haitian research team.2 At the outset, the goal of this project was to determine, through empirical evidence, whether food, water, and GBV services were implemented in a way that advanced women’s human rights in post-earthquake Haiti. After consultations with partner organizations in Haiti, the goal was amended to focus on investigating, through empirical evidence: (1) the prevalence of sexual violence in Haiti’s camps for the internally displaced (“IDP camps”); and (2) what links, if any, existed between vulnerability to sexual violence and access to food and water in IDP camps.

In relation to (1), the Study examined the rates of rape and unwanted touching in IDP camps through a household survey. With respect to (2), the study used: (a) quantitative data to identify correlations between sexual violence and a variety of food- and water-related variables, as well as other relevant demographic and contextual factors; and (b) qualitative data from FGDs and interviews with experts, survivors, and service providers to understand, contextualize, and question the correlations found through quantitative methods.

The Study reflects a rights-based approach to project design and implementation. This approach uses international human rights law as the framework for gathering and analyzing data, understanding responsibilities for violations and remedies, and interacting with project personnel and study participants. The objective is to place the rights-holder at the center of the research by seeking ways to access, amplify, and support identification of her rights. By combining quantitative and qualitative methods with a rights-based approach to research and advocacy, the Study elucidates relationships between sexual violence, access to food and water, and human rights.

The GJC team developed the survey instrument, conducted key informant interviews, trained the Haitian research team, and worked closely on the administration of the survey and focus groups. The Haitian research team reviewed the survey instrument, conducted all survey interviews, led FGDs, and provided advice on interpretation of certain data. A core GJC team conducted data analysis and compiled the Report. Collectively, these teams are referred to as the “research team.” Detailed credits are provided in the Acknowledgments section of this Report.

This chapter presents the methods used in each of the Study’s empirical components: the household survey, FGDs, and key informant interviews.

II. QUANTITATIVE METHODS

This section briefly reviews the components of the household survey, including the survey scope, question typology, sampling procedure, and participant characteristics. A complete copy of the 85-question survey, in both English and Kreyòl, is available online (see links provided in the Appendix to this Report).
A. SURVEY DEVELOPMENT

The GJC research team developed the survey instrument with extensive advice from Haitian human rights and women’s rights organizations, as well as input from social scientists with broad experience conducting research in Haiti. The survey instrument was designed to gather quantitative data in a way that would allow the research team to identify whether camp residents were experiencing violations of their human rights as set out in international law. Equally, it was designed to be responsive to the concerns of organizations with which the GJC had worked previously in Haiti. Finally, the research team aimed to keep the survey to a manageable length.

Before finalizing the survey, the GJC research team conducted small group and individual discussions with sexual-violence survivors in Port-au-Prince to test and revise the survey instrument. This step was seen as crucial because sexual violence, while universal, is experienced and described in specific, culturally embedded terms. These discussions prompted several full revisions of the survey, and allowed the research team to design questions aimed at eliciting facts about the experience of sexual violence that would otherwise have remained unexamined. The consultations also led the research team to understand the term “victim” in a new light. Although those who have suffered sexual violence are usually referred to as “survivors” in U.S. human rights settings, many women’s rights advocates in Haiti embrace the term “victim” in an empowering act of redefinition. For this reason, as well as for legal accuracy, the terms “victim” and “victimization” will be used throughout this Report where appropriate. In all cases, the terms “survivor” and “victim” signify that an individual has experienced rape, unwanted touching, or both.

These consultations and extensive revisions also allowed the research team to identify which information was most suitable for capture through the survey, and which was better explored through key informant interviews or FGDs. By the time the survey was finalized, the research team had revised it at least two dozen times.

B. SURVEY COMPONENTS

1. Prevalence of Sexual Violence and Levels of Vulnerability

The survey aimed to quantify the prevalence of sexual violence in selected IDP camps and to determine whether prevalence levels correlate with vulnerability related to resource access. The core of the survey comprised three sets of questions that focused on incidents of rape and unwanted sexual touching within each camp. Responses to all survey questions, including those related to rape and unwanted touching, were entirely voluntary and confidential.

Rape. The survey asked participants, “Since the earthquake, have you or anyone in your household been raped or forced into having sex when they did not want to?” This question was based on the phrasing Smith Fawzi and her co-authors used in a previous study implemented in Haiti. Participants were subsequently asked the age and gender of the victim. They were also asked where the incident occurred and whether it had been reported to any authorities, such as the PNH, MINUSTAH, or an NGO official.

Unwanted Touching. The survey asked participants, “Since the earthquake, have you or anyone in your household been touched in a way you or they did not want to be touched, not including rape
or forced sex?” This question was the direct result of the research team’s consultation sessions with survivors of sexual violence, and it aimed to capture a form of sexual violence that survivors described as pervasive in the camps. Participants were subsequently asked the age and gender of the victim(s). They were also asked where the incident happened and whether it had been reported to authorities.

**Perceptions of Sexual Violence.** The survey also posed two sets of perception-based questions. First, participants were asked to indicate whether they believed certain forms of sexual violence were common within their camp. Second, participants were asked to discuss whether they were aware of attacks occurring in specific locations in their camp.

**2. Vulnerability**

The survey included a series of questions designed to capture conditions that might contribute to greater vulnerability to sexual violence. These questions focused on demographic characteristics, access to basic resources, and camp management structures.

**Demographic Characteristics.** The survey elicited a range of individual and household characteristics, including participant age, participant gender, shelter type, household size, and source of income.

**Access to Basic Resources.** The survey asked participants about their level of access to a series of essential resources, including food, water, latrines, and bathing areas. For example, the survey solicited participant perceptions of the distance between their households and the sites where these resources were available. It also asked participants about their perceptions of safety at those sites. A series of questions inquired into levels of food and water deprivation. A related question asked participants about food theft during the previous month.

**Participation, Consultation, and Demand for Security Services.** The survey also collected information on several distinctive camp features and resident experiences. It contained questions about whether camp committees or government or humanitarian actors sought the views of camp residents when responding to their needs. In addition, it incorporated questions on participant demand for greater PNH and MINUSTAH presence within their camp. Finally, the survey asked participants to offer recommendations about how to prevent sexual violence and improve services in their respective camps.

**3. Fear Perception**

The third focus area of the survey included many questions designed to capture participant experiences of daily camp life. These questions asked about the participant’s level of anxiety and fear concerning basic activities in the camps and, specifically, the threat of sexual violence. A final set of questions elicited participant perceptions of “survival sex”—the exchange of sex in circumstances where those exchanging sex for food, money, protection, or shelter lack other options.

**General Fear.** A series of questions prompted participants to indicate whether they experienced fear in certain contexts. For example, one question asked, “Are you ever afraid when
going to collect drinking water?” For the fear questions, participants were given the opportunity to provide comments or explain their responses, in addition to choosing from preset answers.

**Fear of Sexual Violence.** A number of questions asked participants to indicate whether they experienced fear of sexual violence, specifically, in certain contexts. For example, one question asked, “During the last month, were you afraid of sexual violence (forced sex or unwanted sexual touching) against yourself or members of your household?”

**Perception of “Survival Sex.”** Haitian organizations with which the GJC has worked previously reported that increasing numbers of camp residents were resorting to survival sex to obtain basic resources. This led the GJC to include questions in the survey about participants’ perceptions of this practice. For example, one question prompted participants to agree or disagree with the following: “Since the earthquake, the number of adult women trading sex for food, money, protection, or shelter has increased.” Evidence from other studies suggests that engaging in survival sex may exacerbate one’s vulnerability to sexual violence.11

**C. DATA COLLECTION**

The GJC research team worked with the Haitian research team to collect data in four separate IDP camps in January 2011. Several elements of the study design and implementation are relevant to understanding the results: question typology, sampling procedure, and participant characteristics.

1. **Question Typology**

   In order to maximize responses, the survey incorporated several different types of questions. Researchers who have conducted surveys on similar topics in Haiti suggested that the most sensitive questions should come at the conclusion of the survey in order to ensure participants were as comfortable as possible with the interviewer and survey process by the time they were broached. Consistent with this advice, the GJC survey placed the module concerning sexual violence at the end of the questionnaire. The first series of questions prompted participants to provide a single response. For example, participants could either “agree” or “disagree” with specific statements such as, “Since the earthquake, I am more worried about the safety of my female children.” A second series of questions elicited multiple responses to a single question. For example, participants were asked, “During the last week, what did you do to get/earn money?” Answers were recorded in preset categories, which described common income-generating activities in Haiti, and interviewers recorded answers falling outside these categories separately. A final series of questions gave individuals an opportunity to provide an open, unstructured response. For example, the final survey question asked, “Is there anything you would like to share about violence in your camp or your access to food and water that I did not ask you about?”

   The GJC designed the survey to focus primarily on household-level characteristics, meaning that many portions of the survey ask the participant about the experience of his or her household, rather than his or her personal experiences. This strategy enabled the GJC to identify the characteristics of households within which individuals had experienced sexual violence. On the one hand, there are inherent limits to this strategy, as it does not necessarily produce victim-specific or firsthand data. For example, of those individuals who reported a rape or forced sex within their
household, only 39.4 percent identified themselves as the victim. On the other hand, it is very likely that the decision to ask only about household experiences, rather than those of individual participants, encouraged a higher—and potentially more accurate—response rate to questions about sexual violence. Because of the personal nature of sexual assault and the stigma and shame often associated with it, rape and other forms of sexual assault are almost universally underreported. The structure of the GJC survey gave participants the opportunity to provide a truthful but anonymous answer. The anonymity may have helped mitigate fears about retaliation, which often deter individuals from reporting violence. As a result, the reporting rate may be more accurate, although a high degree of underreporting is still likely.

2. Sampling Procedure

The research team conducted the survey from January 25 to 29, 2011. Researchers administered the survey in four camps spanning three different communes in the greater metropolitan area of Port-au-Prince: Terrain de Golf (Delmas), Place St. Pierre (Pétionville), Champ de Mars (Port-au-Prince), and Parc Jean Marie Vincent (Port-au-Prince). The GJC selected these locations to include camps with large and small populations, with and without official CMAs, and within Port-au-Prince and nearby communes of Delmas and Pétionville.

The interview team was composed of Haitians trained in field-research methods, all of whom had previous experience collecting survey data. Although the GJC sought to maximize the number of female team members, the interview team included only two women. A Haitian field manager with extensive experience conducting surveys supervised the team, and a Haitian project advisor worked with the core research team on site to ensure research quality and address any security issues or other concerns. The GJC ensured that all members of the interview team received extensive training on the survey instrument before administering it, including through mock interviewing using the questionnaire. Interviewers were trained to carefully note the participant’s emotional state, to stop the interview if the participant showed signs of distress, and to talk through detailed referral options with participants who expressed the need for legal, medical, and/or psychosocial services related to sexual violence. Participants also received a list with contact information of service providers for survivors of sexual violence. Finally, the interviewers were asked to note participant commentary or observations that fell outside the response options. All surveys were conducted in Krëyol. Each survey took between 20 minutes and one hour to complete.

Surveys were administered to every nth household using a systematic sample design. In other words, interviewers were instructed to approach one household after counting a specified number of shelters and to commence this procedure again after every completed survey. Depending on the size of the camp, interviewers approached every three shelters, every five shelters, or every 10 shelters for a specified period of time. Interviewers administered the survey to the first available and consenting resident over 18 years of age in each household, whether male or female. The GJC obtained responses from individuals in 365 households.

Because of logistical and security concerns, the research team abandoned early efforts to calibrate the number of surveys in each camp to the size of the camp population. While the systematic design was followed as carefully as possible, the method was adjusted when necessary. For example, when interviewers felt their safety was compromised in a particular camp or in a
specific part of a camp, they reduced their time there. These adjustments inevitably altered the desired sampling strategy.

D. PARTICIPANT CHARACTERISTICS

The survey participants represented a wide demographic sample of camp residents. As Figure 1 indicates, 72.6 percent of participants were female, and 27.1 percent of participants were male. Figure 2 demonstrates that 58.8 percent of all participants described themselves as the head of the household. 53.9 percent of female participants identified themselves as the head of the household, while 72.0 percent of male participants identified themselves as the head of household. A majority of participants faced very challenging socioeconomic conditions. Only 27.2 percent lived in a prefabricated shelter, such as a tent; 58.3 percent resided in an improvised or temporary structure. Although 35.7 percent indicated that they worked for their own business or another enterprise, 25.3 percent reported that they did not earn any money during the previous week.
Survey participants also represented several different camp environments. The GJC attempted to incorporate camps of various sizes and management structures. As Figure 3 indicates, 48.2 percent and 31.8 percent of participants came from the two larger camps in the Study: Champ de Mars and Terrain de Golf, respectively. A further 12.3 percent and 7.7 percent of participants came from Parc Vincent and Place St. Pierre, respectively. Although the survey samples did not reflect the estimated number of households within each camp, demographic characteristics were nonetheless similar across the selected camps. One core distinction relates to the presence of a formal CMA. As of January 2011, only one of the four camps, Terrain de Golf, operated with a CMA.

Figure 3. Participant Camp

E. ANALYTICAL STRATEGY

This Report is unique among human rights reports on sexual violence in post-earthquake Haiti because it combines systematic quantitative and qualitative methods. The primary goal was to use a mixed-methods approach to provide the most complete representation and examination of the interrelationships between access to basic resources and vulnerability to sexual violence within a human rights framework. This section provides a brief overview of the quantitative analytical tools and methods employed in this Report.

1. Descriptive Observation

This Report relies on several traditional approaches to classify and present the survey findings. The aggregate participant responses suggest important daily challenges related to sexual violence, as well as problems accessing food, water, and sanitation. The research team anticipated that responses regarding access to resources were likely to vary within the complete sample, so the Report employs two additional strategies. First, in order to assess differences across core participant groups, the GJC constructed a series of cross-tabulations for all responses within the survey data set. These cross-tabulations break down survey responses according to participant gender, camp location, and victim household status. Second, in an effort to account for sample-size bias, many resulting graphical figures include 95 percent confidence intervals. On the basis of responses from a particular sample (e.g., the survey participants), these intervals estimate the probable range of
accurate responses for an entire sample population (e.g., an IDP camp). If the GJC were to randomly and repeatedly obtain responses from the same number of participants within a particular population, 95 percent of the results would lie within the confidence intervals.23

2. Analytical Examination

This Report also uses several statistical approaches to identify relationships between household characteristics and vulnerability to sexual violence. Specifically, it examines the correlation between these variables at two levels. First, the Report often evaluates the degree of difference between two groups, such as participants with and without victims of sexual violence in their households.24 Second, it frequently examines correlations between participant characteristics and participant experiences with sexual violence within the household, even while taking into account other characteristics that might be related to participant experience with sexual violence within the household.25 Finally, on the basis of these correlations, the Report constructs some predicted probability measures, which estimate the probability that a participant with a specific personal characteristic or response to a particular survey question will also report experience with sexual violence within the household. It is important to note that this Report only uses these methods to test the robustness of certain relationships that are already apparent within the existing descriptive data.26

F. SURVEY LIMITATIONS

The survey provides a “snapshot” of a specific set of IDP camps at a particular point in time. There are many advantages to this approach. Most notably, this Report offers one of the few quantitative human rights assessments of vulnerability to and experience with sexual violence following nearly one year of humanitarian relief efforts. The survey design nonetheless contains some notable limitations.

1. Sexual Violence

The most formidable limitation lies in the survey’s ability to identify instances of sexual violence. First, although the GJC’s indirect-question structure may have mitigated underreporting to some degree, survey participants’ reporting of incidents of sexual violence likely still fell short of actual levels.27 The fact that male participants reported incidents of sexual violence nearly twice as frequently as female participants suggests that other factors may affect participants’ willingness to disclose incidents to the interviewers.28 Second, due to limited response levels, the GJC obtained few details about each instance of sexual violence. It is possible that multiple individuals per household experienced sexual violence, and it is also likely that some participants did not know about all incidents of sexual violence that members of their household had experienced. It is further likely that certain individuals were subject to multiple sexual assaults.29 Third, the survey incorporated other indirect measures of sexual violence, such as the participant’s knowledge, perception, and fear of sexual violence. These measures, while suggestive, are subject to potential biases or inaccuracies in the perceptions of individual participants.30
2. Vulnerability Factors

A related limitation stems from the fact that data were collected with respect to a finite range of vulnerability factors. First, the GJC chose to ask about victims per household. This means that it is often impossible to fully isolate individual, as opposed to household, characteristics that increase the risk of sexual violence. To mitigate this limitation, when participants reported incidents, the survey asked about some individual characteristics of the sexual-violence victims. Through data analysis, the GJC was able to determine basic characteristics of more than 40 victims. Second, the GJC elected to focus on a limited range of possible vulnerability factors related to basic resource access. Although this approach allowed for robust investigation of the relationship between those particular factors and sexual violence, it necessarily narrowed the range of vulnerability factors examined through the survey instrument. For example, the survey lacked questions that distinguish between intra- and extra-familial violence. It also failed to incorporate a range of variables that may also correlate with experience of sexual violence, such as previous victimization, relationship status, and substance abuse. Third, the GJC did not capture survey data that allow for a rigorous examination of vulnerability factors before and after the earthquake. Even though the survey asked participants to assess perceived increases or decreases in sexual violence since the earthquake, it did not ask participants about the presence of victims within the household during any period prior to the earthquake.

3. Representative Sampling

A final limitation stems from the nature of the sampling procedure. Because of the extreme challenges associated with survey sampling within an IDP camp environment and the limited resources available to implement the study, the GJC was unable to meet representative sampling standards. First, security concerns and logistical challenges rendered the GJC unable to obtain a randomized sample of survey participants. The sample may not be representative of each entire camp, so there may be unobserved bias in the results. Second, for similar reasons, the GJC obtained relatively small samples. This may introduce further bias into the analytical results, particularly because there are very small aggregate numbers of sexual-violence victims within certain camps in the sample. It is also likely that males are underrepresented in the survey data. Surveys were conducted only during daylight hours, when many men may have been away from their shelters seeking work. Third, the GJC lacked the resources to conduct the survey in more than four camps. Although these camps were chosen to reflect the diversity of the approximately 1000 IDP camps that existed in Port-au-Prince at the time of the survey, this small sample cannot fully represent varied conditions across the range of camps. This small scope further constrains the GJC’s ability to draw inferences regarding the impact of camp-specific policies on levels of sexual violence. Finally, the survey captures experience of sexual violence under very specific conditions: post-earthquake IDP camps. Without comparable data from communities outside IDP camps, it is impossible to know whether particular vulnerability factors are unique to life in the camps or are common to impoverished living conditions more generally. The absence of such social comparators limits the explanatory power of the survey data, complicating efforts to identify a causal relationship between specific types of vulnerability and experience of sexual violence.
III. QUALITATIVE METHODS

Although statistical methods offer significant advantages, these tools can only identify a correlation between individual, household, or camp characteristics and sexual violence. Gathering contextual information about the meaning and perceived significance of certain experiences requires qualitative approaches. These descriptive and narrative elements are especially important in a human rights-based study, as human rights research aims at placing the individual “at the center of those interventions designed to improve access to rights.” For these reasons, this Report incorporates a wealth of qualitative evidence from camp-level data collection, FGDs, and interviews with key informants.

A. CAMP-LEVEL DATA

The GJC collected a significant amount of camp-level data, including information about population, basic services, and management structures, which allow for further analysis across camps. These data were collected through interviews with CMAs and camp committee representatives, as well as secondary materials and on-site observations.

Box 6. Understanding the Sample: The Camps at a Glance

At the time the survey was administered in January 2011, there were more than 1000 IDP camps in the Port-au-Prince metropolitan region. Because of resource and time constraints, the GJC was able to conduct its household survey in only a small number of camps. Rather than selecting these survey sites randomly, the GJC chose camps of different types and sizes that were located in three communes in the greater metropolitan area of Port-au-Prince: Terrain de Golf (Delmas), Place St. Pierre (Pétionville), Champ de Mars (Port-au-Prince), and Parc Jean Marie Vincent (Port-au-Prince). The GJC selected this set of camps to include both large camps (Champ de Mars, Terrain de Golf, and Parc Jean Marie Vincent) and a small camp (Place St. Pierre); a camp with an official CMA (Terrain de Golf) and those without (Champ de Mars, Parc Jean Marie Vincent, and Place St. Pierre), and camps known to have experienced problems with sexual violence (Champ de Mars, Parc Jean Marie Vincent) and those not known for such problems (Terrain de Golf, Place St. Pierre).

This text box provides a brief overview of each camp at the time of the survey. Unless otherwise noted, the information presented here was gathered through: on-site visits of the GJC team and the University of Virginia International Human Rights Clinic in October 2010, and GJC visits in January, April, and July 2011; interviews with camp management and camp committee members in December 2010 and January 2011; data from the IOM’s Displacement Tracking Matrix; and follow-up interviews conducted in July and December 2011.

Terrain de Golf had a population of approximately 25,000 individuals in January 2011, when the GJC team conducted the survey. Spontaneously settled immediately after the earthquake on the grounds of the Pétionville Golf Club, this camp is situated in a suburban neighborhood, and since 2010 has been serviced by the CMA JP/HRO, a humanitarian organization co-founded by U.S. actor Sean Penn. Because the area was prone to flooding, cash-for-work projects were implemented in the camp to dig drainage canals, which were fortified with sandbags. Latrines and bathing areas were scattered throughout the camp alongside resident-run boutiques and snack bars. At the time of
the survey, Terrain de Golf had a reputation as one of the better run, more orderly, and less
dangerous camps.

Several camp committees existed at the time of the survey, although some committee members had
been relocated from Terrain de Golf to the Corail Cesselesse camp. Camp residents reported that
there was a complaint mechanism set up by JP/HRO. Both MINUSTAH and the PNH had offices
inside the camp and conducted some patrols. A camp worker reported that the camp also had some
informal resident-run security patrols.

At the time of the survey, residents did not have electricity but benefited from water and sanitation
services provided by Oxfam GB. The camp had 19 water points that provided free chlorinated
water. Concrete latrines with wood or plastic enclosures were sited throughout the camp. Most
were in working order, and camp management reported that they were cleaned regularly, although
some survey participants disagreed. Gender-segregated shower facilities were constructed with
wood or corrugated iron, but it was not possible to lock the stalls, and women bathing were often
visible to passersby. JP/HRO ran a hospital on site, and there were also several small schools within
the camp. Camp management reported that GBV services were available on site 24/7.

Champ de Mars had a population of more than 29,000 individuals in January 2011. Comprising
several camps situated on adjacent park or promenade areas, the aggregate Champ de Mars camp
covers all of Port-au-Prince’s central square. The IDP camp is surrounded by important landmarks
and government buildings, including the crumbling national palace, the statue of the Nèg Mawon
(unknown slave), and an unfinished tower marking Haiti’s bicentennial in 2004. Champ de Mars did
not have a CMA, but a variety of NGOs provided different services. The camp was very densely
populated and extremely muddy after rain. At the time of the survey, the camp had a reputation for
being overcrowded, dangerous (especially for women), and under-resourced.

Numerous camp committees, including several women’s committees, existed at the time of the
survey in the various camps making up Champ de Mars. The Haitian women’s rights organization
KOFAVIV ran a well-known and organized program in the camp, with a committee offering
awareness raising, security training, and accompaniment to victims of GBV. Several camp residents
and key informants complained about extensive gang activity in Champ de Mars. Other residents
expressed concern that their camp suffered from stigma because it was populated with residents
from extremely poor neighborhoods.

At the time of the survey, Action Contre la Faim (ACF) provided water and sanitation services.
Latrines (chemically treated portable toilets) and bathing facilities (flimsy stalls constructed of plastic
sheeting), in varying states of repair and sanitation, were available at the perimeter of the camp. ACF
also provided water via standpipes connected to bladders at several sites along the camp perimeter.
Camp residents complained about the quality of the water and were concerned about security in the
latrines and bathing areas, especially for women and girls. Women’s rights advocates reported on
several sexual violence incidents in the camp near the latrines and bathing areas. Champ de Mars
residents also reported that crossing the street to access latrines made them vulnerable to theft if
they left their tents unattended.

Very little lighting was available in the camp at the time of the survey; most appeared to come from
park lights that predated the earthquake. Residents reported that the PNH and MINUSTAH, neither
of which had posts inside the camp, patrolled the camp perimeters with some frequency, although rarely the interior of the camp and never at night.

**Parc Jean Marie Vincent** had a population of about 9300 families comprising some 48,000 people as of March 2010. Situated on the grounds of the former military airport, this camp carries the name of its most recent pre-earthquake use as a sports park. The residents of this sprawling camp largely arrived shortly after the earthquake from neighborhoods in Cité Soleil and Delmas. At some points the camp has had a CMA, but none was operational at the time of the survey in January 2011, although PIH provided medical services in the camp.

Parc Jean Marie Vincent is widely known as one of the most dangerous camps in the city, although there is little accessible data to substantiate this reputation. The feeling inside the camp was tense, however, with MINUSTAH and PNH frequently conducting checkpoints, carrying visible heavy firearms, and warning outsiders to beware. Although residents reported seeing patrols, they did not appear to feel more secure as a result. Camp residents reported feeling unsafe, and the camp committee reported a high level of insecurity. The GJC research team cut short its survey activities in the camp when the team felt it was prudent to do so for security reasons.

An assessment of conditions in the camp carried out by Cullen and Ivers in March 2010 found that camp residents had decent access to water, inadequate access to latrines, and no access to bathing facilities. A strikingly high 95 percent of respondents suffered severe food insecurity. In addition, 4.1 percent of the respondents in Cullen and Ivers’ survey reported that they or someone in their household had been raped since the earthquake. No lights were available inside the camp as of March 2010, and latrines were not separated by gender.

**Place St. Pierre** was home to an IDP camp that hosted nearly 3000 people in January 2011. The camp was settled spontaneously on the grounds of the Place St. Pierre park in the heart of the upscale Pétionville neighborhood. The camp had a camp committee, but not a CMA.

At the time of the survey, the camp committee reported that Yele Haiti provided drinking water to the camp and CAMEP provided household water. Médecins Sans Frontières (MSF) had installed four latrines at the perimeter of the camp, but there were no bathing facilities. Residents reported that they frequently used a ravine for sanitary needs and bathed by the side of their tents. Place St. Pierre is also home to a large police station, so there was lighting in the camp and the PNH were a strong presence. The MCFDF provided a large tent for the camp committee, which featured strong female leadership.

Place St. Pierre was largely emptied of residents by January 2012. The government aggressively sought the departure of families living in Place St. Pierre, reportedly offering them 20,000 Haitian GDES to leave. In November 2011, Haitian President Martelly highlighted Place St. Pierre as a success, announcing progress in the “6/16” plan to close six camps and resettle those families in 16 neighborhoods.
B. FOCUS GROUP DISCUSSIONS

1. Focus

FGDs were used to collect in-depth qualitative data about topics similar to those covered by the household survey. For example, more comprehensive information was collected on participants’ awareness of and attitudes toward sexual violence, their experience with food and water aid programs, and their views regarding camp security. In addition, FGDs explored topics not readily addressed through the survey, including participants’ attitudes and beliefs about sexual violence and survival sex; the obstacles they encountered in accessing adequate food and water; and their sense of appropriate justice in cases of sexual violence. This type of data concerning social norms, values, opinions, and expectations are often most effectively gathered using focus groups. In addition, because FGDs consist of open-ended questions, there is more room for participants to drive the conversation. FGDs thus provided community members with an opportunity to respond to and build on the survey data. This information helped the research team contextualize, explain, and frame the quantitative results.

2. Process

The research team decided to conduct at least one FGD made up of men and one made up of women in each camp. Separating the groups by gender and camp allowed the research team to compare opinions and experiences by sex and across camps. The team then used basic descriptive data from the survey as a baseline to develop the question guide for the focus groups. Researchers with FGD experience provided in-depth feedback on the question guide and participant recruitment strategy. The guiding questions were (1) What are the factors that make individuals vulnerable to sexual violence in your camp? and (2) What can or should be done to make you and your community feel safer? The research team designed a set of five core questions and three optional questions around these guiding inquiries. The GJC team worked with a team of five Haitian FGD leaders, notetakers, and organizers, as well as a field manager. Four of the five FGD staff also worked as interviewers during the survey, and all had experience leading focus groups, several on issues relating to sexual violence. The week of the FGDs, the GJC team traveled to Haiti and conducted a daylong consultation with the Haitian research team. The Haitian team recommended changes to the language of numerous questions and suggested that a question about survival sex be included in the core set. Six questions with the following themes were included in the final question guide:

- Provision of services
- Perceptions of safety/fear since the earthquake (and what can be done to improve the situation)
- Sexual violence (elements of vulnerability and potential solutions)
- Survival Sex (whether it is a problem and why, and what can be done to address it)
- Security
- Community Response/Justice (how a community should respond to an attack, what services the victim should have access to, and what should happen to the perpetrator)

During this consultation, the team also discussed and revised the plan for implementing the FGDs, keeping records, and referring individuals for relevant services. In addition, the team spent
several hours consulting with survivors of sexual violence to ensure that the terminology, question sequencing, and plan for participant recruitment were as sensitive as possible to victim needs.

Two teams conducted one to two gender-separated FGDs in or near the camps where the survey had been administered. In total, the GJC conducted 18 FGDs (three to five FGDs per informal settlement) of five to seven people each. The Haitian research team invited adults (individuals over 18 years of age) of the specified gender from every nth shelter to participate until the required number of participants was reached. Individuals who knew each other well were asked not to join the group. While participants were not compensated monetarily, they were given a small snack and beverage during the discussion.

3. Data Analysis

Focus group data were coded according to a codebook developed by the research team and using the qualitative data analysis software package ATLAS.ti. Two research assistants coded the data, checking each other’s work to ensure internal consistency and dependability. The principal investigator extensively revised the codebook and provided spot checks of the coding process. Coded data were then examined for common themes, rare points of view, and information that could help explain ambiguous quantitative data from the survey. The FGD data were not subjected to any quantitative analysis.

C. Key Informant Interviews

1. Focus

GJC conducted interviews with key informants in order to further contextualize and interpret the survey and FGD data. Semi-structured interviews sought information regarding: the medical, psychosocial, and legal services available to survivors of sexual violence; the availability of food aid and water assistance to IDP camp residents; whether gendered obstacles existed in accessing these services and goods; the functioning of the legal system and its shortcomings in relation to sexual violence; and the advocacy goals of those working to improve services and access to justice for women, LGBT persons, and youth. The interview question guide excluded leading questions so as to enable key informants to share their views frankly and to maximize the opportunity for identification of good practices, as well as failures and recommended changes.

2. Process

The research team and Haitian organizations with which GJC had worked previously identified key informants. The GJC research team conducted 36 in-depth key informant interviews and 13 camp-level interviews. Key informants who participated in the interviews included camp committee members; women’s rights and human rights leaders; UN personnel, including MINUSTAH officials; agencies providing sexual violence services and other service providers; personnel from relevant Haitian government agencies; and NGOs and community-based organizations. Key informants who participated in camp-level interviews were largely camp committee members and camp management staff familiar with conditions in the specific camps where the survey was administered. Interviews were conducted in the primary/preferred language
3. Data Analysis

Members of the research team summarized data from each interview in a spreadsheet containing 40 thematic headings. The spreadsheet identified areas of agreement and disagreement, described recommendations and best practices, and tracked case examples. Follow-up inquiries were conducted and additional secondary materials were consulted where needed. The interview data were not subjected to any quantitative analysis.

IV. ETHICAL CONSIDERATIONS

The New York University Committee on Activities Involving Human Subjects (UCAIHS) reviewed and approved the Study design and informed consent procedures. To obtain consent and maintain compliance, the research team designed and implemented all informed consent and Study procedures in accordance with standards mandated by the UCAIHS. Furthermore, the survey protocol was informed by the World Health Organization’s (WHO) Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies. The research team also consulted with Haitian collaborators on research ethics and informed consent protocols, as adherence to locally relevant safeguards is good practice in emergency settings.

The research team devoted special attention to ensuring both informed consent and identity protection. Anonymity of survey participants was preserved through the use of coded numbers. The research team never elicited or recorded names of focus group participants, who provided verbal consent and were instructed on the importance of confidentiality. Key informants were given the opportunity to explain how they would like to be identified, or if they preferred their identity to remain confidential. All potential victims received a list of services available to survivors of sexual violence, and individuals who disclosed abuse were given additional counseling on how to obtain services where appropriate. The security of the participants and research team was constantly under consideration and review; the Haitian field manager was experienced in conflict de-escalation and provided guidance and constant oversight on emergency procedures.

V. CONCLUSION

The results of this Study offer critical insights into the serious human rights violations taking place within many IDP camps. A rights-based, mixed-method approach strengthens the Report’s contribution to efforts to understand, prevent, and respond to sexual violence. Foremost, the Report draws on a comprehensive research base that includes original survey data, FGDs, key informant interviews, and a wealth of contextual and secondary research. Moreover, it identifies core areas of consensus within Haiti and in the international community by analyzing, contextualizing, and reinforcing observations across all levels of analysis. Finally, the Report draws conclusive recommendations on the basis of these findings to suggest steps that UN agencies, international and domestic NGOs, and the government of Haiti should undertake to minimize vulnerability to sexual violence in IDP camps and communities in transition to more permanent settlements. The findings in the following section demonstrate an alarming link between access to
essential resources and vulnerability to sexual violence within IDP camps in and around Port-au-Prince. Immediate action is necessary to reduce vulnerability, protect fundamental rights, and ensure justice—both today and in the future.

NOTES

1 Prior to this project, GJC studied the effects of food aid on food security in Haiti and published a report on the public health impact of the lack of a functioning water and sanitation system in Port-de-Paix, Haiti. Primary Investigator Prof. Satterthwaite has published articles based on the right to water study in Health and Human Rights (2009) and in Rights-Based Approaches to Public Health (Beracochea et al., eds., 2011). She has also published two articles and a book chapter examining the use of rights-based indicators by humanitarian actors in post-earthquake Haiti; these articles were published in Health and Human Rights (2011) and the NYU Journal of International Law and Politics (2011), and the book chapter is forthcoming in Governance by Indicators: Global Power Through Quantification and Rankings (forthcoming 2011). Co-investigator Veerle Opgenhaffen, Executive Director of CHRGJ, has many years of experience working in Haiti. She has worked with a medical anthropology team in Cité Soleil and was CHRGJ’s field researcher on the right to food study. Opgenhaffen and Satterthwaite have recently co-authored an article on the findings of the sexual violence project that was published in Tectonic Shifts: Haiti since the Earthquake (Schuller & Morales, eds., 2012).

2 For a full list of Study personnel, please see the acknowledgements section of this Report.

3 For example, the question about “unwanted touching” (Q82) was not originally part of the survey.

4 The GJC research team did not collect or record information related to the identity of the participants or victims.

5 See Mary Smith Fawzi et al., Factors Associated with Forced Sex among Women Accessing Health Services in Rural Haiti: Implications for Prevention of HIV Infection and Other Sexual Transmitted Diseases, 60 Social Science & Medicine 682 (2005).

6 See Figure 5 within the following section on survey findings.

7 See id.

8 For example, one question asked respondents whether or not they agreed with the following: “Sexual violence (forced sex or other unwanted sexual touching) against men or boys is common within this camp.”

9 These questions referred to general attacks—rather than sexual violence explicitly. For example, one question asked participants, “Do you know someone in your camp who has been attacked while they were getting drinking water?”


11 See UNHCR, Driven by Desperation: Transactional Sex as a Survival Strategy in Port-au-Prince IDP Camps 4 (2011). This report addresses this potential risk factor in greater detail in the following chapter on survey findings. Although the GJC obtained some information about “transactional” or “survival” sex, the survey was not designed to investigate an explicit link between survival sex and sexual violence. This is the topic of another report. See KOFAVIV et al., supra note 10 (finding that “Respondents interviewed confirmed that women and girls who have engaged in survival sex in Haiti have faced increased threats of, or experienced directly, violence before, during and after sexual exchanges.”).

12 It is important to note that all survey question responses were expressly voluntary—in compliance with UCAIHS #10-8145. Individuals could state “don’t know” or “no response” to any question. In addition, the interview informed individuals of their right to end the interview at any time.

13 This amounted to a total of 13 respondents who indicated personal victimization. A total of 33 respondents indicated that at least one person in their household was a victim of rape or forced sex. For further discussion of this limitation, see the following section.

15 For further details, see the following chapter on key survey findings.

16 Of eleven interviewers, two were female and nine were male.

17 Plans to conduct random GPS cluster sampling were abandoned due to the extreme logistical challenges presented by camp layout and density. For example, shelters were so densely packed in some camps that it would have taken hours to get from one GPS waypoint to the next since interviewers would have been required to zig-zag up and down rows of shelters.

18 In one case, gender was unrecorded.

19 There is some debate over the exact size of the camps within the sample. As of January 2011, the Camp Coordination and Camp Management Cluster Displacement Tracking Matrix reported the total population for each camp: Champ de Mars (n = 29,699), Terrain de Golf (n = 25,000), Parc Vincent (n = 3,345), and St. Pierre (n = 2,816). See Camp Coordination and Camp Management Cluster, International Organization for Migration, Displacement Tracking Matrix Master List (January 2011), http://iomhaitidataportal.info/dtm/index2.aspx. However, the data for Parc Vincent is for a portion of the camp only. Researchers report that the population to have been 48,000 as of March 2010. See Kimberly A. Cullen & Louise C. Ivers, Human Rights Assessment in Parc Jean Marie Vincent, Port-au-Prince, Haiti, 12 HEALTH & HUM. RTS. IN PRAC. 61, 62 (2010), available at http://www.hhrjournal.org/index.php/hhr/article/viewFile/369/569.

20 J/P Haitian Relief Organization (J/P HRO) manages Terrain de Golf. The other camps have received periodic assistance from other organizations, including Action Against Hunger, CARE International, the Haitian Red Cross, and the American Refugee Committee. Of course, this is not the only distinction between the camps. The analytical sections of this report explore further qualitative distinctions.

21 In statistical terms, there is likely a great deal of heterogeneity among survey respondents.

22 These tables are available in an Online Appendix. See http://www.chrgj.org/projects/docs/Yon_Je_Louvri_Appendix.pdf.

23 This is similar to reporting a “margin of error,” as is often done with political polling results. This method can effectively account for the small number of respondents within particular samples, such as Place St. Pierre (n = 28). It assumes, however, that the survey respondents were randomly sampled—which was not true in this case. As with the interpretation of any survey finding, the reader must independently decide whether a given sample is representative of much broader population, such as a particular camp or an entire population of IDPs. For a further discussion of this concept, see JEFFREY WOOLRIDGE, INTRODUCTORY ECONOMETRICS: A MODERN APPROACH 138-140 (2009).

24 A basic t-test of significance—which accounts for variance within each sample—can suggest whether or not a particular distinction is statistically significant. In other words, it tests the null hypothesis that a given respondent characteristic is not significantly related to victimization. To conduct two sample tests, a Welch’s t-test was utilized, which allows for unequal variances in the sample groups.

25 For example, utilizing basic ordinary least squares (OLS) regressions, it is possible to examine the possible relationship between hunger and victimization—while accounting for the potential impact of age, gender, and other demographic characteristics. This approach further allows the Report to assess the robustness of certain relationships. For instance, a research project may be concerned that victims of sexual violence are more likely to indicate displeasure in relation to resource access. It is possible to guard against this possibility by incorporating a closely related variable, such as fear of sexual violence.

26 These methods assume a random sample of survey respondents—which was not obtained in this case. As noted above, the reader must determine whether correlations within the GJC sample are likely to hold across the entirety of a given camp or IDP population. The fact that the qualitative findings often confirm the quantitative findings lends greater credence to the possibility that the survey sample participants are similar to non-survey sample participants throughout each camp.

27 Only 20 respondents identified themselves as the victim of rape, unwanted touching, or both. This amounted to 36.5 percent of reported incidents of sexual violence. For further discussion on this point, see the following chapter on key survey findings. This strategy did allow GJC to obtain more data about children who experienced sexual violence than
would have been possible with a more direct approach since ethical considerations would have precluded surveying children under these circumstances.

28 The survey included 265 female and 99 male respondents. Whereas 19.2 percent of males reported an incident of sexual violence, only 12.5 percent of females reported an incident of sexual violence.

29 Classen et al. provide a comprehensive literature review of more than 90 studies related to revictimization. Most studies on the prevalence of revictimization suggest that approximately two-thirds of victims are revictimized. Catherine Classen, Oxana Gronskaya Palesh & Rashi Aggarwal, Sexual Revictimization: A Review of the Empirical Literature, 6 TRAUMA, VIOLENCE, & ABUSE 103, 124 (2005).

30 For example, even if a large number of respondents indicate knowledge of sexual violence, many may be referring to a particularly prominent or well-known case.

31 Through backward induction, the GJC was able to identify the gender and approximate age of 42 victims of sexual violence—which amounts to 80.8 percent of total reported incidents.


34 For instance, sexual violence levels may be higher within partially inaccessible camp locations—which suffer from overcrowding, limited lighting, and/or few clear walking paths. Despite this reasonable concern, a qualitative review of comprehensive camp conditions suggests a relative degree of consistency within each camp.

35 It is worth noting that this sample size is comparable to other surveys conducted under similarly challenging conditions. See, for example, Shana Swiss et al., *Violence Against Women During the Liberian Civil Conflict*, 279 J. AM. MED. ASSOC. 625 (1998).


37 Camp Coordination and Camp Management Cluster, supra note 19.

38 Id.

39 See Cullen & Ivers, supra note 19, at 62. Unless otherwise indicated, information in this paragraph comes from this article. GJC data-gathering efforts in Parc Jean Marie Vincent were cut short due to security concerns.

40 Camp Coordination and Camp Management Cluster, supra note 19.


42 Such topics are more suitable to qualitative research techniques such as focus group discussions, which allow participants to offer more detailed and comprehensive explanations for their opinions and perceptions.

44 CHRGJ enrolled a total of 106 participants in the FGD portion of the study.

45 UCAIHS #10-8145, approved December 22, 2010; re-approved December 12, 2011.

46 For more information, see http://www.nyu.edu/research/resources-and-support-offices/getting-started-withyour research/human-subjects-research.html.


CHAPTER 3
REPORT FINDINGS

This chapter presents the main findings of the GJC Study. It provides results regarding victimization levels drawn from reported instances of sexual violence in the IDP camps under study; traces a “victim profile” based on elements found to be associated with risk of sexual violence, or “axes of vulnerability”; and includes an in-depth examination of each axis of vulnerability.

In each section below, quantitative data are presented first, followed by qualitative data from FGDs and key informant interviews. These primary data are then placed in the context of evidence drawn from a range of secondary sources.

I. VICTIMIZATION

A. Survey Findings

The survey results reveal an alarmingly large proportion of households with at least one victim of rape, unwanted touching, or both—forms of assault which this Report collectively defines as sexual violence. In the complete sample, 14 percent of households reported that at least one member had been a victim of sexual violence since the earthquake. As Figure 6 indicates, reported instances of sexual violence were consistently high across camps. For example, in Place St. Pierre, 7 percent of households reported at least one victim of sexual violence. In Champ de Mars, 18 percent of households reported at least one victim of sexual violence. These two camps represent, respectively, the minimum and maximum prevalence rates among the four camps.

Figure 4. Total Prevalence of Sexual Violence
This finding is particularly striking because it likely captures a minimum level of sexual violence within the studied IDP camps. As numerous scholars have observed, underreporting of sexual violence in general, and in sexual-violence surveys in particular, is a common and persistent challenge because of the sensitive nature of the subject.\textsuperscript{4} Stigma against victims of sexual violence is a further complicating factor, as noted in previous studies in Haiti.\textsuperscript{5} Although women make up the largest proportion of victims and the majority of participants in the GJC survey, they are relatively less likely to report instances of sexual violence.\textsuperscript{6} The survey was designed to combat this potential bias by asking indirect questions about victimization: Instead of inquiring about the participant’s own experience of sexual violence, the interviewer asked whether the household as a whole contained one or more victim.\textsuperscript{7}

Focus group participants repeatedly identified barriers to reporting sexual violence to State officials and victim advocates. In Parc Vincent, participants spoke about attacks by strangers who brazenly entered their tents, even when other adults were present. Because they often live in close proximity to their assailants, many victims are terrified of reprisals; reporting an attack is an act of sheer bravery. Also weighing against reporting is the low probability of obtaining justice. One woman explained, “When a resident is a victim of sexual violence, there’s nowhere she can go to get justice” because the authorities cannot be trusted to locate and arrest aggressors. One male participant in

\begin{flushright}
“If you speak about it, they will kill you.”
— Female participant, recorded at Parc Vincent
\end{flushright}
Champ de Mars said that residents could not rely on police, citing an instance in which a woman was raped in her tent, although police were not far away. “The rapist spent two hours in her tent,” he said, without any reaction from the police. Participants were also unaware of any government programs to support victims throughout the reporting process, and many also did not know of any NGOs that could help them seek justice.

Despite these efforts, questions regarding participant perceptions suggest that sexual violence is a larger problem than the reported rates reveal. In a series of related survey questions, participants perceived a high level of sexual violence in their respective camps. More than 60 percent of participants indicated that sexual violence against women and girls was “common” within their camp. This response rate was particularly high in Parc Vincent, where 79 percent of participants answered affirmatively. Across all camps, 59 percent of participants expressed fear of sexual violence against themselves or a member of their household. As Figures 7 and 8 show, nearly 70 percent of participants reported greater worry about sexual violence against themselves or a member of their household after the earthquake. These findings collectively imply that camp residents perceive a very high rate of sexual violence.

B. Key Informant Interviews

Several key informants echoed the survey’s finding of high rates of sexual violence and levels of danger. Many of the key informants emphasized the scope and scale of rights violations within the IDP camps. One CMA reported five to ten incidents of sexual violence per month since the creation of its camp-based health clinic. Likewise, a 2010 MINUSTAH Joint Security Assessment Report highlighted poor security within many camps, which placed children and women at particular risk. The report also identified Parc Vincent and Champ de Mars as especially dangerous. For
example, in Parc Vincent, there were four cases of rape within one week. Yet, there is little consensus that such violence represents an urgent problem and a growing threat. GJC interviews with key informants also revealed three important debates among State officials and policy advocates regarding the rate and causes of sexual violence.

**Figure 7. Post-Earthquake Worry About Sexual Violence**

First, there is disagreement over the prevalence of sexual violence before and after the earthquake. Multiple aid organizations have reported an apparent increase in instances of sexual violence in the post-earthquake period. However, quantifying the precise rate of violence has been challenging; just as they were before the earthquake, many reports of violence since the disaster are based on anecdotal observations or case-based data rather than population-based studies. In this context, some UN and Haitian government officials have argued that improved reporting has given a false impression that the rate of sexual violence has risen. One humanitarian-aid provider clarified that the earthquake aggravated Haiti’s preexisting high levels of sexual violence. Other aid officials avoided entering into this debate altogether, emphasizing that even if sexual-violence levels were high before the earthquake, this does not make the current high rates any less alarming. Several key informants argued that the debate about whether rates have increased or decreased deflects attention from the urgent need to protect camp residents from sexual violence. Key informants uniformly agreed that improved efforts to reduce sexual violence are necessary.10

Second, actors debate the extent to which the camp environment puts people at particular risk of sexual violence. Some legal advocates and women’s rights leaders—especially those with programs in camps—stressed that camp residents are distinctly vulnerable to sexual violence, even compared to residents in other poor areas of the city who may face similar resource constraints. Other key informants, however, questioned this analysis. They suggested that many of the structural problems identified in the Study, including limited access to food and water, are the same within and beyond the camps. They also pointed to a pervasive acceptance of gender inequality, which does
not change with camp residence. One women’s rights advocate emphasized that the real problem is rape itself, not just rape within the camps. At the time of the Study, none of the key informants could resolve this debate by pointing to comparative prevalence data for IDP camps and other communities. As discussed below, however, recent population-based data reveal a dramatically higher rate of sexual violence among camp residents as compared to the general population since the earthquake.¹¹

**Figure 8. Post-Earthquake Worry About Sexual Violence by Degree**

Third, there is concern that key data sets—including the GJC survey—do not distinguish between acts of sexual violence perpetrated by household members and those committed by someone who is not a household member. While there is no debate over the existence of domestic violence, multiple key informants explained that the relative proportion of sexual-violence victims who also suffer domestic violence remains unknown. Although one representative from a victim-support organization identified domestic violence as the “most pressing issue for Haitian women,” most experts also agreed that the vast majority of cases remain unreported, presumably including those cases of domestic violence or infra-familial rape experienced by GJC survey participants. Another humanitarian aid officer observed that only a small proportion of domestic violence or family sexual violence cases are reported, and then only during or following a breakdown of the household relationship.

**C. Secondary Research Before and After the Earthquake**

Secondary data sheds some light on these debates. Research suggests that in the pre-earthquake period, sexual violence was very common in Haiti. The PNH recorded 284 rape cases in 2008 and 271 rape cases in 2009 within Port-au-Prince. The GHESKIO health center identified a
similar number of sexual abuse cases during the same period. Yet, case records from SOFA, Kay Fanm, and those collected through the Concertation Nationale contre la Violence Faite aux Femmes ("Concertation Nationale") suggest general incidents of violence against women increased twofold from 2006 to 2009. Based on a 2005 random sample of participants from the greater Port-au-Prince area, Kolbe and Hutson estimated that approximately 35,000 individuals in the preceding two-year period had experienced sexual assault. Relying on 2005 Demographic and Health Survey (DHS) data, Gomez found 22.1 percent of women and 15.3 percent of men in Haiti had experienced sexual violence at some point in their lifetimes. A 2006 UN report estimated that 50 percent of girls within very poor Port-au-Prince communities have been the victims of rape. In 2007, Kay Fanm reported a higher prevalence rate, claiming that 64 percent of women in Port-au-Prince experienced sexual violence during their lifetime. There is no doubt that some of these incidents of sexual violence constitute intimate partner abuse. A 2006 World Bank report estimated that 35 percent of Haitian women over 15 years old had experienced domestic violence.

Following the earthquake, researchers have increasingly attempted to track sexual violence levels, particularly within IDP camps. The PNH recorded 253 cases of rape from January to October 2010 in Port-au-Prince. GHESKIO likewise identified 239 sexual abuse cases from January to September 2010. This represented an increase of 2.7 and 7.0 cases per month from 2009 monthly levels, respectively. Human Rights Watch has nevertheless criticized official PNH statistics as inconsistent during the post-earthquake period. The organization argues, “This inconsistency in data reflects a lack of coordinated governmental response to sexual violence in the camps.” Case records from SOFA, Kay Fanm, and those collected through the Concertation Nationale suggest a decline from 2009 to 2010, although this is likely the result of weak reporting structures in the months immediately following the earthquake. Records kept by the PNH’s Unité de Lutte Contre la Violence Faite aux Femmes nevertheless indicate that reported incidents of rape and resulting legal cases spiked in May 2010 to rates higher than the pre-earthquake levels. Additional studies have found more dramatic and disturbing results. Kolbe and co-authors estimated, based on a random survey sample within Port-au-Prince, that 10,813 people in the city were sexually assaulted in the six weeks after the earthquake. Although a UN official reported that only 20 percent of Médecins du Monde–recorded cases in 2010 came from IDP camp residents, further evidence suggests that underreporting is endemic in camps. In March 2010, KOFAVIV recorded nearly 250 cases of rape within just 15 camps. A 2010 IJDH survey found that 13 percent of participants knew of someone who was sexually assaulted or threatened within their camp. Most probative are data collected by Muggah and co-investigators, which suggest that 22 percent of camp residents, as compared with 2 percent of the general population, have experienced sexual assault since the earthquake. Several recent studies underscore the dramatic consequences of sexual violence. Human Rights Watch reported on the link between sexual violence, pregnancy, and lack of access to reproductive health services, which may have negative impacts on the health of the woman and her child. Poto Fi Haiti Girls Initiative found that a significant proportion of respondents in a survey of pregnant girls and youth reported that they became pregnant as a result of rape. The GJC data should be considered in the context of these additional studies. Although the Study does not definitively resolve any of these debates, it suggests that sexual violence is a very real and pervasive threat to individual safety and security within many IDP camps. Furthermore, it moves beyond the rhetoric of existing debates to suggest that government and humanitarian officials
devote greater attention to specific underlying rights violations that leave certain individuals especially vulnerable to sexual violence. The following sections examine the household characteristics that appear to increase the likelihood of experiencing sexual violence across the sample of participants and households.

II. A “Victim Profile”

The survey data suggest multiple axes of vulnerability to sexual violence. The findings reveal a distinct “victim profile”: a set of characteristics commonly shared by individuals and households that reported at least one instance of rape, unwanted touching, or both. The survey data indicate that victims of sexual violence are more likely to:

- Be young and female;
- Reside in a household with three or fewer members;
- Confront limited access to food, water, and sanitation; and,
- Live in a camp that lacks participatory and responsive governance structures.

The following sections provide an in-depth discussion and examination of this victim profile. These survey findings undergird several core contributions of the Report. First, a review of the data provides a detailed description of a particularly vulnerable population of camp residents. Second, an analysis of specific survey responses implies that several underlying individual and household characteristics are likely to exacerbate preexisting vulnerabilities within the camps under study. Third, the most significant findings suggest that specific constructive interventions are likely to mitigate vulnerability to sexual violence.

As a large body of scholarship demonstrates, myriad economic and social factors contribute to sexual violence. This Report does not attempt to identify and analyze all of these causes. Instead, it presents primary quantitative and qualitative data in an attempt to isolate several key factors that affect vulnerability to sexual violence. The Report uses a number of basic quantitative analytical tools to evaluate the robustness of key survey data findings. The analytical tools limit biased conclusions, which might result when very few responses were given, or when the responses provided varied greatly. It is thus possible to determine with a high degree of confidence that the characteristics of victim households are significantly different from those of non-victim households. Each aspect of the “victim profile” is labeled as an “axis of vulnerability,” as it is associated with victimization in households within the sampled camps, and is evaluated in turn below.

III. Axes of Vulnerability

A. Age

The average reported age of sexual violence victims in the sample was less than 21 years old. The youngest reported case involved a 4-year-old boy, and the next-youngest case involved a 13-year-old girl. These cases are not anomalous; in fact, nearly 17 percent of reported victims were under the age of 18. Although there were instances of sexual violence against women up to 31 years old, the vast majority of female victims were below the age of 25. Figure 9 presents the age distribution of reported victims.
“I know a 12 year-old girl who was raped by seven young boys.”
— Male participant, recorded at Place St. Pierre

The FGDs provided support and context for this finding. In nearly every discussion, participants identified girls and young women as the individuals most vulnerable to sexual violence in the camps. One participant specifically highlighted the vulnerability of girls between ages 15 and 22. Focus group participants reported cases of rape and attempted rape of girls as young as 3, 5, and 12 years old. Figure 10 provides support for these observations.

Interviews with key informants also underscored the particularly high risk of sexual violence facing younger individuals, especially girls and young women. A representative from a legal advocacy organization indicated that minors comprised the majority of reported cases from January to May 2010. Several key informants highlighted a growing trend toward both younger victims and younger perpetrators. There is no consensus on the possible reasons for this trend.

Figure 9. Age Distribution of Sexual Violence Victims

There was some agreement, however, on certain risk factors within the camps. One victim advocate emphasized that children without parents are particularly vulnerable to sexual violence and exploitation more broadly. One victims’ rights representative recounted instances in which children were raped while searching for food and water outside the camp. Another organizational
representative explained that minors often pursue one of two dangerous means to obtain food and water: They develop dependent relationships with sexually abusive adults, or they turn to survival sex and are further exposed to the risk of sexual violence. One legal advocate lamented that Haitian law concerning the rights of minors is underdeveloped and not enforced.

These findings correspond closely with research on sexual violence in both the pre- and post-earthquake periods. According to the Concertation Nationale, among the victims of rape reported annually from 2002 to 2005, between 34 percent and 76 percent were girls under 18 years of age. In 2006, records of victims reporting to Kay Fanm indicated that 65 percent were between 3 and 18 years of age, 17 percent were between the ages of 19 and 25 years, and 16 percent were older than 26. In the same year, Kolbe and Hutson similarly found that half of victims of sexual violence during the previous two-year period were under the age of 18. A 2004 survey conducted by Smith Fawzi and co-authors also found that women under the age of 30 were more likely to be victims of forced sex.

B. Gender

Sexual-violence victims within the sample were overwhelmingly female. Eighty-six percent of reported victims were female, and 14 percent of reported victims were male. This is consistent with research in other contexts, but also suggests that the victim’s gender is not an exclusive determinant of vulnerability to sexual violence. Figure 11 demonstrates that approximately 50 percent of participants indicated fear of sexual violence in a variety of contexts, with both men and women reporting comparable levels of fear.

Figure 10. Age and Gender of Sexual Violence Victims
The FGDs generally confirmed these results. Nearly all focus groups emphasized that girls and young women were the principal victims of sexual violence in the camps. One participant explained that adolescent boys and adult men often “target” young girls, especially when they are alone within their shelters or exposed at public facilities, such as latrines. Perhaps because of the sensitivity of the subject matter, none of the focus group participants mentioned instances in which boys or young men were victims of sexual violence.

The key informant interviews revealed broad consensus that sexual violence against girls and women is particularly prevalent. Legal advocacy organizations confirmed that most reported cases of sexual violence concern female victims. Several key informants explained that girls and women who lack access to food and water are more likely to develop dependent relationships or pursue transactional sex as a survival strategy. A further factor is that men—acting alone or, in some cases, in groups or gangs—tend to be the primary perpetrators of sexual violence. With the exception of LGBT rights advocates, key informants simply provided little comment on sexual violence against men. This may be due in part to the intense stigma surrounding male-to-male sexual acts in Haiti, which may make it difficult for male victims to report abuse.

Although the rights of LGBT persons is a sensitive topic among Haitian citizens and policymakers, LGBT community leaders suggested that LGBT camp residents are at high risk of sexual violence and have documented numerous cases of rape and other forms of sexual violence against lesbians, gay men, and transgender individuals in the camps. The LGBT rights group, SEROvie, together with the International Gay and Lesbian Human Rights Commission (IGLHRC) has reported that in the context of increasing visibility of the Haitian LGBT community in recent years, the earthquake enflamed religious discourse blaming LGBT individuals for the disaster. At times this blame manifested in physical attacks. LGBT leaders explained that within camps, breakdown in social cohesion that existed in neighborhoods prior to the earthquake has facilitated the targeting of LGBT individuals. Victims’ rights representatives reported one instance in which eight men...
subjected a lesbian to “corrective” rape. These victims are generally reluctant to report incidents to police for fear of official harassment and physical abuse. LGBT community leaders urged the humanitarian community to devote greater attention to LGBT protection, especially among those organizations and agencies addressing sexual and gender-based violence. Given the gendered nature of attacks on LGBT persons, it was striking that none of the women’s rights groups interviewed for this report, whether Haitian or international, mentioned the vulnerability of LGBT persons to sexual violence without prompting.

Secondary reports from both the pre- and post-earthquake periods underscore that girls and women are by far the most frequent victims of sexual violence. Among cases of sexual violence recorded by health centers from 2002 to 2005, the Concertation Nationale reports that 85 percent involved women. Smith Fawzi and co-authors argue that this trend results from a long history of gender inequality within Haiti. Other studies highlight the disparate impact of the earthquake on women, which both reflects and compounds persistent gender discrimination, and renders women more vulnerable to abuse. As a 2010 report by several human rights advocacy groups emphasizes, natural disasters disproportionately affect girls and women, who suffer from overcrowding, lack of privacy, and weakened family ties, among many other challenges. A 2011 UN High Commissioner for Refugees (UNCHR) report on Haiti also stresses that girls and women within the IDP camps further suffer because of secondary displacement, the loss of livelihoods for much of the camp population, and increased impunity for attackers in the midst of weak state infrastructure and inadequate security measures.

C. Household Size

The average victim of sexual violence in the sample lived in a small household. Specifically, as Figure 12 indicates, 66 percent of victims resided in households with three or fewer members. This finding likely reflects a broader breakdown of the traditional household unit during the post-earthquake period. Across all four camps, the average household size was 4.21 persons, which is below pre-earthquake levels. Most notably, compared to an average of 4.35 persons per non-victim household, there were just 3.68 persons per victim household. Although this difference may seem small numerically, it represents a statistically significant difference in household size. Similarly, the average household size in Terrain de Golf was 4.46 persons, compared to 4.02 in Champ de Mars, where there was a much higher reported incidence of sexual violence.

“We sexual violence has increased because there are many women who live in a tent without parents.”
— Female participant, recorded at Parc Vincent

The FGDs underscore the vulnerabilities related to flimsy shelters and small households. The participants repeatedly spoke of the lack of security within their shelters, citing instances of theft, attack, and even murder. Several participants noted that their homes—made variously of tarps, fabric, wood, and sometimes tents and scraps of corrugated iron—provided no more security than sleeping outdoors. It is highly likely that a breakdown in family size and structure exacerbated this physical insecurity. First, participants frequently observed that many young women were living
without parents because of death or displacement during the earthquake. Within female discussion groups, young women cited multiple instances in which attackers forcibly entered their shelters with the intention of committing sexual violence, often after slashing the improvised “walls” with a razor blade. Second, participants also emphasized a more general breakdown in family support structures. Within a male discussion group, one participant noted that sexual violence often occurs in the presence of boyfriends and husbands who either ignore or condone the violence. Another male participant explained that boyfriends occasionally present their girlfriends to other men for sex, especially when they want to end a relationship. Whether sexual violence is intra- or extra-familial, perpetrated by known assailants or strangers, the data suggest that the presence of additional household members likely reduces the risk of sexual violence.

Figure 12. Total Prevalence of Sexual Violence by Household Size

Interviews with key informants reinforced the apparent link between victimization and household size. One victims’ advocate observed that young women living without parents are more likely to be victims of sexual violence. Another emphasized that because police are virtually absent within the camps, women and girls rely on family and friends for security. One women’s rights advocate noted that some families have been forced to divide themselves across multiple households to access sufficient resources when there were household-based distributions of humanitarian aid. Another advocate explained that families sometimes split because the adults needed to be near their employment and the youth needed to be close to their schools, as transportation costs are prohibitive for families that lost their homes in the earthquake. These conditions can be especially dangerous because minors are often left alone within separate shelters.
One Haitian government representative observed that small household size is also an indicator of a broader breakdown in family and social cohesion in the post-earthquake period. Whereas traditional family structures—embedded within lakon, neighborhoods, and communities—typically provided a level of security, solidarity, and order, the earthquake tore apart these structures, and in many camps they have not been adequately rebuilt. As a result, according to this official, individuals sometimes compete for limited resources, act with a sense of impunity, and disregard camp leaders in ways that they might not have in pre-earthquake communities.

These observations are echoed in scholarly works that conclude that breakdown of pre-disaster household structures may have negative consequences. First, fewer household members means that individuals are more likely to be left alone in flimsy shelters, which increases vulnerability to attacks by outsiders. Second, when small households are the result of traumatic household ruptures, individuals are more likely to confront familial tensions—such as emotional conflict, negative coping behaviors, and physical abuse—which increases the likelihood of intra-familial sexual attacks. Both of these dynamics are consonant with the survey data, which suggest that the majority of reported incidents of sexual violence took place within shelters.

While there has been limited research on the link between household size and sexual violence in the post-earthquake period, some humanitarian actors have indicated that the loss of traditional family and social structures has increased vulnerability. Based on data collected from July 2009 to June 2011, the Concertation Nationale reports that 69 percent of rapes took place in a private (household) setting—in 42 percent of cases, within the victim’s household. This suggests that the presence of multiple household members may be important for protection, especially when more than one aggressor commits the attacks. From 2002 to 2005, further data collected by the Concertation Nationale indicate that multiple perpetrators were responsible for between 41 percent and 62 percent of reported sexual violence incidents. In 2006, Kay Fanm reported that armed groups committed 53 percent of rapes, and in 29 percent of cases, the rape involved more than one of the armed group’s members. While the presence of family members may deter such assaults, it does not guarantee safety, in part because of the possibility of intra-familial violence.

D. Access to Food

The average victim household in the sample confronted more acute food-access limitations than the majority of all sampled households. A striking 84 percent of survey participants indicated that during the previous week they went at least one day without eating. Even more striking, 91 percent of all participants in Parc Vincent reported this degree of hunger. Figures 13 and 14 summarize these findings.

The survey data suggest limited food access is closely correlated with sexual violence. First, individuals who reported not eating for at least one day during the previous week were more than twice as likely to come from a victim household, as compared to those who did not report insufficient access to food. Second, compared to participants from non-victim households, more than twice the number of participants from victim households reported that their food had been stolen during the previous month. Households that experienced food theft were nearly three times more likely to experience sexual violence. Third, in concert with findings related to water and sanitation, individuals in victim households reported that the location of food resources was problematic.
Compared to participants from non-victim households, 14 percent more participants from victim households felt that the nearest market was “too far” from their shelter. Together, these responses suggest that distance, danger, and fear are commonly associated with access to even the most basic resources. This trend is similar, and more pronounced, with regard to other resources, such as safe and adequate bathing areas and latrines. Figures 15 and 16 provide comparisons across all resource areas, including access to drinking water.
Data from the FGDs suggest that lack of access to food significantly increases vulnerability to sexual violence. Several participants criticized governmental and nongovernmental decisions to limit food distributions. Just three months after the earthquake, the government of Haiti issued a decree calling for the end of non-targeted food-aid distributions. One individual complained that food originally donated for distribution in Haiti was being sold to camp residents.

“*We know people who died from hunger in these camps.*”

--- Male participant, recorded at Champ de Mars

Focus group participants identified limited access to food as a pervasive problem. In Champ de Mars, participants stressed that residents’ economic capacity to purchase food never improved following the government-decreed termination of INGO-led food assistance programs in March 2010. Many were aware of desperate women and girls who were obliged to resort to survival sex. As one participant lamented, young women who “spend all day without food” sometimes must trade “sex for a plate of spaghetti.” Participants noted that some individuals had cut into their tents to steal food. Several participants contrasted this level of desperation with the seeming wealth of INGO workers, “who buy pretty cars” in the name of beneficiaries.

The focus groups suggested that limited access to food increases the risk of sexual violence on two levels. Foremost, several participants indicated that traveling long distances to the market increased exposure to sexual violence. A male participant reported that on one such trip, he was the
victim of a violent holdup by a police officer, suggesting that security officials may pose an independent threat rather than provide protection. Moreover, some focus group participants suggested that hunger increases the likelihood that girls and young women will be obliged to trade sex for food or money, putting themselves at greater risk of sexual assault, as well. Others noted that this risk is particularly acute for women and girls in families with many children.

Interviews with key informants suggested a strong link between limited access to food and sexual violence. Multiple victims’ advocates, humanitarian-aid providers, and one Haitian government official confirmed that sexual-violence victims are more likely to suffer from hunger. One aid provider noted that access to adequate food and water is the most significant problem within many camps. This was particularly evident following the cessation of general food distributions in March 2010. According to one victims’ advocate, women must travel farther to locate affordable food than they did before the earthquake. Multiple victims’ advocates also reported instances in which individuals were attacked while searching for food. Key informants cited two primary reasons for this correlation. First, individuals without consistent and independent access to food are more likely to become dependent on others and are thus more vulnerable to sexual exploitation and violence. One Haitian government official noted that camp committees and other local delivery agents tended to use food supplies as a means of rewarding those close to—or those providing services, including sexual “services,” to—the committee members. Second, for some individuals who lack an independent source of income with which to purchase food, survival sex may be one of the only viable options through which they can access food. Key informants confirmed that women engaging in survival sex have reported that they frequently experience rape and beatings. Humanitarian-aid providers and UN officials have found that survival sex increased following the stoppage of food-aid distributions.

Figure 16. Context-Based Fears of Sexual Violence

![Figure 16. Context-Based Fears of Sexual Violence](chart.png)
These concerns are consistent with survey results showing that 85 percent of total participants believed that the number of girls and women trading sex for food, money, protection, or shelter has increased since the earthquake. This issue is explored in Struggling to Survive: Sexual Exploitation of Displaced Women and Girls in Port-au-Prince, Haiti, a report published in January 2012 by KOFAVIV, MADRE, International Women’s Human Rights Clinic of CUNY School of Law, Center for Gender and Refugee Studies, Center for Human Rights and Global Justice/Global Justice Clinic. A study conducted by Poto Fi Haiti Girls Initiative posed an almost identical question to that asked by GJC and found that 90 percent of respondents believed that the number of girls engaging in survival sex had increased since the earthquake, and 80 percent of respondents believed there had been an increase in the number of adult women engaging in survival sex.

Research demonstrates that Haitians have not had sufficient food since the earthquake. In the pre-earthquake period, the agricultural sector struggled in the context of limited state capacity and market-distorting U.S. food assistance programs. In 2000, the UN estimated that food insecurity affected 40 percent of Haitian households. UNICEF has noted that 1.8 million Haitians lived without access to adequate food prior to January 2010. Despite this fact, some observers suggested that food insecurity was improving in the year before the earthquake.

In the post-earthquake period, food insecurity remains a problem. According to several reports, aggregate levels of hunger and child malnutrition experienced “no surge or deterioration” in the immediate aftermath of the disaster, perhaps because of food distributions and other assistance. Kolbe and co-authors nevertheless found that 18.6 percent of individuals surveyed were experiencing significant amounts of food insecurity six weeks after the earthquake. Conditions appear to have deteriorated since then. Almost two years after the catastrophe, the UN reported that those living in Port-au-Prince, both inside and outside the camps, were experiencing “Stressed and Crisis levels of food insecurity.”

**E. Access to Water**

The average victim household had less consistent access to drinking water than their non-victim counterparts. Four out of 10 respondents from victim households did not obtain water from a free connection inside their camp during the previous week. Half indicated that they purchased water sachets in the street during the same time period. Even though INGOs provided free water within many camps between January 2010 and December 2011, the most vulnerable households still struggled to gain consistent access to this critical resource.

The survey data suggest two important dynamics linking limited access to water and vulnerability to sexual violence. First, the location of resources is significant. Participants who felt that the nearest water source was “too far” from their shelter were more than twice as likely to live in a victim household. Second, 40 percent of participants from victim households indicated that they knew someone who was attacked while obtaining drinking water. It is unsurprising that 42 percent of participants from victim households also experienced fear when going to collect drinking water. Figures 10 and 11 summarize these responses.
Focus group participants frequently conveyed their difficulties in obtaining water, despite widespread efforts to provide free water to camp residents during the research period. Participants in several camps noted that free water was increasingly rare. In one camp, the INGO that had provided free water changed its policy not long before the FGDs to require residents to pay for water. Participants widely condemned this policy and contended that water would simply be unaffordable for many vulnerable families. They also described conflicts, including physical altercations, as a result of limited availability of water. Other participants complained about the quality of the water, expressing concern about its taste and odor. One individual suggested that it caused stomach illness, including diarrhea, and several women complained that the water caused vaginal discomfort. (See Box 15. The End of Free Water: Potential Impacts of DINEPA Policy Changes on Vulnerability to Sexual Violence.)

The FGDs contextualize the potential link between access to water and vulnerability to sexual violence. One year after the earthquake, it was clear that camp residents faced limited access to clean water. Several participants complained about inconsistent provision and lack of quality water. In Champ de Mars, focus groups noted that water providers had supplied water with insufficient frequency. Similarly, these groups also highlighted weak management of water resources. Although there was limited discussion of the direct link between water access and sexual violence, one male participant from Champ de Mars warned that young girls were vulnerable to attack while retrieving water at nighttime. This fear of individual exposure while seeking basic resources was common within the FGDs.

Interviews with key informants provided multiple explanations for these findings. Several humanitarian-aid officers and a Haitian government official underscored the fact that water is particularly critical because camp residents must frequently replenish their reserves. Women often seek and obtain water for other household members, so they are particularly vulnerable. One victim advocate highlighted several cases in which a woman was sexually assaulted when walking long distances in order to locate water. Another advocate recounted incidents involving young girls who were raped under similar conditions. In other cases, multiple victims’ advocates noted that while parents search for water, they are forced to leave children unattended and vulnerable to external attacks. In cases where nearby water is not potable or is too expensive, individuals must travel farther to locate alternative sources. According to one women’s rights advocate, these increased distances only exacerbate personal exposure to external threats of sexual violence. This corresponds with survey findings and other key informant insights that individuals, especially women and girls, frequently avoid water collection during the nighttime hours, citing fear of sexual violence. A Haitian government official cautioned against efforts to charge a fee for water without taking into account this level of vulnerability. Despite these concerns, free water was discontinued in December 2011. See Chapter 4 for a discussion of this issue.

Research suggests that limited access to water is not a new challenge for many Haitians. In the pre-earthquake period, historical legacies of inequality, high levels of poverty, and weak or nonexistent infrastructure all contributed to limited water access. In 2004, the UN Department of
Social and Economic Affairs (DESA) reported that just 54 percent of Haitians had access to improved drinking water. The 2005 DHS survey found that 55 percent of Haitian households had access to an improved drinking water source. In the post-earthquake period, this challenge has taken on new proportions. One year following the earthquake, MSF reported that most IDP camps had insufficient access to drinking water. The International Rescue Committee (IRC) further estimated that lack of access to clean water posed a serious health hazard to more than one million people living in settlements in Port-au-Prince. This is particularly important with respect to sexual violence. As KOFAVIV and MADRE observe, some of the most vulnerable individuals must travel long distances through dangerous areas to obtain water.

"What we want is work."
— Female participant, recorded at Terrain de Golf

Many survey and focus group participants stressed lack of economic opportunities both contributed to sexual violence and made women and girls more vulnerable to it. Although the Study did not aim to identify the causes of sexual aggression, key informants and focus group participants pointed to a complex mix of factors that fuel violence, including frustration, fear, substance abuse, mental illness, and economic desperation. In Place St. Pierre, participants suggested that male perpetrators would be less likely to commit sexual violence, and would have less opportunity to do so, if they had jobs. Participants also stressed that economic opportunities would help insulate women and girls from survival sex and the increased vulnerability to sexual and gender-based violence that accompanies the practice. Participants criticized cash-for-work programs as a failed initiative that provided work only for friends of corrupt camp committee members. In one camp, every one of the participants in a women’s focus group had been asked to trade sex for goods or services. Individuals repeatedly expressed a clear demand for economic self-sufficiency so they could provide for their own shelter, food, and water beyond the camps. “If I had the power,” one participant concluded, “I would create jobs.”

F. Access to Sanitation

The average victim household in the sample also lacked consistent access to latrines as compared to non-victim households. In contrast to rates of access to improved drinking water, nearly 90 percent of all participants from victim and non-victim households reported that they used latrines within their camp. This reflects the fact that in the camps within the sample, INGOs had provided camp residents with latrines, and that residents have little alternative. It is important to note that this is not universally true. In many camps within and beyond Port-au-Prince, even rudimentary latrine access remains a significant problem. In the survey sample for this Study, just 48.1 percent of participants in Place St. Pierre indicated that they used latrines within their camp. Indeed, at the time of the survey, a very small number of latrines were present. However, IDP camp conditions provide essentially no alternatives to using latrines (when they are available), so this high rate of usage is a function of necessity rather than desirability. Further, the survey did not ask about the frequency of the use of latrines, but discussions with key informants suggested that many individuals adopt a strategy of using them only in particular circumstances or at certain hours, and using plastic bags or open defecation when necessary, such as at night or when alone.
Further survey data demonstrate that camp residents confront many of the same challenges with respect to sanitation as they do in relation to water access. First, the survey found a correlation between victimization and the location of latrines. Participants who felt that the nearest latrine was “too far” from their shelter were twice as likely to live in a victim household. Second, among victim households, 29 percent indicated that they knew someone who was attacked while using the latrines. Participants from victim households were, perhaps consequently, much more likely to express fear of attacks when using the latrines. In particular, among participants from victim households, 68 percent expressed fear related to insufficient lighting and 59 percent fear concerning the unavailability of door locks, respectively. These responses indicate that the latrines remain a precarious location for many camp residents.

“The it’s when we go to the toilets that they try to rape us.”
— Female participant, recorded at Parc Vincent

Focus group participants identified flimsy latrines without adequate gender separation as particularly conducive environments for sexual violence. In Parc Vincent and Champ de Mars, participants observed that many sanitation facilities were constructed from plastic and canvas, rather than sturdier materials like wood. Participants complained that such construction made it impossible to install locks, and granted easy entry to would-be attackers. One participant recalled an instance where a male perpetrator attempted to rape a young woman in one of the latrines. A male participant in Champ de Mars explained that some of the latrines had holes cut into them to allow men to watch women use the facilities. Others decried the lack of lighting near latrines. These risks, in conjunction with dirty facilities and noxious smells, often led residents to avoid the latrines altogether. Participants indicated that they prefer to use plastic bags, isolated camp areas, and even ravines, despite the fact that these practices carry significant health and security risks.

The FGDs reinforce the relationship between sanitation services and sexual violence. The participants highlighted limited access to latrines. For example, in Place St. Pierre, one resident noted that there were only four toilets for the camp of approximately 1,300 residents. In cases where latrines and bathing areas were not available, participants reported relying on plastic bags within their shelter and creating impromptu bathing areas in tent-side basins. Tent-side bathing is particularly likely to increase vulnerability because it affords ease of access to potential assailants. In cases where latrines and bathing areas were available, there were also clear risks of sexual harassment and violence. Participants highlighted numerous threats related to a lack of privacy and security. The discussion groups described many latrines as dirty and dark structures constructed primarily from iron rods and canvas tarpaulins. One male participant noted that these areas are consequently a focal point for sexual violence. Female discussion groups described stalking and unwanted touching in the latrine and bathing areas. Several participants subsequently faulted camp committees and state security officials for providing limited protection within these areas. Figure 17 shows a picture of latrines at Place St. Pierre.

Interviews with key informants helped to explain why latrine areas appear to pose a particularly significant risk to camp residents. Multiple victim advocates confirmed that latrines are the frequent sites of sexual violence. They are often located in either isolated or peripheral areas of the camps, and prolonged trips to these spots render individuals vulnerable to external threats. One
Haitian government official observed that individuals often choose to avoid these areas, particularly during nighttime hours. Key informants emphasized the enhanced security that resulted from the provision of lighting within latrine areas in several camps, but noted the shocking lack of lighting in other camps. One humanitarian-aid provider observed a substantial decrease in reported rapes following the installation of lighting in the camp it served. Still, significant risks remain even when lighting is present. One women’s rights advocate highlighted the lack of privacy as a persistent problem. Within bathing areas, for instance, individuals must often undress in front of others.

Figure 17. Latrines at Place St. Pierre

Research demonstrates that limited access to basic sanitation is a longstanding problem in Haiti. In 2000, the UN observed that more than 50 percent of the population lacked access to safe drinking water, health, and sanitation facilities. According to the 2005 DHS survey, 35 percent of the Haitian population lacked access to a toilet. Prior to January 2010, UNICEF estimated that 40 percent of children had no access to sanitation facilities. In the post-earthquake period, crowded living conditions and broken infrastructure made the situation even worse. MSF reported in January 2011 that latrines were “widely and badly needed.” Additionally, an IRC assessment determined that “accumulating solid waste and stagnant water posed a serious health hazard and fertile ground for the spread of cholera and other waterborne diseases.” UNICEF has highlighted the exposure-related risks associated with limited latrine access, especially in cases where there is no gender segregation. Recent studies have shown that even when latrines are available in camps, they are often unusable: The WASH Cluster reported in September 2011 that only 63 percent of the 7260 latrines it inspected individually were functional. Further, according to a December 2011 bulletin, the WASH Cluster’s most recent survey found that the number of nonfunctional latrines had increased, and that open defecation in camps was also on the rise: 34 percent of camps displayed signs of open defecation almost two years after the earthquake.

G. Camp Governance

The GJC survey found that in camps with lower levels of consultation regarding camp management, a higher proportion of households reported that one or more of their members had
experienced sexual violence. Because of the limited sample of camps, only tentative conclusions may be drawn from this finding. Nonetheless, this correlation suggests that participation of residents in decisions affecting their lives may have important implications not only for the efficacy of aid programs that target them as beneficiaries, but also for their security.

The survey data demonstrate that levels of participation are generally poor across all camps in the sample. Figure 18 indicates that less than 20 percent of all survey participants were consulted about decisions within their camp. While 31 percent of participants reported consultation at Terrain de Golf, only 12.4 percent did so at Champ de Mars. Among those who reported participation in camp decision making \( (n = 65) \), 69.2 percent were consulted by a camp committee, 43.8 were consulted by an INGO, and 16.9 percent were consulted by a Haitian NGO.

![Figure 18. Camp Resident Consultation Levels](image)

Of all survey participants who responded to questions about consultation, \( (n = 69) \), 46.4 percent were consulted about water, 36.8 percent were consulted about shelter, 36.2 percent were consulted about food, and 36.2 percent were consulted about security. Survey respondents reported the greatest level of consultation within Terrain de Golf. This finding may in part be due to the fact that Terrain de Golf has an official camp management agency. Under humanitarian standards, CMAs are charged with coordinating the actions of agencies providing aid in concert with resident interests and opinions.\(^{127}\) CMAs are meant to use participatory methods in their work to manage the camps.\(^{128}\) These participatory methods center on consultation with residents via camp committees, which are made up of camp residents. In camps where a CMA is accessing and organizing aid resources, committees have a specific role in helping to shepherd resource provision to residents, and would have concrete reasons to consult with the local population. In camps without CMAs, camp committees have a lesser influence on the provision and organization of goods and services. The humanitarian-aid community is organized to interface with CMAs more readily than camp committees directly, so the ability of a camp committee to access resources directly, without a CMA, varies significant depending on context. Certainly, some INGOs have experience and expertise in working with local NGOs and existing community structures without the intercession of a CMA,
but such expertise is not the norm. This may lead humanitarian agencies to construct camp committees instead of accessing existing community-based leadership structures. HAP found that:

When the camps were established shortly after the earthquake, the international NGOs managing the camps asked inhabitants to set up committees. The methods used in the formation of these committees have varied dramatically between camps. In some, the committees were based on already existing representative bodies such as associations, but in others the committees were new entities and in some cases bypassed pre-existing governance structures.

“It’s the people who manage the camp that create disorder inside the camp.”

— Male participant, recorded at Terrain de Golf

Focus group participants consistently expressed deep concerns about unresponsive camp governance structures. At several camps, participants expressed frustration with corrupt camp committee members. Multiple female residents confirmed that committee members had attempted to sexually exploit them, demanding that they provide sex in exchange for camp jobs. One participant argued that corrupt behavior undermined solidarity among camp residents on such critical issues as security. Another resident expressed exasperation over weak government oversight of the camp committees: “The government doesn’t care about us in the camp.” Although residents did not voice concerns about corruption among CMA officials, who are most often INGO staff, many participant comments reflected other frustrations. Some participants complained that camp managers were slow to respond to justice-related claims. Others suggested that CMA officials were reluctant to partner with outside INGOs to provide basic resources to residents.

The FGDs suggested that one consequence of poor camp governance structures is the exacerbation of vulnerability to sexual violence. Foremost, camp residents extensively criticized camp committees, which many characterized as unresponsive to camp needs for basic resources. Others accused committee members of directing goods and services toward personal friends and family members. Participants in several focus groups alleged that committees had extorted funds from humanitarian initiatives, such as cash-for-work programs. Notably, female participants frequently charged that camp committee members engaged in sexual exploitation, trading resources for sex. In addition to camp committees, many focus groups expressed dissatisfaction with government officials and NGOs. Participants highlighted weak security structures and limited opportunities for justice following crimes, including sexual violence. Participants also faulted the Haitian government for poor provision and coordination of basic resources. Yet, NGOs also received many complaints for failing to deliver on promises related to shelter and basic resources. One participant observed, “If we waited for the NGO, we would already be dead.”

Interviews with key informants confirmed previous findings that protection from sexual violence depends on the effective coordination of services across many sectors and at multiple levels. Improvements to coordination, accountability, and transparency are necessary at various levels. Several victims’ advocates and humanitarian-aid providers cited the ongoing effects of nondemocratic camp-committee selection procedures. For example, victims’ advocates repeatedly noted that women were largely excluded from this process, which has undermined the
representation of female interests in camp committee policy-making. Key informants highlighted instances of abuse and corruption by members of camp committees, including the misappropriation of aid funds. Echoing the FGDs, one victims’ advocate also recounted instances in which camp committee members were the perpetrators of rape and sexual assault. Key informants linked some of these abuses to failures by governmental and nongovernmental actors. For example, one UN agency criticized INGOs for failing to develop closer ties with grassroots organizations that existed before the earthquake. One government agency official suggested that these failures cause INGOs to inadvertently support poor governance structures.

Previous research on human rights protections within IDP camps has underscored the need for genuinely participatory processes that engage potential victims in governance decisions. Ho and Pavlish observe that “collaborative programmes that engage camp leaders, NGO staff members, and residents in shared problem solving around common human rights abuses and culturally appropriate responses can close the distance between camp leaders and residents and help promote sustainable change.”136 Yet, within post-earthquake IDP camps in Haiti, other researchers have identified the same avoidable weaknesses within CMAs and camp committees as those identified by the GJC Study. Schuller finds that CMAs help ensure delivery of basic resources, but nevertheless score poorly on indices of democracy and civic infrastructure.137 The fact that a majority of camp committees, on which NGO managers rely for information, were selected under undemocratic auspices compounds this lack of participatory governance.138 Schuller finds that less than one-third of camp residents from a random sample could identify their camp committee’s name or plan/strategy.139 The author concludes that there is a trend toward “autocratic leadership” among camp committees.140

HAP has stressed the importance of INGOs improving their interface with camp residents through more thorough and discerning relationships with camp committees. An evaluation of camp committees that HAP conducted in Haiti found that those committees charged with the distribution of humanitarian aid and goods often manipulated their positions of power and authority to “demand[] money and services for distribution of services intended to be free.”141 In a separate report, HAP states that such “services” reportedly include sex.142 To avoid these coercive situations, HAP recommends that international actors working with committees ensure committees have codes of conduct in place specifying, among other things, that sexual exploitation of IDPs is prohibited.143

Box 7. Fear and Insecurity Within the Camps

“We sleep with one eye open.”

— Male participant, recorded at Champ de Mars

The survey reveals consistently high but differing levels of fear and insecurity across the camps in the sample. Compared to 74.9 percent (n = 176) of participants in Champ de Mars, 61.6 percent (n = 116) of participants in Terrain de Golf reported more worry about sexual violence since the earthquake. Similarly, relative to 64.8 percent (n = 176) of participants in Champ de Mars, 46.9 percent (n = 116) of participants in Terrain de Golf reported fear of sexual violence during the previous month. Figure 19 pools responses to four questions related to fear of sexual violence within water, latrine, bathing, and general camp areas. It indicates that fear of sexual violence is
significantly greater in Parc Vincent and Champ de Mars, the two camps with the highest proportions of victims per camp within the sample.  

In conjunction with high fear levels, there is a significant demand for enhanced security. Across all camps, 91.1 percent of participants indicated that increased PNH presence inside the camp would make them feel safer. Likewise, a smaller but still substantial 74.0 percent indicated that increased MINUSTAH presence inside the camp would make them feel safer. The demand for greater security was higher in both Parc Vincent and Champ de Mars than in the other two camps.

Within FGDs, participants emphasized that security services are unable or unwilling to protect against sexual violence. Several focus groups complained that MINUSTAH provided limited and inconsistent security, and rarely entered into interior camp areas where most crimes take place. Although some participants expressed a desire for greater MINUSTAH presence, many more complained that the force was largely ineffectual. One participant alleged that MINUSTAH officers were the source of many crimes, including sexual violence. Participants generally expressed strong support for the PNH. Yet, several expressed a desire to provide their own security apart from any national or international assistance. It is not clear that informal community-established security forces would ensure greater security, given the inequities apparent at the community-management level, discussed above. Some participants commented on these local community forces within their camps, criticizing young male guards for weak oversight of basic resources. Others noted that members of these security forces were often the perpetrators of sexual violence. In the absence of necessary security, one participant affirmed, “we sleep with one eye open.”

Figure 19. Fear of Sexual Violence by Camp

Key informants highlighted the limited presence of the PNH within the camps. One humanitarian-aid provider noted that police presence has been inconsistent. A victims’ advocate further reported several instances where police were incredulous and unresponsive when LGBT camp
residents reported rapes. Additionally, key informants criticized MINUSTAH’s protection efforts. Although multiple humanitarian aid providers acknowledged increases in MINUSTAH patrols in and around the camps, victims’ advocates with programs in camps reported very limited MINUSTAH presence. Still others found fault with MINUSTAH’s slow reaction times to reported cases. One advocate noted the fact that very few MINUSTAH forces speak Kreyòl impairs officers’ ability to communicate with those seeking help. In addition, one humanitarian aid provider observed that some organizations have created “parallel worlds.” Key informants suggested that there is often limited coordination of activities.

Research in the post-earthquake period suggests that the security measures implemented in the camps have provided insufficient protection against sexual violence. In an assessment that included both camp and noncamp settings, UNICEF concluded that murders, violent assaults, and GBV are at a four-year high in Haiti. Within IDP camps, IJDH found that just 37 percent of families observed some security presence by the PNH or foreign military; correspondingly, 48 percent of families felt that security within their camp was insufficient. In another report, KOFAVIV recorded the following statement from one camp resident: “Because of the continuing insecurity, people cannot leave their tents at night, and instead are obliged to stay inside their tent and must remain awake because they are scared of violence.”

V. CONCLUSIONS

This chapter demonstrates that sexual violence was an alarming and pervasive threat for residents within Haiti’s IDP camps during the year that followed the January 2010 earthquake. The evidence also suggests that the magnitude of this threat was not inevitable. Instead, far too many individuals confronted obstacles to accessing basic resources from shelter to sanitation, which created multiple axes of vulnerability. Extensive survey data, FGDs, key informant interviews, and secondary sources confirm these critical observations.

Nearly one year after the earthquake, there was a common sentiment among residents: “The government doesn’t care about us in the camps.” As of January 2012, there is little reason for the more than 500,000 remaining IDP camp residents to feel differently. The camp structures that facilitate sexual violence remain either unchanged or have been exacerbated by new pressures, such as forced-eviction threats and water-payment policies. State officials and international actors continue to neglect the basic livelihood necessities that underpin the right to freedom from bodily harm.

The following chapter places the GJC findings in the context of international human rights law and humanitarian standards. It explains how Haitians living in the IDP camps, especially girls and women, have suffered violations of their right to be free of sexual violence and their right to enjoy access to basic resources such as food, water, and sanitation. Like the data analysis presented in this chapter, the legal analysis underscores the interconnections between these violations, and suggests steps to protect the full range of rights for Haitian IDPs.
NOTES

1 As discussed supra Chapter 2.II.A, this Report used the terms “victim” and “victimization” consciously and as a reflection of many women’s self-identification and empowering re-claiming of the terminology in Haiti.

2 In numerical terms, 52 (out of n = 365 total) households reported at least one victim of rape, unwanted touching, or both.

3 This figure may be a low estimate due to a comparatively limited number of household surveys conducted Place St. Pierre (n = 28).

4 As Watt and Zimmerman point out, “[w]hen reviewing the findings [of sexual violence surveys] it is important to note that because of the sensitivity of the subject, violence against women is almost universally under-reported. Thus, these findings might be more accurately thought of as representing the minimum levels of violence that occur.” Charlotte Watts & Cathy Zimmerman, Violence Against Women: Global Scope and Magnitude, 359 THE LANCET 1232 (2002). Other authors have warned that under-reporting in particularly likely in cases of repeated sexual assault. Catherine C. Classen, Oxana, Sexual Revictimization: A Review of the Empirical Literature, 6 TRAUMA, VIOLENCE, & ABUSE 103, 125 (2005). See also WORLD HEALTH ORG., WHO ETHICAL AND SAFETY RECOMMENDATIONS FOR RESEARCHING, DOCUMENTING AND MONITORING SEXUAL VIOLENCE IN EMERGENCIES 1 (2007) (“It is generally accepted that the prevalence of sexual violence is underreported almost everywhere in the world.”).

5 See generally M.C. Smith Fawzi et al, Factors Associated with Forced Sex Among Women Accessing Health Services in Rural Haiti: Implications for Prevention of HIV Infection and Other Sexual Transmitted Diseases, 60 SOC. SCI. & MED. 679 (2005).

6 For a comparison of male and female tendencies to acknowledge sexual violence, see Marwan Khawaja & Rana Barazi, Prevalence of Wife Beating in Jordanian Refugee Camps: Reports by Men and Women, 59 J. EPIDEMIOLOGY & CMTY. HEALTH 840, 840 (2008). The survey sample reflects this tendency. Female participants (n = 265) outnumber male participants (n = 99), but males were more likely to report sexual violence within their households. Males reported rape at a higher rate (13.1 percent) than females (7.5 percent). Males also reported unwanted touching at a higher rate (11.6 percent) than females (6.7 percent).

7 For example, one survey question asked: “Since the earthquake, have you or anyone in your household been raped or forced into having sex when they did not want to?” (emphasis added). This phrasing allowed the participant to answer affirmatively without personally identifying himself or herself as the victim. In a follow up question, just 13 (n = 33) participants identified themselves as a victim of rape within the household. Just 8 (n = 28) participants identified themselves as a victim of unwanted touching within the household.

8 In a related question, 28 percent (n = 357) of participants indicated that sexual violence against men and boys is “common” within their camp.

9 The key informant referenced a particular joint security assessment report that observed: “Specific security threats described to the teams included: rape and other sexual violence, violence and abuse against children, fights between individuals, theft, domestic violence, arguments between private landowners and IDPs occupying the land. MINUSTAH HUMAN RIGHTS SECTION, IDP CAMP JOINT SECURITY ASSESSMENT REPORT 9 (2010).

10 Key informants highlighted many negative consequences of sexual violence. One victim advocate underscored the increasing number of young women who have become pregnant due to rape.

11 One recent study does provide this data. Muggah suggests that 22 percent—as compared to only 2 percent of the general population of camp residents—have experienced sexual assault since the earthquake. This is a preliminary finding. ROBERT MUGGAH, SECURITY FROM THE BOTTOM-UP IN HAITI: BEFORE AND AFTER THE QUAKE 30 (2011), available at: http://www.slideshare.net/CivMilCoE/robert-muggah.

12 Specifically, GHESKIO recorded 262 cases and 242 cases of sexual abuse in 2008 and 2009, respectively. These numbers come from official statistics shared with the GJC during an interview with UNFPA representatives in July 2011.

13 The Concertation Nationale contre les Violence Faîtes aux Femmes collected data on 24,369 cases recorded by GHESKIO, SOFA, MSF, Kay Fann, and the Fiche Nationale from 2002 to 2011. Of 2,240 recorded cases of violence against women from July 2009 to June 2011, 29.8 percent concerned sexual violence. CONCERTATION NATIONALE
CONTRE LES VIOLENCES FAITES AUX FEMMES, VIOLENCES SPECIFIQUES FAITES AUX FEMMES 3 (2011) [hereinafter CONCERTATION].


17 Benedetta Faedi Duramy, From Violence Against Women to Women’s Violence in Haiti, 19 COLUM. J. GENDER & LAW 1029, 1046 (2010).


19 Interview with UNFPA Representatives, in Port-au-Prince, Haiti (July 2011).


21 CONCERTATION, supra note 13, at 2.

22 POLICE NATIONALE D’HAÏTI, UNITE DE LUTTE CONTRE LA VIOLENCE FAITE AUX FEMMES 2 (2010).

23 Athena Kolbe et al, Mortality, Crime and Access to Basic Needs Before and After the Haiti Earthquake: a Random Survey of Port-au-Prince Households, 26 MED., CONFLICT & SURVIVAL 281, 281 (2010). In a 2011 UPR submission, several women’s rights groups summarize additional findings from the post-earthquake period:

In Haiti, a University of Michigan survey conducted in March 2010 estimated that three percent of all people in Port-au-Prince had been sexually assaulted since the earthquake; all but one of the participants surveyed in that study were female and half of the victims were girls under the age of eighteen. Médecins Sans Frontiers reported treating 212 victims of sexual violence in the 5 months following the earthquake. SOFA, a well-known Haitian women’s health organization, documented 718 cases of gender-based violence against women and girls in its clinics from January to June 2010. According to SOFA’s assessment report issued in November, sexual violence targeting women and girls is a growing emergency. The Bureau des Avocats Internationaux (BAI), a public interest law firm in Port-au-Prince currently represents over 70 women and girls in rape cases post-earthquake.


25 MUGGAH, supra note 11, at 30.

26 See HUMAN RIGHTS WATCH, “NOBODY REMEMBERS US” FAILURE TO PROTECT WOMEN’S AND GIRLS’ RIGHT TO HEALTH AND SECURITY IN POST-EARTHQUAKE HAITI 54-58 (2011).


28 One particularly contested debate is the extent to which domestic partners and other household members act as the perpetrators of sexual violence. In Haiti, the Concertation Nationale collects data on the reported status of perpetrators. From July 2009 to June 2011, it indicates that non-married victims reported 85 percent of sexual violence cases. CONCERTATION, supra note 13, at 4. This is nevertheless difficult to interpret due to high levels of under-reporting on domestic violence. Additional research suggests that the domestic violence may be highly prevalent. In reference to Kakuma refugee camp in Kenya, Horn observes, “[m]ost displacement-related factors
identified as contributing to domestic violence are consequences of the structural conditions of refugees’ lives.” Rebecca Horn, Exploring the Impact of Displacement and Encampment on Domestic Violence in Kakuma Refugee Camp, 23 J. REFUGEE STUD. 356, 356 (2010). In regard to a nationally-representative sample from the Democratic Republic, Peterman concludes, “[n]ot only is sexual violence more generalized than previously thought, but our findings suggest that future policies and programs should focus on abuse within families and eliminate the acceptance of and impunity surrounding sexual violence nationwide while also maintaining and enhancing efforts to stop militias from perpetrating rape.” Amber Peterman, Tia Palermo & Caryn Bredenkamp, Estimates and Determinants of Sexual Violence Against Women in the Democratic Republic of Congo, 101 AM. J. PUB. HEALTH 1060, 1060 (2011).

As noted in the methodology section above, the Report includes several statistical tools in order to examine the potential robustness of certain descriptive findings. In other words, these methods are used to confirm that certain findings are not spurious. First, it evaluates the degree of difference between responses from two sample groups using a basic t-test of significance. Second, it examines the relationship between two variables of interest—while controlling for the possible impact of other variables—by using an Ordinary Least Squares regression formula. Third, it occasionally constructs predicted probabilities for sexual violence for individuals and households by using the latter regression results.

This calculation reflects reported ages in the survey (n = 33). The following statistics draw on a slightly larger sample of reported age categories in the survey (n = 42). The reported of age of the average survey participant was 32 years of age.

This finding is consistent with previous research by Gomez, who found that 18 percent of 15-24 year old females in Port-au-Prince, Haiti had experienced sexual violence at some point in their lives. Gomez, supra note 15, at 509. The present survey is nevertheless striking due to the fact that GJC survey asked specifically about victimization since the January 2010 earthquake.

The box plot presents the median (i.e., bold lines) as well as the lower and upper quartiles (i.e., box edges) for the age distribution within each sample. The individual dots indicate outliers.

For instance, one legal advocate indicated that there has been an increase in minor-on-minor sexual violence cases within schools.

These cases reflect a long history of youth exploitation within Haiti. The frequent exploitation of restavak children is one such example. See YVES-FRANCOIS PIERRE ET AL., USAID/HAITI MISSION, LOST CHILDHOOODS IN HAITI: QUANTIFYING CHILD TRAFFICKING, RESTAVAKS & VICTIMS OF VIOLENCE (2009).

The key informant specified this connection. For further evidence on the link between survival sex and sexual violence, see KOFAVIV, MADRE, INTERNATIONAL WOMEN’S HUMAN RIGHTS CLINIC OF CUNY SCHOOL OF LAW, CENTER FOR GENDER AND REFUGEE STUDIES, CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, STRUGGLING TO SURVIVE: SEXUAL EXPLOITATION OF DISPLACED WOMEN AND GIRLS IN PORT AU PRINCE, HAITI (2012) [hereinafter STRUGGLING TO SURVIVE]; UNHCR, DRIVEN BY DESPERATION: TRANSACTIONAL SEX AS A SURVIVAL STRATEGY IN PORT-AU-PRINCE IDP CAMPS (2011) [hereinafter DRIVEN BY DESPERATION].

For a discussion on the centrality of gender in sexual violence, see Parvaneh Mohammadkhani et al., Are the Predictors of Sexual Violence the Same as Those of Nonsexual Violence? A Gender Analysis, 6 J. SEXUAL MED. 2215 (2009). There is nevertheless evidence to suggest that men are often victims of sexual violence—even though these events are often

43 Interestingly, male-headed households were more likely to report a sexual violence victim. Of male-headed households, 16.5 percent ($n = 164$) reported a sexual violence victim. Of female-headed households, 10.9 percent ($n = 192$) reported a sexual violence victim.

44 In one case, a male participant did remark that there are men who attempt to engage in transactional sex with other men.

45 \textit{See, e.g., DRIVEN BY DESPERATION, supra note 36.}


47 \textit{See id. at 4.}

48 \textit{See id. at 7.}

49 \textit{id.}

50 \textit{PLAN NATIONALE, supra note 37, at 6.}

51 Smith Fawzi observes:

This significant prevalence of forced sex is sadly not surprising, given the steep grade of gender inequality that exists in Haiti. This degree of gender inequality, compounded by deep poverty experienced by women in rural Haiti, has been shown to place women at significant risk of HIV infection and other STDs and may have implications for the extent to which women experience forced sex in this context.

Smith Fawzi, \textit{supra} note 5, at 681.

52 \textit{INST. FOR JUSTICE AND DEMOCRACY IN HAITI ET AL., OUR BODIES ARE STILL TREMBLING: HAITIAN WOMEN’S FIGHT AGAINST RAPE 11} (2010).

53 \textit{DRIVEN BY DESPERATION, supra note 36, at 11.}

54 It is notable that most camp residents reside in small households. The following contextual evidence nevertheless suggests that individuals living in smaller households are more likely to experience sexual violence.

55 According to a 2005-06 demographic and health survey, the national average household size was 4.6 persons. \textit{MINISTERE DE LA SANTE PUBLIQUE ET DE LA POPULATION, ENQUETE MORTALITE, MORBIDITE, ET UTILISATION DES SERVICES 11} (2007), \textit{available at} http://www.measuredhs.com/pubs/pdf/FR192/FR192.pdf. In metropolitan areas, which include Port-au-Prince, the average household size was 4.3 persons. \textit{id. Given the very different nature of the pre-earthquake metropolitan and the post-earthquake IDP camp samples, this comparison is only suggestive.}

56 These victim ($n = 50$) and non-victim ($n = 310$) household sizes are significantly different at the $p < .05$ level in a Welch’s t-test of significance.

57 Recall that 10 percent of households reported a victim of sexual violence in Terrain de Golf and 18 percent of households reported a victim of sexual violence in Champ de Mars.

58 Although the precise composition of many shelters varied, the survey results indicate that most shelters were reinforced with weak materials. Only 25.0 percent of all participants lived within a tent. Shelters were more commonly composed of tarps (79.0 percent), fabric (33.6 percent), and wood (38.8 percent). There is no evidence, however, that a tent provided significantly more protection against sexual violence. Across all camps, 21.8 percent of households with tents experienced sexual violence, whereas only 11.9 percent of households \textit{without} a tent experienced sexual violence. Furthermore, compared to 11.3 percent of camp residents at Terrain de Golf, 28.7 percent of camp residents at Champ
Yon Je Louvri: Reducing Vulnerability to Sexual Violence in Haiti’s IDP Camps

de Mars lived within at least a tent-based structure. Yet, camp residents at Champ de Mars experienced a significantly higher rate of sexual violence.

59 Due to the sensitivity of the subject matter, the survey and focus group discussions contained limited information about intra-familial sexual violence. The focus group discussions nevertheless suggest that this is a serious issue.

60 It is necessary to reiterate that this finding is necessarily speculative. The survey and focus group data nevertheless reveals that men were often the most willing to identify and condemn sexual violence. Although this does not imply that men are unlikely to fall victim to a “bystander effect,” this tendency does suggest that there are opportunities for community leaders and human rights advocates to facilitate male-inclusive prevention strategies. For the original discussion of the “bystander effect,” see John M. Darley & Bibb Latané, Bystander Intervention in Emergencies: Diffusion of Responsibility, 8 J. PERSONALITY & SOC. PSYCHOL. 377, 377-83 (1968).

61 Key informants also commented on the weak structural features of many shelters. For instance, many provisional shelters (e.g., tents) do not have effective locking mechanisms. The report nevertheless focuses on household size in this section.

62 This practice would likely have been more common during the immediate post-earthquake period—when many aid organizations distributed basic goods such as food, water, and tents.

63 As Edmond, Randolph, and Richard have explained:

In Haiti, extended family and fictive kin are usually the primary sources of support. Haitians view home (lakay) and family as both biological and relational. Households consist of multiple generations as well as extended and fictive kin. Home is geared toward the needs and strengths of the extended family. Haitian communities often consist of a dozen or more lakay grouped together to form a lakou.

Yanique M. Edmond, Suzanne M. Randolph & Guylaine L. Richard, The Lakou System: A Cultural, Ecological Analysis of Mothering in Rural Haiti, 2 J. PAN AFRICAN STUD. 19, 22 (2007). Although the lakou system is rooted in rural Haiti, it is also present in urban areas. Recent campaigning by IDPs has included demands that the lakou structure be respected and taken into account in resettlement. See BEVERLY BELL, HAITI: HOMES AND LAND ARE SOURCES OF LIFE 5 (2011), available at http://www.towardfreedom.com/americas/2414-haiti-homes-and-land-are-sources-of-life.

64 Although this report does not fully pursue this dimension of vulnerability, it is clear that a breakdown in pre-earthquake family and social structures elevates the risk of sexual violence. In relation to disasters in general, Marsh et al. summarize:

Dependent safeguards that are normally in place within communities to prevent sexual violence collapse. . . . Families and communities are splintered and behavioral norms can deteriorate as people focus on their own survival. The result is weakened social support structures and protection mechanisms and increased rates of sexual violence. In emergencies, single, widowed, and abandoned women, single female heads of households, and unaccompanied children, are at increased risk of sexual violence, including sexual abuse and exploitation, due to their gender, age, and dependence on others for help and safe passage. Men’s inability to resume normal cultural, social, and economic roles, or their psychological strain from the experience of a disaster, may weaken their ability to fulfill the protection responsibilities they often hold in families and communities.


65 Horn, supra note 28, at 362-68.

66 Classen, supra note 4 at 124.

67 This statistic is difficult to interpret definitively. First, the fact that many instances of sexual violence took place within the home does not imply intra-family abuse. The focus group discussions confirm that many perpetrators forcibly entered victim households. Second, there is a significant under-reporting. This statistic suffers from underreporting. Fewer than 50 percent of participants who reported a sexual violence incident also reported the location of the sexual violence incident. This suggests that external sources of vulnerability—such as the location of bathing areas—may still be the locus for substantial numbers of sexual violence incidents.

67 The UNCHR observes:
An increase in vulnerability can be correlated to the sudden loss of traditional family and community protection mechanisms. Many women who are now IDP’s became disabled, orphaned, widowed, divorced or separated during or after the displacement. Very often, family units were re-composed with women suddenly finding themselves responsible for children of close family members who died in the earthquake.

**Driven by Desperation**, supra note 36, at 5.

68 The UNHCR observes:

An increase in vulnerability can be correlated to the sudden loss of traditional family and community protection mechanisms. Many women who are now IDP’s became disabled, orphaned, widowed, divorced or separated during or after the displacement. Very often, family units were re-composed with women suddenly finding themselves responsible for children of close family members who died in the earthquake.

**Driven by Desperation**, supra note 36, at 5.

69 **Concertation**, supra note 13, at 8.

70 **Plan Nationale**, supra note 37, at 7.

71 As Mary Fawzi reports, “[w]omen who were in a relationship for more than four years were 1.8 times more likely to have experienced forced sex compared with women who were in relationships for four years or less.” Smith Fawzi, supra note 5, at 683.

72 Of those participants who specified the number of days, 83 percent \( (n = 286) \) reported that they went two or more days without eating.

73 Among victim households, 96.2 percent \( (n = 52) \) of participants indicated that they went at least one day without eating during the previous week. This response is significantly different from responses from non-victim households at the \( p < .001 \) level in a Welch’s t-test of significance. In a basic OLS regression, this result is robust \( (p < .05) \) to the inclusion of several participant-specific control variables, including: age, gender, head of household status, female proportion of household, under-18 proportion of household, total number of household members, weekly income source, and camp status (hereinafter referred to as “demographic control variables”). It is further robust \( (p < .1) \) to the inclusion of control variables that capture a participant’s overall fear of sexual violence. In other words, it is unlikely that individual fear is the key precipitant of an individual’s response.

74 Given the large timeframe (i.e., one month), one might expect the number of participants who reported stolen food to be quite high. The number of affirmative responses is far more modest, however, which suggests exaggeration was not a significant source of bias. The difference between victim and non-victim households was nevertheless significant. 28.8 percent \( (n = 52) \) of participants from victim households reported that their food had been stolen during the previous month—compared to 12.3 percent \( (n = 309) \) of participants from non-victim households. This difference is statistically significant at the \( p < .05 \) level. In a basic OLS regression, this result is robust \( (p < .001) \) to the inclusion of demographic control variables. It is further robust \( (p < .01) \) to the inclusion of control variables which capture a participant’s overall fear of sexual violence.

75 46.2 percent \( (n = 52) \) of victim households reported that the water sources was “too far” from the their shelter—compared to 32.2 percent \( (n = 298) \) of non-victim households. In a t-test, this difference was statistically significant at the \( p < .05 \) level. In a basic OLS regression, this result is robust \( (p < .1) \) to the inclusion of demographic control variables.

76 Without longitudinal data, it is unfortunately impossible to determine whether or not participants from victim households had a similarly high degree of fear prior to direct household experience with sexual violence. For this reason, it may be true that fear of and experience with sexual violence exacerbates preexisting perceptions of resource distance. For instance, further survey evidence indicates 13 percent more of participants from victim households avoid water collection during the nighttime hours. This negative feedback process is discussed in greater detail below.

It is impossible to verify this incident. As discussed below, however, there are reports that MINUSTAH officials have committed acts of gender-based violence. See HEALTHROOTS, MINUSTAH: KEEPING THE PEACE, OR CONSPIRING AGAINST IT? 5-8 (2011), available at http://isites.harvard.edu/fs/docs/icb.topic996528.files/MINUSTAH-White-Paper1.pdf.

One humanitarian aid provider noted that current food aid distributions are limited to specific groups. For instance, there are food programs for pregnant and lactating women. Research for this report also found that there is a program to provide victims of sexual violence with access to food aid; however, it is very limited in scope.

An LGBT rights advocate noted that all-male households had difficulty accessing food during distributions that targeted women as household representatives.

Although this report does not focus upon survival sex, alternative studies indicate that survival sex has increased in the post-earthquake period. See DRIVEN BY DESPERATION, supra note 36, at 6.

See STRUGGLING TO SURVIVE, supra note 36.

See Poto Fi, Après le Choc, supra note 27 ; see also Poto Fi, http://www.potofi.org.


It is noteworthy that access to food may have improved for some individuals during this period. In June 2010, the UN World Food Program reported, “Household surveys conducted in February and June 2010 in the areas directly affected by the earthquake, indicate that the percentage of households resorting to non-sustainable survival strategies, fell from 52 to 39%. The percentage of households with poor and limited food consumption also dropped from 31 to 27%, although it remains above the level prior to the earthquake in these areas. Humanitarian assistance together with the resumption of agricultural activities (thanks, inter alia, to the distribution of seed and fertilizer, access to cash/food-for-work income-generating activities) and the recovery of the agricultural and non-agricultural trade, have had a further positive impact on households’ access to food.” U.N. WORLD FOOD PROGRAMME, FAO/WFP CROP AND FOOD SECURITY ASSESSMENT MISSION TO HAITI 2 (2010), available at http://www.fao.org/docrep/012/ak353e/ak353e00.pdf.

The authors identified this group as meeting the criteria for food insecurity with severe hunger—signifying critical danger of malnutrition-related health problems. See Athena Kolbe et al., Mortality, Crime and Access to Basic Needs Before and After the Haiti Earthquake: a Random Survey of Port-au-Prince Households, 26 MEDICINE, CONFLICT AND SURVIVAL 295 (2010).


This affirmative response rate is 25 percent more than the rate for participants from non-victim households. A Welch’s t-test indicates that this difference is statistically significant at the p < .01 level. It is noteworthy that participants could indicate that they obtained water from multiple sources. Water purchased by bottle or other small container is
considered “not improved” by the UNICEF/WHO Joint Monitoring Program on Water and Sanitation unless the household has another source of treated water for household use. This is because households that use bottled water for drinking but untreated water for bathing and household activities are still at risk of water-related illness from contact with the untreated water. See WHO/UNICEF Joint Monitoring Program, Core Questions on Drinking Water and Sanitation for Household Surveys 6, 8-9 (2006), available at http://www.who.int/water_sanitation_health/monitoring/oms_brochure_core_questionsfinal24608.pdf.


93 For a review of water availability in each camp at the time of the survey, see the camp description in the previous chapter. Since December 2011, several water providers have begun to charge camp residents for water delivery. Further details on this policy are discussed below.

94 23.5 percent \( (n = 51) \) of victim households reported that the water sources was “too far” from the their shelter—compared to 11.0 percent \( (n = 301) \) of non-victim households. This difference is statistically significant at the \( p < .05 \) level. In a basic OLS regression, this result is robust \( (p < .05) \) to the inclusion of demographic control variables. It is further robust \( (p < .05) \) to the inclusion of control variables that capture a participant’s overall fear of sexual violence.

95 Both of these responses from victim households were significantly different from responses from non-victim households at the \( p < .01 \) level in a Welch’s t-test of significance.

96 For instance, one young male participant in Parc Vincent complained that the water frequently led to stomachaches. Another resident of Parc Vincent affirmed that the water was “not drinkable.”

97 For further discussion on this point, see below.

98 An additional key informant suggested that water access points were located too far away from the camps.


105 Unfortunately, the survey responses did not generate sufficiently fine-grained data on participant income levels. One male focus group participant at Terrain de Golf explained, “No one is better than anyone else here. If not, we wouldn’t be here.” Among those survey participants who reported their source(s) of income during the previous week, 25.3 percent earned no income, 18.0 percent worked for their own business, 17.7 percent worked for another person’s business, and 12.2 percent received money from family and/or friends. Less than 20.0 percent of respondents reported two or more sources of income. In multiple statistical examinations, none of these categories—including lack of income—was significantly related to the presence of a household member who had suffered sexual violence.

106 Key informants and focus group participants noted that unemployment is interwoven with a complex array of physical and psychological challenges, including fear, frustration, depression, and substance abuse. This is not

107 88.4 percent \((n = 361)\) of participants indicated that they “use the latrines” in their camp. This proportion was almost identical for victim households. The one exception is Place St. Pierre, where only 48 percent \((n = 28)\) of participants indicated that they use latrines within their camp.

108 It is important to note that the bare provision of latrines is insufficient to ensure adequate safety. Certain programmatic efforts are essential. GJC researchers observed that latrines and bathing facilities were often only superficially separated between genders—a fact that increases female vulnerability to sexual harassment and violence. This is contradictory to humanitarian guidelines, which require separate latrines for men and women. See IASC, *Women, Girls, Boys, and Men: Different Needs—Equal Opportunities* 5 (2006), available at http://www.humanitarianinfo.org/iasc/pageloader.aspx?page=content-documents-default&publish=0.


110 It is important to note that this is not universally true. In fact, in many camps within and beyond Port-au-Prince, latrine access remains a significant problem. See WASH Response Haiti 2010, http://groups.google.com/group/washresponse-haiti-2010/browse_thread/thread/4b997dc231f4a7bf/73f2aab5252e7e44?lnk=gst&q=de-sludging#73f2aab5252e7e44 (Oct. 3, 2011, 13:34 EST). In the current survey sample, Place St. Pierre was exceptional: just 48.1 percent \((n = 28)\) of participants indicated that they used latrines within their camp.

111 There are a small number of highly limited alternatives. In some cases, camp residents simply dig holes in the ground. In other cases, they rely on plastic bags, which are either collected by non-government agencies or thrown into unpopulated areas.

112 26.2 percent \((n = 42)\) of victim households reported that the latrines were “too far” from their shelter—compared to 8.0 percent \((n = 303)\) of non-victim households. This difference is statistically significant at the \(p < .05\) level. In a basic OLS regression, this result is robust \((p < .05)\) to the inclusion of demographic control variables. It is further robust \((p < .05)\) to the inclusion of control variables which capture a participant’s overall fear of sexual violence.

113 Both of these responses from victim households were significantly different from responses from non-victim households at the \(p < .05\) level in a Welch’s t-test of significance.

114 There is evidence that individuals from victim households also avoid latrine facilities. Compared to participants from non-victim households, more than three times more of participants from victim households indicated that they avoid latrine facilities during the daytime hours. These responses from victim households were significantly different from responses from non-victim households at the \(p < .05\) level in a Welch’s t-test of significance.

115 For instance, one participant reported bathing without removing clothes in a nearby basin.

116 For instance, participants noted that assailants have frequently used knives to forcibly enter into tents while residents are bathing and sleeping.

117 It is notable that avoidance of latrine areas entails negative consequences. Open sewage can result in local water pollution and increase the risk of water-borne diseases, such as cholera.

118 Camp latrines pose significant logistical challenges to humanitarian aid providers. One knowledgeable informant explained one paradox that arises from the decision to implement “private” rather than “public” latrines. On the one hand, public latrines are free and open for anyone to use, but then organizations struggle to locate teams to clean them. On the other hand, private latrines are locked and restricted to paying users, but then certain low-income individuals are unable to gain access. This trade-off is vexing for many humanitarian NGOs, which struggle to bear the cost of de-sludging. De-sludging has been an ongoing problem in IDP camps in Haiti. See WASH Response Haiti 2010, http://groups.google.com/group/wash-response-haiti-2010/browse_thread/thread/4b997dc231f4a7bf/73f2aab5252e7e44?lnk=gst&q=de-sludging#73f2aab5252e7e44 (Oct. 3, 2011, 13:34 EST). The performance survey found that about a third of the non-functional latrines were not working because of de-sludging problems.

119 Gage and Hutchinson, *supra* note 86, at 12.
For a discussion of the formal role of CMAs, see CCCM CLUSTER, CAMP MANAGEMENT AGENCY TERMS OF REFERENCE (2009), available at http://oneresponse.info/Disasters/Haiti/Camp%20%20Coordination%20Management/publicdocuments/Camp%20Management%20Agency%20TOR.doc. This Report does intend to suggest that CMAs are universally beneficial or preferable to other governance structures. Although CMAs have the potential to more effectively coordinate the provision of basic resources, they often fail to offer robust participatory frameworks for camp residents. See MARK SCHULLER, UNSTABLE FOUNDATIONS 29-30 (2010).

For example, Zanmi Lasante/Partners in Health worked closely with the camp committee in the Parc Jean Marie Vincent camp in assessing the needs of the population there without the assistance of a CMA. See Kimbery A. Cullen and Louise C. Ivers, Human Rights Assessment in Parc Jean Marie Vincent, Port-au-Prince, Haiti, 12 HEALTH AND HUMAN RIGHTS: AN INTERNATIONAL JOURNAL 2, 62, 66 (2010).

Several participants suggested that such transactions be conducted in an open setting similar to the focus group discussions themselves.

Several observers have faulted camp committee structures for a lack of transparent and democratic operating procedures. See SCHULLER, supra note 129, at 29.

For further discussion on these points, see related text boxes on access to justice and camp security.

This statement is paraphrased from notes recorded during a focus group discussion.

Ho and Pavlish also emphasize the importance of individual resources. The authors advise that, “in order to promote accountability for advancing the rights of those vulnerable to GBV, an empowering environment that not only provides formal processes of holding perpetrators answerable for their actions, but also enables people to develop their capabilities and demand their rights, is necessary.” Anita Ho & Carol Pavlish, Indivisibility of Accountability and Empowerment in Tackling Gender-Based Violence: Lessons from a Refugee Camp in Rwanda, 24 JOURNAL OF REFUGEE STUDIES 90 (2010).

Schuller finds that camps with camp management agencies have “far better” services than those without CMAs. SCHULLER, supra note 129, at 18.

Schuller finds that 59 percent of camp committees were self-selected. Only 18 percent of camp committees attained power through an election process. Id. at 29.
Schuller observes, “Whether intentionally or not, whether a result of expediency, efficiency, mistrust, or a
top-down orientation, in many cases NGOs are creating the very problems that they are trying to solve with the
unaccountable and autocratic committees in many of the camps.” Id.

141 Humanitarian Accountability Partnership, supra note 130. This fact is particularly concerning when one considers that
“[s]ignificant decision-making power is often allocated to these committees, related, for example, to the type and
distribution of aid, selection of beneficiaries, and assistance for more vulnerable groups.” HUMANITARIAN ASSISTANCE
PROJECT, CAMP COMMITTEE ASSESSMENT TOOL (2010) [hereinafter “Camp Committee Assessment Tool], available at

142 Humanitarian Accountability Partnership, supra note 130.

143 Camp Committee Assessment Tool, supra note 143.

144 See Figure 2.

145 This high level of support is particularly striking given opposition to MINUSTAH forces from many Haitians. For a
review of recent debates on MINUSTAH’s presence in Haiti, see Randal Archibold, Haiti Leader Is Opposed to Reduction of
opposes-reducing-un-force-in-haiti.html?_r=1&scp=1&sq=minustah&st=cse.

146 For a more comprehensive review of MINUSTAH security relations, see HEALTHROOTS, supra note 78.

147 There are limited examples of camp committee organized security forces and even women-organized security forces
that may have had positive impacts on nighttime security

148 Although some participants were critical of the PNH, participants were generally more favorable toward the PNH
than MINUSTAH. One participant explained, “We don’t need any foreign army” in Haiti, arguing that MINUSTAH
was not there to help Haitians, but instead “they’re doing their own thing, they are just making money.” A recent report
suggests that MINUSTAH forces may be responsible for many instances of sexual violence. See HEALTHROOTS, supra
note 78, at 5-8. For example, MINUSTAH forces were recently caught on film sexually assaulting a young man. See
Mark Weisbrot, Is this Minustah’s ‘Abu Ghraib moment’ in Haiti?, THE GUARDIAN (September 3, 2011), available at
http://www.guardian.co.uk/commentisfree/cifamerica/2011/sep/03/minustah-un-haiti-abuse.

149 Several key informants observed that security conditions are particularly precarious in Champ de Mars because the
camp lacks an external fence.

150 One advocate praised MINUSTAH for referring cases to victim-oriented organizations.

151 UNICEF, supra note 87, at 23.

152 INST. FOR JUSTICE AND DEMOCRACY IN HAITI ET AL., supra note 52. A full 21 percent of families felt that their only
reliable source of protection was God.

153 KOFAVIV, supra note 104, at 2.
Focus on:
Access to Justice for Victims of Sexual Violence in Haiti

Victims of sexual violence have the right to a remedy under both domestic and international law. Respect for and protection of human rights, including the right to be free from sexual violence, depends on the availability of effective judicial remedies.\(^1\) Access to justice is essential not only to holding accountable those who perpetrate acts of violence and providing relief to victims, but also to deterring future acts of sexual violence, counteracting social tolerance of violence, and combating impunity. Appropriate responses to sexual violence include investigating abuses and prosecuting perpetrators, as well as providing victims with medical, legal, and other support services. GJC findings, however, indicate that such remedies remain elusive for victims of sexual violence in IDP camps in Port-au-Prince. Because of persistent discrimination and stigma associated with sexual violence, as well as lack of resources and training on the part of police and members of the judiciary, many victims do not report incidents to authorities or seek help. Evidence suggests that of the cases that are reported, few result in investigatory follow-up and legal pursuit of the aggressor.\(^2\)

This text box provides an overview of the right to a remedy and corresponding state responsibilities, and highlights GJC findings regarding access to justice for sexual violence victims in IDP camps.

The Right to a Remedy
Under international law, States are required both to refrain from violating rights through their own actions, and to act with due diligence to protect individuals within their jurisdictions from human rights violations committed by third parties, including private actors. Numerous human rights bodies and tribunals have recognized this obligation to take reasonable steps to prevent the violation of rights by third parties, and to investigate, punish, and redress abuse when it occurs.\(^3\) (See Chapter 5, The Legal Framework Concerning Duties to Secure Haitians’ Human Rights.) International norms and instruments require that States undertake efforts to prevent women from experiencing all forms of GBV and to punish these acts when they occur.\(^4\) According to a report by the IACHR concerning citizen security and human rights, States “must have in place an adequate and effective legal framework of protection, together with policies of prevention and practices which permit action in an efficacious manner against risk factors, and a condemnation of violence against women.”\(^5\) With respect to sexual violence, the Convention of Belém do Pará, to which Haiti is party, explains that this duty to protect entails taking actions to prevent, punish, and eradicate violence.\(^6\)

Article 8 of the UDHR provides that “[e]veryone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him [or her] by the constitution or by law.” Acts of sexual violence violate the fundamental rights to security of person, freedom from discrimination, and health, and thus trigger the right to a remedy. (See Chapter 4, Freedom from Sexual Violence: A Human Rights Analysis of Vulnerability to Sexual Violence in IDP Camps.) Numerous international human rights treaties to which Haiti is a party contain similar guarantees of the right to a remedy, including access to justice.\(^7\) The ICCPR Article 2(3) obliges States to “ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy,” as determined by competent judicial, administrative, and legislative authorities, and that such remedy shall be enforced. The HRC has interpreted this provision to
require States to proactively investigate abuses and bring perpetrators to justice.\textsuperscript{8} Article 25 of the Inter-American Convention on Human Rights sets forth the right to judicial protection, which requires not just that States provide access to judicial recourse, but also a reasoned decision on the merits of the case.\textsuperscript{9} Whether explicitly or implicitly, CEDAW and International Convention on the Elimination of All Forms of Racial Discrimination\textsuperscript{10} also require States to protect the rights to nondiscrimination and equal treatment by providing “effective remedy” for individuals whose rights are violated, through judicial review and sanctions against perpetrators.\textsuperscript{11} The ICESCR, which Haiti has signed and recently voted to ratify, similarly has been interpreted by the CESC to include a duty to provide judicial review and remedy for violations.\textsuperscript{12} And according to the Committee on the Rights of the Child, “for rights to have meaning, effective remedies must be available to redress violations.”\textsuperscript{13}

The notion of access to justice encompasses access to the systems, information, and procedures necessary to seek remedy at law.\textsuperscript{14} Authoritative international bodies have interpreted this to entail “access to formal or informal institutions of justice, and in conformity with human rights standards,” including the right to information, the right to physical safety, the right to confidentiality and the right to privacy.\textsuperscript{15} Similarly, victims are understood to have three core remedial rights under international law: (1) equal and effective access to justice; (2) adequate, effective, and prompt reparation for harm suffered; and (3) access to relevant information concerning violations and reparation mechanisms.

Legal measures that satisfy this right to a remedy may include complaints mechanisms, criminal sanctions, civil redress, and compensation. The CEDAW Committee provides helpful guidance on steps State parties must take to prevent, punish, and redress abuses, including the need for protective measures like rehabilitation and support services.\textsuperscript{16}

**GJC Survey Findings on Access to Justice and Remedies for Sexual Violence**

The GJC Study data reveal widespread dissatisfaction with the response of police officers and the judiciary to reports of sexual violence, and overall mistrust of the criminal-justice system. The comments of several focus group participants reflected a generalized sense of despondence among IDP camp populations regarding the availability of a remedy at law. One participant indicated that prosecution of perpetrators is the appropriate response to acts of sexual violence, but lamented, “Justice does not exist in Haiti.” Another added, “The one who commits the act must go to jail, but there is no justice and it won’t be easy to find him.” In a July 2011 workshop in Port-au-Prince on sexual and other forms of GBV, participants echoed this sentiment. The majority expressed a lack of confidence in the criminal-justice system in Haiti and criticized the attitudes displayed by the police and judiciary in response to reports of rape.\textsuperscript{17} A representative of a Haitian women’s organization interviewed by the GJC agreed with this assessment, remarking that the state and judiciary do not function well, and that because judges are not well paid, they are more susceptible to corruption. She explained that of the hundreds of reported incidents of GBV per year, only a fraction of them are pursued legally. Furthermore, because of poor record keeping, it is impossible to know whether suspects who are arrested are kept in custody.

Other studies have found similar distrust of the judicial system and reluctance to report incidents of violence for fear of being refused assistance or further victimized by police.\textsuperscript{18} Lack of information about reporting mechanisms and absence of protections for victims further discourages many from reporting.\textsuperscript{19} GJC survey results indicate that of those camp households with victims of sexual
violence, 52.2 percent reported the incident. Although this reporting rate may appear high, it likely represents a relatively low proportion of the total number of sexual violence victims, given that it includes only those cases about which the GJC survey team was informed. The fact that only approximately half of the cases communicated to the survey team were reported to authorities indicates that many people were more willing to tell a stranger with no power or authority to take remedial action (the GJC interviewer) about an act of rape or unwanted touching than they were to approach the police or other security agents. Of those who reported, 66.7 percent went to the PNH, 16.7 percent to MINUSTAH, and 41.7 percent to “others,” which could include family members, friends, social service organizations, or other trusted individuals. As key informants explained, these modest reporting rates reflect a combination of lack of faith in the criminal justice system, stigma around victimization, and fear of retaliation.

A representative of a Haitian women’s legal advocacy organization explained that underreporting is particularly common when the perpetrators of sexual violence are family members. She estimated that only one-quarter of domestic violence cases are reported. While individuals who are attacked by a stranger may be somewhat more willing to report the incident, she explained that they do so reluctantly and often become discouraged from pursuing the case when the aggressor is not arrested immediately because of delays within the justice system. Reluctance to report is not simply related to frustration within the judiciary, however. Numerous experts interviewed by GJC indicated that victims decline to report violence or to identify their aggressors to authorities out of fear that perpetrators will threaten them, harass their families, or retaliate. This concern is exacerbated for IDPs, who must return to unsafe shelters and camp surroundings after reporting. The inability to identify a suspect dramatically limits the possibility of obtaining legal redress. One UN official involved in security and human rights issues noted that police do not investigate GBV if the victim is unable to identify the perpetrator. The official added that even when victims do identify their assailant, police do a poor job of ensuring that victims are protected against retaliation or future abuse, further discouraging victims from coming forward.

Reluctance to report sexual violence may be even more common among LGBT victims. Representatives of an LGBT rights organization stated that members of the LGBT community often would not report incidents of sexual violence to Haitian authorities or Haitian staff of NGOs working in the camps because they were concerned about the reaction they would receive from the authorities. LGBT advocates recounted incidents in which police harassed and ridiculed victims of sexual abuse.

In addition to discrimination and harassment by authorities, victims reporting sexual violence to the police or prosecutors often face structural obstacles, many of which are related to officials’ lack of training or information. For example, according to a legal service organization that works closely with the Haitian criminal justice system on cases concerning rape, there remain significant problems related to medical certificates, which prosecutors continue to demand before pursuing rape charges although they are not required by law. A representative from this organization stressed that priority should be given to training the medical staff responsible for preparing the medical certificates so they can understand exactly what is needed from the certificate to ensure that a case can proceed. In order to facilitate effective prosecution of rape, the same organization has been working on a model complaint for rape cases that incorporates comparative legal analysis and international standards in order to help judges by providing them with sufficient information about the applicable legal framework. A legal expert at a Haitian human rights and legal services organization called for
The obstacles facing individuals who have suffered sexual violence in Haiti demonstrate why a State’s obligation to provide access to justice often requires it to take actions beyond simply opening its courts to complainants. Indeed, the right to a remedy does not mean exclusively a judicial remedy through criminal proceedings. As the HRC has clarified, “effective remedy” may include reparations (damages) where appropriate. Remedial measures may also include other forms of support services for victims. When asked about recommendations to improve responses to sexual violence and justice for victims in the camps, some focus group participants called for more frequent prosecution of perpetrators. Others, however, emphasized the need for victims to be able to report the incidents to medical professionals without shame or discrimination, to receive psychological care as well as medical treatment, and to receive assistance in relocating if they do not feel safe remaining in their current shelters. Multiple focus group participants emphasized the need for victims to receive economic and livelihood support as part of the response to sexual violence. These comments underscore the relationship between fulfillment of economic and social rights and vulnerability to sexual violence.

In response to mounting pressure from civil society organizations and media attention to problems of sexual violence, the government of Haiti and the international community appear to be taking some steps toward improving judicial and nonjudicial responses to sexual violence through legislative and policy reforms. In addition to revising the criminal penalties for rape and other forms of sexual violence, a draft law on violence against women includes a number of nonjudicial protective measures and remedies for victims of rape, including relocation, medical care, access to social services, and economic aid. (See Box 10, Rape Under Haitian Law, infra at 88.) A December 2010 report by the IRC comprehensively mapped GBV services and needs, documenting the significant efforts that a wide range of humanitarian actors, from intergovernmental organizations to international and local NGOs, have undertaken. These and other ongoing efforts to better address GBV are not limited to service providers. MINUSTAH through its human rights and gender divisions, is reportedly working to enhance protection against GBV by, inter alia, increasing its capacity to train and follow up with police and judicial officials on GBV response and specific cases of sexual violence; conducting mandatory training for UN peacekeeping forces (UNPOL) on GBV and gender discrimination; and implementing a GBV project in some camps in Port-au-Prince, focused on mapping and enhancing access to services, including medical assistance and psychosocial support.

While these reforms, if properly implemented, represent a step in the right direction, more is needed to guarantee victims of sexual violence the right to a remedy and effective access to justice. GJC research demonstrates that many of the needs the IRC identified in its December 2010 report remain largely unmet. Access to survivor-centered services still is limited; many responders, such as police and the judiciary, as well as health service providers still lack training to meet appropriate standards of care; adolescents and children victimized by sexual violence still require more tailored programming; and there are still not enough safe shelters available for survivors of GBV, both inside and outside of IDP camps. For the GJC’s recommendations on what UN agencies, INGOs, and the government of Haiti should be doing to respond to these and other outstanding needs, see Chapter 6.
NOTES

1 The Inter-American Commission on Human Rights has repeatedly asserted that “de jure and de facto access to adequate and effective judicial remedies is essential to eradicating the problem of violence against women, as is the States’ compliance with their obligation to practice due diligence in prosecuting such acts.” Org. of Am. States, Inter-Am. Comm’n H.R., Access to Justice for Women Victims of Violence in the Americas, OEA/Ser.L/V/II, doc. 68, ¶ 1, at vii (2007). The Commission stresses the importance of effective access to justice, not just formal access: “[F]or access to justice to be adequate, the formal existence of judicial remedies will not suffice; instead, those remedies must be effective for prosecuting and punishing the violations denounced and in providing redress. . . . [A]n effective judicial response to acts of violence against women includes the obligation to make simple, rapid, adequate and impartial judicial recourses available, without discrimination, for the purpose of investigating and punishing these acts and providing redress, so that in the end these acts do not go unpunished.” Id. ¶¶ 4–5, at viii.


3 See, e.g., Gonzalez v. United States, Case 12.626, Inter-Am. Comm’n H.R., Report No. 80/11, ¶¶ 122–136 (July 21, 2011) (reaffirming that states must act with due diligence to protect individuals against domestic violence, including through prevention, investigation, sanction and reparations for violence, and adoption of necessary legislative, policy and other measures necessary to combat discrimination, change discriminatory social and cultural practices, and guarantee the effective enjoyment of the rights; and finding that the United States’ failure to act with due diligence violated its obligation not to discriminate, to provide for equal protection before the law, to undertake reasonable measures to protect life and to fulfill the right to judicial protection); Velásquez Rodríguez v. Honduras, Decisions and Judgments, Inter-Am. Ct. H.R. (ser. C) No. 04, ¶¶ 166, 175 (Jul. 29, 1988) (“States must prevent, investigate and punish any violation of the rights recognized by the Convention and, moreover, if possible attempt to restore the right violated and provide compensation as warranted for damages resulting from the violation. . . . This duty to prevent includes all those means of a legal, political, administrative and cultural nature that promote the protection of human rights and ensure that any violations are treated as illegal acts, which, as such, may lead to the punishment of those responsible and the obligation to indemnify the victims for damages.”); see also Maria da Penha Maia Fernandes v. Brazil, Case 12.051, Inter-Am. Comm’n H. R., Report no. 54/01, OEA/Ser.L/V/II.111, doc. 20 rev. 16 ¶ 56 (2001) (finding that Brazil had failed to exercise due diligence to prevent and respond to a domestic violence case despite the clear evidence against the accused and the seriousness of the charges); see also id. at ¶ 47 (“[G]eneral and discriminatory judicial ineffectiveness also creates a climate that is conducive to domestic violence, since society sees no evidence of willingness by the State, as the representative of the society, to take effective action to sanction such acts.”); Z. and Others v. United Kingdom, App. No. 29392/95, 34 Eur. H.R. Rep. 3, 333 (2001) (Commission report); E. and Others v. United Kingdom, 2002-II Eur. Ct. H.R. 763, at ¶¶ 88, 110–11 (2003) (addressing the obligations of the State to protect against human rights violations by non-state actors); see also Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights, ¶ 27, Sept. 28, 2011, available at http://www.ici.org/dwn/database/Maastricht%20ETO%20Principles%20-%20FINAL.pdf [hereinafter Maastricht Principles] (“All States must cooperate to ensure that non-State actors do not impair the enjoyment of the economic, social and cultural rights of any persons. This obligation includes measures to prevent human rights abuses by non-State actors, to hold them to account for any such abuses, and to ensure an effective remedy for those affected.”).


7 In addition to the treaties listed above, the Convention Against Torture, at Articles 2 (1) and 16 (1), similarly “oblige[s] States parties to take action through legislative, administrative, judicial, and other means to effectively prevent torture and other cruel, inhuman or degrading treatment or punishment,” which may include rape or other forms of sexual violence. See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 2(1), 16(1), Dec. 10, 1984, 1465 U.N.T.S. 85, 113; S. Treaty Doc. No. 100-20 (1988); see also Special Representative of The Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, Rep. of The Special Representative of The Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises: Addendum: State Obligations to Provide Access to Remedy for Human Rights Abuses by Third Parties, Including Business, U.N. Human Rights Council, A/HRC/11/13/Add.1 at ¶ 41 (May 15, 2009) (by John Ruggie) (discussing the CAT).

8 See Ruggie, supra note 7, ¶ 16, at 12 (“The [Human Rights] Committee has emphasized the centrality of prompt, thorough and effective investigations into allegations of abuse (particularly where they involve threats against the security of the person) by independent and impartial bodies. Indeed, it has said that the failure to establish appropriate procedures to carry out such investigations may constitute a separate breach of the Covenant. Where an investigation reveals that an abuse has occurred, the Committee has recommended that a State should ensure that those responsible are brought to justice; again, failure to do so may constitute a breach of the Covenant in its own right, particularly where those violations are recognized as criminal under international law, such as torture and other cruel, inhuman or degrading treatment or punishment.”). (citations omitted).


10 Convention on the Elimination of All Forms of Discrimination Against Women, art. 2(e), opened for signature Dec. 18, 1979, G.A. Res. 34/180, 34 U.N. GAOR, 34th Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46 (entered into force Sept. 3, 1981) (providing that State parties undertake “[t]o establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination”); International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), art. 6, opened for signature Mar. 7, 1966, 660 U.N.T.S. 195 (entered into force January 4, 1969) [hereinafter ICERD] (“States parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.”).

11 Although CEDAW does not contain an explicit provision on the right to a remedy, like those in the ICCPR and ICERD, the Committee has interpreted Article 2(c) as requiring judicial remedies for violations of rights and sanctions against perpetrators. See CEDAW General Recommendation 19, supra note 4, at ¶ 24(i), (t), (recommending that State parties “take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia . . . [e]ffective legal measures, including penal sanctions, civil remedies and compensatory provisions.”); see also State Responsibilities to Regulate and Adjudicate Corporate Activities under the United Nations Core Human Rights Treaties, Rep. No. 4: Individual Report on the Convention on the Elimination of All Forms of Discrimination Against Women, prepared for the Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises, at 8-9 (Sept. 2007), available at http://www.business-humanrights.org/Documents/Ruggie-report-CEDAW-Sep-2007.pdf [hereinafter Individual Report on CEDAW for SRSG].

12 The ICESCR may soon be directly binding on Haiti. In February 2012, both houses of the Haitian parliament voted to ratify the ICESCR. President Martelly is required to promulgate the law passed by the parliament to make it effective, and was expected to do so at the time this report went to press. See The National Assembly Voted the ICESCR, HAITILIBRE (Feb. 4, 2012, 11:33AM), http://www.haitilibre.com/en/news-4883-haiti-politic-the-national-assembly-voted-the-icescr.html. See also Ruggie, supra note 7, at ¶ 23 (discussing the right to remedy under the ICESCR).


16 See Individual Report on CEDAW for SRSG, supra note 11, ¶¶ 78–79.


18 See KOFAVIV, MADRE, INTERNATIONAL WOMEN’S HUMAN RIGHTS CLINIC OF CUNY SCHOOL OF LAW, CENTER FOR GENDER AND REFUGEE STUDIES, CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, STRUGGLING TO SURVIVE: SEXUAL EXPLOITATION OF DISPLACED WOMEN AND GIRLS IN PORT AU PRINCE, HAITI (2012).


23 See id. at 2.
CHAPTER 4

FREEDOM FROM SEXUAL VIOLENCE: A HUMAN RIGHTS ANALYSIS OF VULNERABILITY TO SEXUAL VIOLENCE IN IDP CAMPS

I. INTRODUCTION

Acts of sexual aggression breach the fundamental rights to liberty and security of person. Sexual violence is also both a cause and a consequence of other human rights violations. Data collected by the GJC demonstrate that the conditions fostering vulnerability to sexual violence in IDP camps in Port-au-Prince are themselves violations of fundamental human rights, including the rights to food, water, sanitation, and participation. The GJC data suggest that individuals are at heightened risk of sexual violence when they lack adequate food, have insufficient access to clean water and sanitation, occupy makeshift shelters that do not provide adequate security or accommodate traditional family structures, and are not able to participate in decisions governing the management of basic resources. Victims of sexual violence experience breaches of their rights to security of person, freedom from discrimination, and health. In addition, sexual violence in IDP camps implicates internationally recognized humanitarian standards and best practices crafted specifically to protect disaster-affected and internally displaced persons. Finally, sexual violence in and around the Port-au-Prince IDP camps also concerns rights protected under the Haitian Constitution, as well as regional legal standards and customary international law.

This chapter identifies the fundamental human rights and guarantees under international, regional, and domestic law relevant to the different axes of vulnerability to sexual violence in IDP camps in and around Port-au-Prince. The GJC survey data, focus group findings, and interview results revealed individual, household, and camp-level factors correlated to a person’s risk of experiencing sexual violence. The primary features of vulnerability concerned age; gender; household size; accessibility of food, water, and sanitation; and the presence and operation of camp-management structures. The survey found that girls and young women were most at risk of sexual violence, and that households with one or more victim(s) of violence were typically small in size, faced significant constraints in obtaining sufficient food, and lacked consistent access to drinking water and sanitation facilities. Furthermore, neither a CMA nor camp committee consulted the vast majority of survey participants—including those from households with sexual-violence victims—regarding decisions about community safety or distribution of goods and services. The characteristics of the “victim profile” that emerges from the GJC survey data reflect underlying violations of basic human rights and guarantees under international, regional, and domestic law, including:

1) The rights to liberty and security of person, nondiscrimination, and health, which together undergird the right to freedom from sexual violence;
2) The right to an adequate standard of living, including the rights to food, water, sanitation, and housing, which were found to correlate with vulnerability to sexual violence in Haiti’s IDP camps; and
3) The guarantees particular to disaster-affected and internally displaced persons under internationally recognized standards on protection and assistance in humanitarian crises and situations of internal displacement.
II. FREEDOM FROM SEXUAL VIOLENCE IS A COMPOSITE RIGHT UNDER INTERNATIONAL LAW

Sexual violence is not the sole manifestation of GBV, but it is a particularly acute and dangerous form. GBV may include physical violence, sexual assault, harmful customary practices, emotional and psychological harm, and other kinds of hate crimes. Although the terms “gender-based violence” and “violence against women” are often used interchangeably, they are, in fact, distinct. The former encompasses violence directed against a person, whether male or female, because of her or his gender and social or cultural expectations about her or his role. Thus, while violence against women is a form of GBV, the term GBV emphasizes the relationship between the individual’s gendered status in society, whatever that may be, and her or his related vulnerability to violence. Like violence against women, sexual violence is a specific form of GBV in which aggression is manifested sexually.

The 2002 WHO World Report on Violence and Health defines sexual violence as: “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.” The emphasis on coercion as a defining element of sexual violence is common to definitions offered by other international bodies. In Prosecutor v. Akayesu, the case that provided the first definition of rape under international law, the International Criminal Tribunal for Rwanda defined sexual violence as “any act of a sexual nature which is committed on a person under circumstances which are coercive,” explaining that it is “not limited to physical invasion of the human body and may include acts which do not involve penetration or even physical contact.” Sexual violence encompasses both physical and psychological attacks directed at a person’s sexual characteristics. For the purposes of the GJC Study, sexual violence includes rape and unwanted touching.

In large part because victims of sexual violence and other forms of GBV are disproportionately women and girls, the few human rights legal texts that address sexual violence have historically discussed it as a form of violence against women, and through the lens of sex discrimination, more frequently than that of gender equality. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), arguably the most important international convention on the human rights of women, does not include an explicit prohibition on violence against women, let alone GBV more broadly. However, the CEDAW Committee has long considered that Articles 2, 5, 11, 12 and 16 of the Convention require States to protect women from such violence. In its General Comment 19, the CEDAW Committee defined GBV as “violence that is directed against a woman because she is a woman or that affects women disproportionately,” including acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion, and other deprivations of liberty. In 1993, the UN General Assembly adopted the Declaration on the Elimination of Violence Against Women (“the Declaration”), which is relevant to all member States of the UN, regardless of whether they have ratified CEDAW. Under Article 2 of the Declaration, violence against women is understood to encompass all physical, sexual, and psychological violence, whether perpetrated in the family, committed in the general community, or condoned by the State. A 2006 General Assembly Resolution called on States to intensify their efforts to eradicate GBV “whether occurring in public or private life,” and recognized the need for enhanced protective measures given the heightened risk of violence among internally displaced populations. The Convention of Belém do Pará similarly transcends any public/private divide. 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.”

While human rights treaties tend to address GBV as victimizing women specifically, standards and interpretations of those texts have emphasized that anyone may be a victim of violence that deploys gendered power as a weapon. Principle 11(2)(a) of the UN’s Guiding Principles on Internal Displacement (“Guiding Principles”), for example, entitles internally displaced persons to protection against rape and other “outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault.” The legal annotations to the Principles extend the notion of GBV to cover individuals regardless of sex, noting that even if the violence “affects in particular women and girls, the term refers to violence against individuals of either sex.” The commentary explains that for the purposes of the Guiding Principles, the definition of GBV follows the definitions provided in Article 1 of the UN Declaration on the Elimination of Violence against Women and Article 1 of the Convention of Belém do Pará, but “expands them so as to cover individuals of both sexes.”

Similarly, the Inter-Agency Standing Committee Guidelines for Gender-based Violence Interventions in Humanitarian Situations (“IASC GBV Guidelines”) explain that the term “gender-based violence” highlights “the relationship between females’ subordinate status in society and their increased vulnerability to violence,” but note that men and boys also experience GBV, particularly sexual violence.

Sexual violence implicates numerous human rights protected under international, regional, and domestic law. With the exception of the Convention of Belém do Pará, the most ratified instrument in the Inter-American system, most international human rights instruments do not expressly guarantee the right to be free from interpersonal violence in general, let alone sexual violence specifically. However, while it is not enumerated in the core legal instruments comprising the International Bill of Human Rights, the right to be free from sexual violence has been inferred from other universal rights that do appear in those texts, as well as in other international conventions. Those universal rights include, inter alia: the right to life, liberty, and security of person; the right to be free from torture and cruel, inhuman, or degrading treatment (CIDT); the right to be free from discrimination and to equal protection under the law; and the right to the highest attainable standard of physical and mental health. As recognized by the UN General Assembly, violence against women, including sexual violence, both constitutes a direct violation of the universal rights and fundamental freedoms of women and impairs or nullifies women’s enjoyment of those rights and freedoms.

This section briefly outlines the legal sources and content of those universal human rights from which the right to be free from sexual violence derives.

A. **SEXUAL VIOLENCE VIOLATES THE RIGHT TO LIBERTY AND SECURITY OF PERSON**

Acts of unwanted touching, rape, and other forms of sexual aggression are assaults on the victim’s body. As such, they violate the most basic of freedoms, enshrined in Article 3 of the Universal Declaration of Human Rights (UDHR): “the right to life, liberty and security of person.” This fundamental right, essential to human dignity, bodily integrity, and basic survival, is recognized in multiple international and regional human rights treaties and has the status of customary international law. It is among the rights enumerated in the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and the Convention
on the Rights of Persons with Disabilities (CPD). The right to life and security of person also appears in regional human rights instruments around the world, including the American Convention on Human Rights (ACHR), the European Convention on Human Rights (ECHR), the Arab Charter on Human Rights (ArCHR), and the African Charter on Human and Peoples Rights (AfCHR).

Regional human rights instruments protect individuals against the breach of bodily integrity and human dignity that sexual violence entails. In the Inter-American human rights system, the American Convention on Human Rights and the Convention of Belém do Pará, to which Haiti is a party, as well as the American Declaration on the Rights and Duties of Man, not only expressly protect the right to life and security of person, but also specifically guarantee the right to physical, mental, and moral integrity. The Inter-American Court of Human Rights (IACtHR) has interpreted the right to life as requiring States to ensure access to conditions necessary for dignified existence. The Haitian Constitution likewise explicitly recognizes the inherent right to life in its preamble and in Article 19, which obliges the Haitian State to “guarantee the right to life, health, and respect of the human person for all citizens without distinction, in conformity with the Universal Declaration of Human Rights.” In causing physical, mental, or moral harm, jeopardizing victims’ lives and health, and depriving them of bodily integrity, acts of sexual violence violate fundamental human rights expressly protected under international, regional, and Haitian law.

Depending on the identity of the perpetrators or the context in which it is committed, rape can also constitute torture or cruel, inhuman, and degrading treatment. The Human Rights Committee (HRC), which is tasked with the interpretation and application of the ICCPR, has held that rape constitutes a violation of Article 7 of the Covenant, which prohibits torture, cruel, inhuman or degrading treatment. The Committee Against Torture, which is the body tasked with the interpretation and application of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, has also held that rape may constitute torture. The IACtHR has found that sexual violence violates the right to humane treatment enshrined in Article 5(2) of the American Convention. In Raquel Martín de Mejía v. Peru, the Inter-American Commission on Human Rights (IACHR) deemed sexual abuse by public security officers to be a violation of the prohibition on torture in Article 5 and of the right to privacy and right to respect for one’s honor and dignity, protected under Article 11.

**B. SEXUAL VIOLENCE AGAINST WOMEN AND GIRLS VIOLATES THE RIGHT TO NONDISCRIMINATION AND EQUAL PROTECTION UNDER LAW**

Sexual violence against women and girls is both a per se violation of fundamental human rights and an obstacle to the realization of gender equality. The Convention of Belém do Pará expressly recognizes the relationship between discrimination and violence against women, including sexual violence, describing violence against women as “an offense against human dignity and a manifestation of the historically unequal power relations between women and men.” Similarly, according to the CEDAW Committee, sexual violence against girls and women, as a manifestation of GBV, is a form of discrimination against women because it “seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men” and “impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions.”
The 1993 UN Declaration on the Elimination of Violence Against Women recognizes sexual violence to be an affront to women’s equality and equal enjoyment of universal human rights. Sexual violence, as a form of violence against women,

is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.¹⁸

This conception emphasizes the gendered origins and impacts of the violence, highlighting that it both stems from and perpetuates discrimination against women. The newest international treaty to address sexual violence, the Convention on Preventing and Combating Violence Against Women and Domestic Violence, adopted by the Council of Europe in April 2011, echoes the UN’s recognition of the relationship between historically rooted, structural inequality and the perpetration of violence against women.⁴⁹ The UN Special Rapporteur on Violence Against Women has likewise advised that “[e]fforts to end all forms of violence against women must consider how structural and institutional discrimination perpetuate and exacerbate women’s experiences of abuse.”⁵⁰

As a gendered weapon of inequality, sexual violence breaches the rights to nondiscrimination and equal protection firmly established in international law.³¹ This is so whether the violence is committed by government actors, private individuals, or with the consent or acquiescence of the government. Amnesty International characterizes sexual violence, including rape, as “one of the most significant aspects of discriminatory violence against women,” adding that, “[t]he right to equality, including equality before the law, [is] violated by such crimes and the impunity that the perpetrators enjoy in the overwhelming majority of cases.”⁵² CEDAW, which has nondiscrimination and equal protection as its primary aims, is not limited to combating discrimination in the public sphere; its provisions have also been interpreted to encompass private acts of discrimination, such as sexual violence, perpetrated by any “person, organization or enterprise.”⁵³ In order to reach interpersonal acts, like sexual violence, as well as state-sanctioned and institutional forms of inequality between the sexes, the Convention commits State parties to undertake wide-ranging actions “by all appropriate means and without delay,” aimed at ensuring the elimination of discrimination.⁵⁴

Because sexual violence disproportionately affects women and girls, it deprives them of full and equal enjoyment of rights protected under international law, including the rights to physical and mental integrity and other basic rights enshrined in the ICCPR. This impairment violates Article 3 of the Covenant, which “implies that all human beings should enjoy the rights provided for in the Covenant, on an equal basis and in their totality,” and Article 26, which sets forth a principle of nondiscrimination that is not limited to the rights in the Covenant, but applies to all rights under law.⁵⁶ As the HRC has clarified, equal treatment does not mean identical treatment, and should not be interpreted to preclude special measures addressing the particular needs of women, children or displaced persons.⁵⁷

Recognizing that crises exacerbate inequalities and may expose vulnerable populations to greater risk of discrimination, the HRC emphasized that “[t]he equal enjoyment of human rights by women must be protected during a state of emergency.”⁵⁸ Similarly, Principle 4(2) of the Guiding
Principles on Internal Displacement specifically calls for protection and assistance to vulnerable persons within displaced populations:

Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment that takes into account their special needs.\(^{59}\)

Sexual violence is treated as a prohibited form of discrimination under inter-American human rights law. In a recent case concerning the failure of the United States to protect individuals against domestic violence, the IACHR reiterated that “the right to equality and non discrimination contained in Article II of the American Declaration is a fundamental principle of the inter-American system of human rights...[and] the backbone of the universal and regional systems for the protection of human rights.”\(^{60}\) The Commission observed that the right to equal protection under law triggers a state duty to “adopt the legislative, policy and other measures necessary to guarantee the effective enjoyment of the rights protected under Article II of the American Declaration.”\(^{61}\)

### Box 8. Violations in Seeking Redress for Sexual Violence in Haiti

Violations of the right to nondiscrimination occur not only when sexual violence is perpetrated, but also when victims seek remedy after suffering violence. Amnesty International points out: “Women’s right to equality before the law is frequently violated in domestic criminal jurisdictions because their evidence is distrusted. Women, therefore, have been treated unequally in that their right to freedom from sexual coercion by a perpetrator is extremely limited.”\(^{62}\) While it is not mandatory under Haitian law, the *de facto* continued practice of requiring women to produce a medical certificate in order to pursue a legal complaint of sexual violence “reinforces the belief in the justice system that women’s testimony is inherently untrustworthy.”\(^{63}\) This mistrust of women in turn undermines victims’ confidence in the justice system. Multiple women attending a July 2011 workshop on sexual violence in Port-au-Prince expressed distrust of and profound dissatisfaction with the response of police and judicial officials to reports of rape and other forms of sexual violence.\(^{64}\) Participants recounted instances in which judges were bribed by the accused to dismiss the charges, police treated victims as if they were at fault, and prosecutors refused to accept medical certificates from certain health centers. These persistent challenges mean that female victims of sexual violence are frequently left without a remedy, and thereby deprived of equal protection of the law.

Article 17 of the American Convention extends the principle of equal protection under the law to the family, requiring States to guarantee “equal recognition of the rights and ‘an adequate balance of responsibilities’ for spouses within marriage.”\(^{65}\) The Haitian Constitution of 1987 “embraces the principles of equality and non-discrimination,”\(^{66}\) requiring the State to guarantee “the right to life, health, and respect of the human person for all citizens without distinction.”\(^{67}\) The prevalence of sexual violence against women and girls, with its attendant consequences, thus reflects repeated breaches of rights and guarantees afforded under international, regional, and domestic law.

Sexual violence is both a *cause* of discrimination, in violation of international law, and a
consequence of discrimination. Recognizing the complex relationship between violence and discrimination, the UN Special Rapporteur on Violence Against Women, in her 2011 report to the UN Human Rights Council, called for greater attention to the ways in which “women suffering intersectional discrimination” face a heightened risk of GBV.\textsuperscript{68} While acknowledging that violence against women is a matter of “inter-gender inequality” because of structural power imbalances between men and women, the Special Rapporteur emphasized that “discrimination and violence against women is [sic] also a matter of intra-gender inequality among women.” She expressed concern that lack of attention to the hierarchy among women “has led to the privileging of experiences of urban middle-class women,” obscuring the impact of social location on women’s vulnerability to and experiences with violence:

The consequence is that programme designs and goals advanced in the interest of women may only reach the rights violations experienced by some women. More often than not, the women whose rights are protected are not the women whose social location renders them especially vulnerable to gender-based violence.\textsuperscript{69}

These dynamics are visible in Haiti, where debate has raged among differently situated women’s rights advocates concerning GBV in the aftermath of the earthquake.\textsuperscript{70}

Sexual violence against internally displaced women, in particular, often reflects dual forms of discrimination: It targets women because they are women and it targets an identifiable subgroup of women, such as those who are displaced, because their personhood is defined both in terms of their femaleness and their “other status.”\textsuperscript{71} While IDPs do not have unique rights, because of their particular vulnerability they are afforded specific protections under international law relevant to sexual violence and the conditions that foster vulnerability to sexual violence.

Reaffirming the inherent right to dignity and physical, mental, and moral integrity, and acknowledging the particular vulnerability of displaced populations, Principle 11 of the \textit{Guiding Principles} entitles IDPs to protection against sexual violence and other forms of GBV. The IASC’s \textit{Handbook for the Protection of Internally Displaced Persons} (“IASC Handbook”) dedicates an entire chapter to GBV. The chapter discusses the roots of violence in discrimination, and addresses the increased frequency and brutality of GBV in post-disaster conditions that are characterized by a breakdown of the rule of law and the collapse of family and community support structures.\textsuperscript{72} The 2011 edition of the Sphere Project’s \textit{Humanitarian Charter and Minimum Standards in Humanitarian Response} (“Sphere Handbook”) emphasizes that disaster-affected women and girls can be at particular risk of GBV.\textsuperscript{73} Sphere instructs humanitarian agencies to consider specific measures to reduce risks of trafficking, forced prostitution, rape, or domestic violence, and to implement measures to prevent and eradicate sexual exploitation and abuse.\textsuperscript{74}
Box 9. Concern of International Human Rights Bodies About Discrimination and Violence Against Haitian Women

A compilation of reports from treaty bodies and other official UN documents, prepared in July 2011 by the Office of the High Commissioner for Human Rights (OHCHR) for the Universal Periodic Review (UPR) of Haiti, highlights the acute problem of GBV in Haiti since the earthquake, while acknowledging its roots in longstanding gender inequality. According to the UN Country Team (UNCT), “throughout the post-earthquake period…[w]omen, girls and occasionally boys had experienced a heightened vulnerability to sex- and gender-based violence.” The OHCHR compilation cites concerns expressed by the CEDAW Committee about “the deep-rooted patriarchal attitudes and stereotypes regarding the roles and responsibilities of women and men in the family, the workplace and society” in Haiti well before the earthquake. According to the OHCHR, the UNCT noted in 2011 that “the prevalence of gender inequality and discrimination in Haiti, including through public institutions and laws, constitute[s] a barrier to women’s equal treatment under the law and full enjoyment of their rights.”

Concerns about the particular risks facing displaced populations and high incidence of sexual violence in IDP camps led attorneys and grassroots advocacy groups to petition the IACHR in 2010 for precautionary measures. In December 2010, the IACHR called on the government of Haiti and international actors to take steps to protect the human rights of displaced women and children in the 22 camps that were the subject of the petition. In its March 2011 submission to the Human Rights Council for Haiti’s UPR, a coalition of women’s rights organizations called for the implementation of the IACHR’s recommendations, including enhanced participation of grassroots groups in the planning and establishment of policies and practices combating sexual violence; the development of a plan of action to address sexual violence; provision of medical and psychological care to victims of violence; enhancement of security measures in camps, including improved lighting and increased numbers of female security officers regularly patrolling the camps; training of public officials on appropriate response to GBV; formation of special rape/GBV units within the police and the ministry responsible for investigating and prosecuting cases of sexual violence; and support for free legal representation for victims of violence.

In their statements and recommendations during the UPR of Haiti in October 2011, 19 States addressed violence against women and/or vulnerability to violence, some with specific reference to post-earthquake violence and the heightened vulnerability of individuals living in displacement camps. Recommendations urged Haiti to provide increased protection to women and girls by, inter alia, training police and justice system officials to better respond to instances of sexual violence and to combat impunity, working to eradicate persistent discrimination against women and increasing women’s participation in decision-making.
C. SEXUAL VIOLENCE VIOLATES THE RIGHT TO HEALTH

Sexual violence affects the health of the individual aggressed, often exposing the victim to acute injury, infection, disease, or pregnancy (for women), as well as psychological and/or other forms of emotional trauma and stigma that may prevent the victim from seeking medical assistance or otherwise maintaining good health. The impact of rape and other forms of sexual violence may be both immediate and long term, and can include “depression, post-traumatic stress disorder, sleep difficulties, eating disorders, emotional distress and suicide attempts.”86 The consequences can be especially severe when the violence is perpetrated against a child.87 These cumulative impacts have led the WHO to characterize sexual violence against women as a “major public health problem” that can result in a range of “physical, mental, sexual, and reproductive health and other health problems, and may increase vulnerability to HIV” and other sexually transmitted infections.88

Rape and other forms of sexual violence thus “represent serious breaches of sexual and reproductive freedoms, and are fundamentally and inherently inconsistent with the right to health.”89 Numerous international instruments recognize the right to the highest attainable standard of physical and mental health and its intimate relationship to other fundamental rights, such as the rights to life, human dignity, and nondiscrimination.90 Rooted in Article 25.1 of the UDHR, which guarantees the right to a standard of living adequate to ensure health, the right to health is affirmed in multiple international conventions, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), CEDAW, CRC, and the Convention on the Elimination of all forms of Racial Discrimination (ICERD), and in regional human rights instruments, such as the American Declaration on the Rights and Duties of Man91 and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1988 (the Protocol of San Salvador).92

The right to health, including sexual and reproductive health, is a necessary precondition for, and is in turn dependent on, the realization of other rights and freedoms, including the rights to food, water and sanitation, and housing.93 Fulfillment of these economic and social rights creates a virtuous circle; reducing vulnerability to violence in turn enables a fuller enjoyment of rights. Conversely, as noted by the Special Rapporteur on Violence Against Women, “[w]omen who are already lacking health care and medical treatment due to economic, social, political and geographic barriers are at greater risk of chronic, and possibly fatal, effects of violence.”94

The right to the highest attainable level of health includes both freedoms and entitlements. UN bodies, including the Human Rights Council and the Special Rapporteur on the Right to Health, have repeatedly emphasized that the right to health includes the right to health care and to the underlying determinants of health.95 The right to health is not simply the freedom from injury, but “a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health.”96 It encompasses the right to be free from sexual violence and other physical and psychological assaults, as well as the right to access health services in the aftermath of rape of other forms of sexual violence.97 The Special Rapporteur has noted that a human rights framework requires that quality health-care facilities, goods, and services for sexual and reproductive health be available in adequate numbers, physically accessible, and affordable.98
Provisions in the Haitian Constitution reflect both the freedom and entitlement components of the right to health. Article 19 of the Constitution obliges the State to guarantee “the right to life, health, and respect of the human person for all citizens without distinction.” Article 23 imposes an affirmative obligation on the State to “ensure for all citizens in all territorial divisions appropriate means to ensure protection, maintenance and restoration of their health by establishing hospitals, health centers and dispensaries.” These guarantees form an essential part of the domestic legal framework for freedom from sexual violence in Haiti.

Stigmatization of victims of sexual violence by medical professionals and inadequate provision of services violate victims’ right to health, compounding the harm caused by the acts of aggression. The Inter-American Commission has observed, “Attitudes such as indifference, mistreatment and discrimination perpetrated by health sector employees that affects [sic] women and girls [sic] victims of violence and/or sexual abuse, as well as the lack of appropriate reproductive health services to address situations of violence, constitute barriers to access of health services.”

The right to access adequate, appropriate health services and treatment after sexual violence is often especially relevant in times of emergency. Principle 19(2) of the Guiding Principles on Internal Displacement provides: “Special attention should be paid to the health needs of women including access to female health care providers and services, such as reproductive health care, and appropriate counseling for victims of sexual abuse and other abuses.” The IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disaster ("IASC Operational Guidelines") emphasize the importance of protecting the right to health—and to health services—among disaster-affected populations, such as the persons displaced by the January 2010 earthquake in Haiti. The Guidelines call for special attention to “the health needs of women and girls, including access to health services and the provision of at least priority sexual and reproductive health services including actions to prevent maternal morbidity and mortality, prevent and clinically manage cases of sexual violence […]; [and] access to reproductive and specialized health services.” The Guidelines further recommend that the humanitarian community consider “[p]roviding easily accessible, gender-sensitive counseling and care services for survivors of sexual violence and their children where appropriate.”

The Sphere Handbook standards on reproductive health require that disaster-affected populations have access to the Minimum Initial Service Package (MISP). The MISP has five components, the second of which is that “steps are taken by health agencies to prevent and manage the consequences of gender-based violence (GBV), in coordination with other relevant sectors, especially protection and community services.” The IASC GBV Guidelines specify, “Health services should include medical management for sexual assault survivors, confidential counseling, and referral for other appropriate care.”

In light of the freedoms and entitlements encompassed by the right to health, both the acts of sexual violence perpetrated against individuals in Port-au-Prince IDP camps and the failure to ensure protection and restoration of victims’ health through provision of adequate medical care violate international, regional, and domestic law. Shortcomings in service provision are also inconsistent with internationally recognized standards of best practice with respect to interventions in humanitarian emergencies.
Box 10. Rape Under Haitian Law

The GJC Study focused on rape and unwanted touching. Rape is not only a violation of fundamental human rights; it is also a crime. The Haitian criminal code, as amended in 2005, penalizes rape and sexual aggression as follows:

Art. 278: Whoever commits the crime of rape, or sexual aggression, perpetrated or attempted with violence, threats, surprise or psychological pressure, against a person of either sex, will be punished by 10 years of forced labor.

Articles 279 and 280 provide for aggravating circumstances that increase the penalty for a rape conviction. When rape is committed against a minor under the age of 15, the punishment imposed is 15 years of forced labor. When the perpetrator has authority over the victim or abuses the authority deriving from his functions, is aided in the commission of the crime by one or more persons, or causes the death of victim, the punishment increases to lifelong forced labor.

Under Article 278, rape and sexual aggression may be committed against any person without regard to gender. Moreover, the existence of a previous consensual sexual relation between the perpetrator and the victim is not a mitigating factor in the punishment of rape. Whenever a person who has previously obtained sex in exchange for goods forces his former partner to have sex again, his conduct is an act of rape. Furthermore, according to Article 278 of the criminal code, rape and sexual aggression are punishable not only when they are committed through violence, but also when they are perpetrated through threats, surprise, and psychological pressure. These coercive factors are considered evidence of the victim’s lack of consent, not elements of the crime in themselves. The essential element of the crime of rape under Haitian law remains absence of consent.

Although the Haitian criminal code does not contain an article on statutory rape, Article 278 is deemed to apply to all cases of sexual relations with a minor. Because the definitive element of the crime of rape is lack of consent on the part of the victim, and since minors cannot validly consent, all sexual relations with minors are considered to be rape. Under Article 16.2 of the Haitian Constitution, “the age of majority is set at 18 years of age.” Sexual relations involving minors younger than 15 are considered to be aggravated rapes (in accordance with Article 279) and as such are punishable by 15 years of forced labor.

The proposed new law on violence against women, a draft of which was under discussion in January 2012, could represent an important step forward in the protection of victims of rape. The draft law provides several protective measures for victims of rape, including relocation, medical care, access to social services, and economic aid. These measures could facilitate reporting of rape and encourage victims who might otherwise not seek help to do so. However, at the time of this writing, the protective measures in the proposed law only applied to women. Should the text be adopted as drafted, it would leave men and boys who experience rape relatively more vulnerable, and could contribute to underreporting of sexual violence involving men once the law enters into force.
III. VIOLATIONS OF ECONOMIC AND SOCIAL RIGHTS FUEL VULNERABILITY TO SEXUAL VIOLENCE

This section highlights how the conditions correlated with vulnerability to sexual violence in the Study—inadequate access to food, water, and sanitation—constitute human rights violations.

A. VIOLATIONS OF THE RIGHT TO AN ADEQUATE STANDARD OF LIVING CONTRIBUTE TO VULNERABILITY TO SEXUAL VIOLENCE

The Special Rapporteur on Violence Against Women has counseled, “In pursuing a holistic approach to understanding discrimination and violence against women, it is imperative to include an analysis of the right to an adequate standard of living.” This is because the economic, social, and cultural rights that comprise the right to an adequate standard of living affect vulnerability to GBV, including sexual violence.

Article 25 of the Universal Declaration of Human Rights states:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

This provision forms the bedrock of many of the rights articulated in the ICESCR, and recognized in numerous international and regional human rights instruments. The Committee on Economic, Social and Cultural Rights (CESCR) has found that the minimum core of the main economic, social, and cultural rights have become customary international law and are thus binding on all States, regardless of whether they have signed or ratified treaties protecting those rights. Many scholars have supported this position. Customary international law is identified by international consensus on a legal rule as demonstrated through State practice and opinio juris, the belief that the practice is obligatory.

Among the rights implicit in the right to an adequate standard of living, the international community has recognized that the rights to food, water, and sanitation are fundamental. Each is a right in and of itself, and all are essential to numerous other human rights, including life and development. Article 8(1) of the Declaration on the Right to Development, as interpreted in GA Resolution 54/175, provides that “the rights to food and clean water are fundamental human rights and their promotion constitutes a moral imperative for both national governments and for the international community.” While the Declaration is nonbinding and does not carry the force of law, it reflects the international community’s aspirations. The international community similarly has recognized that the right to adequate housing—which includes the right to live in security, peace, and dignity—is of “central importance for the enjoyment of all economic, social and cultural rights.”

The Guiding Principles affirm that even in times of emergency, IDPs have the right to an adequate standard of living, which includes “basic shelter and housing,” essential food and water,
appropriate clothing, and essential medical services and sanitation.\textsuperscript{125} As the following sections discuss, people who are deprived of enjoyment of these fundamental social and economic rights are at heightened risk of sexual violence, not least because their vulnerability renders them susceptible to exploitation.

Sexual exploitation, defined as the abuse of power to obtain sex, is prohibited by a number of international treaties, including the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others,\textsuperscript{126} the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography,\textsuperscript{127} and the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.\textsuperscript{128} The notion of abuse of vulnerability is defined in the interpretive notes to the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, Articles 3(a)–3(b), as including any situation “in which the person involved has no real and acceptable alternative but to submit to the abuse involved.”\textsuperscript{129} Individuals who are economically disadvantaged and socially marginalized, like many in Port-au-Prince’s IDP camps, are more vulnerable to coercion by individuals in positions of authority and/or may resort to risky coping mechanisms, such as exchanging sex for money, goods, protection, or shelter. Survival sex of this nature, while it may be an autonomous (and arguably rational) economic choice, often exposes individuals to sexual violence and other forms of abuse.\textsuperscript{130}

**Box 11. Household Size, the Right to Housing, and Vulnerability to Sexual Violence**

The makeshift dwellings in the IDP camps surveyed by the GJC provide little privacy or protection against the elements, let alone security against intrusions by assailants. However, more than the physical structure of shelters,\textsuperscript{131} the GJC survey data indicate that household size correlates with vulnerability to violence. The average sexual-violence victim lived in a small household; nearly 66 percent of victims resided in households with three or fewer members. The average size of households that reported incidents of sexual violence to the GJC team was 3.68 persons, whereas the average size of non-victim households was 4.35 persons—a statistically significant difference.\textsuperscript{132}

While the size of a household in and of itself reveals nothing about fulfillment of the right to housing, it does indicate a breakdown in the traditional household structure in Haiti, where extended families often reside together.\textsuperscript{133} Anecdotal evidence and information collected through key informant interviews suggest that the allocation of humanitarian aid on a per-household basis may have inadvertently incentivized the fragmentation of families. Whether because of loss of family members in the earthquake, space constraints in crowded camps, or the need for access to basic resources like food, water, and education, the splintering of families and the consequent reduction in the size of individual households bespeak conditions that are not conducive to realization of the right to adequate housing, including privacy, space, and security.

The right to housing is explicitly recognized as a necessary component of the right to an adequate standard of living in Article 25(1) of the UDHR and Article 11(1) of the ICESCR.\textsuperscript{134} International agreements by which Haiti is legally bound protect the right to housing, either explicitly or implicitly, including, \textit{inter alia}, Article 17 of the ICCPR, which protects privacy, particularly in the home; Article 27(3) of the CRC; Article 28(1) of the Convention on the Rights of Persons with Disabilities\textsuperscript{135}; and
Article 14(2)(h) of CEDAW, which recognizes the principle of nondiscrimination with respect to housing. Under the 1948 American Declaration of the Rights and Duties of Man, the right to housing is linked to the right to health: “Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.” The Haitian Constitution also guarantees the right to housing in Article 22.

According to both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000: “Adequate shelter means…adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities—all at a reasonable cost.” The CESCR explains:

The human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights. . . . [T]he right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.

The IASC Handbook for the Protection of Internally Displaced Persons underscores, “While the right to adequate shelter applies to all persons, specific provisions exist at the international level emphasizing its applicability to IDPs.” The IASC GBV Guidelines caution against making displaced women and girls dependent on men for shelter, as this “often results in sexual exploitation, with women forced to trade sex for shelter.”

GJC survey data and other reports by Haitian and international sources suggest that far from being places of refuge, shelters in IDP camps are often the sites of sexual attacks. These findings, combined with evidence of heightened fear of violence among IDP communities, signal pervasive breaches of the right to housing in its fullest sense. More research is needed to elucidate the precise relationship between these violations, changes in family structure, and vulnerability to sexual violence in IDP camps.

### B. Violations of the Right to Food Contribute to Vulnerability to Sexual Violence

#### Box 12. Hungry Households Are More Vulnerable to Sexual Violence

While the large majority of all households surveyed in the IDP camps reported some difficulty obtaining sufficient food, the GJC survey found a striking correlation between limited access to food and sexual violence. Individuals who reported going without food at least one day in the previous week were more than twice as likely as other individuals surveyed to belong to a household in which sexual violence was reported. Households that experienced food theft were nearly three times more likely to report having experienced sexual violence, further substantiating the link between food insecurity and vulnerability to sexual violence.
Individuals continue to enjoy the right to adequate food in times of natural disaster. The State’s core obligation to take necessary action to mitigate and alleviate hunger applies in times of emergency. However, the GJC’s survey data and focus group findings indicate that food insecurity and hunger are pervasive problems in IDP camps in Port-au-Prince. The failure to ensure the right to food for IDP camp residents is not only a human rights violation in itself, but appears to exacerbate vulnerability to other violations in the form of sexual violence.

The lack of safe, consistent access to sufficient food violates the universal right to food. The ICESCR provides that all individuals have the right to adequate food (Article 11.1) and to be free from hunger (Article 11.2). The CESCR has affirmed that “the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights enshrined in the International Bill of Human Rights.” It is a broad right, to be progressively realized. Elaborating on the normative content of ICESCR Article 11, CESCR General Comment 12 states:

The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement. The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients.

Food security, particularly in emergency and disaster situations, means that individuals have “physical and economic access to sufficient and sustainable food to meet their dietary needs in order to lead a healthy and productive life.”

The core content of the right to adequate food implies “accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.” When food supplies are physically unavailable or economically inaccessible to IDP camp residents, for example, or when individuals in control of food resources are able to exploit their power over distribution to abuse those in need, the right to adequate food is not fulfilled. A 2008 FAO Report, Women and the Right to Food: International Law and State Practice, reflects an understanding that the right to adequate food is an essential component of ensuring gender equality and fighting discrimination in all forms, including GBV.

In addition to the protections found in the ICESCR, the right to food, particularly for vulnerable populations, is also protected by CEDAW Article 12(2), which recognizes the right of pregnant and lactating women to food and nutrition, and CRC Article 24(2)(c), which recognizes the right of children to adequate food and clean drinking water. In the inter-American system, Article 11 of the American Declaration and Article 12 of the Protocol of San Salvador both recognize the right to food.

Some scholars assert that the right to food—or at least its minimum core component, the right to be free from hunger—may have already achieved the status of customary international law. In a 2005 report discussing the responsibilities of international organizations concerning the right to food, the former UN Special Rapporteur on the Right to Food, Jean Ziegler, stated:
The obligation to realize the right to adequate food has become today part of customary international law, given the almost universal ratification of treaties that contain it (in particular the International Covenant and the Convention on the Rights of the Child) and the constant practice of States in reaffirming the right to food and the fundamental right to be free from hunger at the World Food Summits in 1996 and 2002 and other international conferences, as well as in the General Assembly and the Commission on Human Rights.\footnote{152}

The plethora of international instruments, resolutions, and declarations defining, addressing, or otherwise attempting to actualize the right to food, also suggest that at least the core of this right has been accepted as customary law.\footnote{153}

**Box 13. The Right to Food in Haiti: Where the Earthquake Response Fell Short**

Numerous UN resolutions and declarations reiterate the right to food and call upon the international community to eradicate hunger and ensure universal access to adequate food.\footnote{154} However, the role of the international community in addressing hunger in Haiti has been a source of controversy for many years,\footnote{155} and has been of particular concern since the earthquake.\footnote{156}

Haiti codified the right to food in the Constitution of 1987, which provides that “[t]he State recognizes the right of every citizen to decent housing, education, food and social security.”\footnote{157} However, violations of the right to food have posed a persistent problem both before and after the earthquake. A joint human rights organization submission to the 2011 Universal Periodic Review (UPR) for Haiti explains that prior to January 2010, “nearly half the population suffered from malnutrition and one third from chronic food insecurity.”\footnote{158} With more than three-quarters of the population living on less than $2 per day, the purchase of food constitutes a major financial burden for most Haitians.\footnote{159} Well before the earthquake, food expenditure represented 32.8 percent of many families’ income in urban areas, and as much as 55.6 percent in rural areas.\footnote{160} The earthquake exacerbated inadequate economic and physical access to food.

Human rights organizations describe the response to the disaster-induced food crisis as follows:

In the immediate aftermath of the earthquake, humanitarian food and water relief was provided to meet immediate needs. In March 2010, however, President René Préval asked the international community to stop sending food and potable water aid to Haiti for fear that it would ‘undermine Haitian national production and Haitian trade.’ …[A] human rights investigation conducted by [IJDH] confirmed that as of July 2010, food aid largely stopped for the families it surveyed in IDP camps, despite findings in the [Executive Brief on the Haiti Emergency Food Security Assessment] that blanket distributions must continue to prevent further malnutrition.\footnote{161}

As the GJC survey data suggest, many households in IDP camps lack the minimum essential food necessary to be free from hunger. The correlation between the experience of hunger and vulnerability to sexual violence suggests that individuals who lack adequate food are at heightened risk of violence because physical weakness makes them easier targets of aggression, people expose themselves to riskier environments or behaviors in their pursuit of food, or perpetrators exploit hunger as an instrument of coercion and violence.
Internationally recognized standards for intervention in disaster situations reflect an understanding of the link between access to food and vulnerability to sexual violence, particularly among women and girls. Guidelines emphasize the need for attention to risks of sexual violence at the planning, distribution, and monitoring phases of food-aid programs, as well as in the design of long-term programs for livelihood restoration. Although these best practices are well known, GJC findings suggest they were not consistently followed in Port-au-Prince IDP camps.

The IASC GBV Guidelines call for food aid to be targeted to women- and children-headed households, and for women to be registered as the household “food entitlement holder” in order to “ensure that women have greater control over food and that it is actually consumed” rather than sold. While focused primarily on food-aid distribution—which largely ceased in Haiti several months after the earthquake, as noted above—the Guidelines also recommend measures that can reduce women’s vulnerability to the risk of violence when they are in possession of food or en route to obtain food supplies, regardless of the source. The IASC also calls for monitoring of security and instances of abuse on departure roads, not only at locations where food supplies are obtained.

Similar recommendations regarding the involvement of women in the distribution of food aid are repeated in the IASC Handbook for the Protection of Internally Displaced Persons. The Handbook also calls for monitoring of the impact of food aid on levels of prostitution or survival sex, and assessments of potential causes, including inadequate quantity or variety of food.

The majority of the Sphere standards concerning food security, nutrition, and food aid pertain to minimizing security risks associated with food distribution in disaster settings, and were thus largely irrelevant in Haiti after March 2010. However, Sphere does emphasize the need to support primary production, recovery of livelihoods, and access to markets post-disaster. The Code of Conduct governing the International Committee of the Red Cross (ICRC), Red Cross/Red Crescent Movement, and other humanitarian NGOs emphasizes reducing future vulnerabilities, avoiding long-term beneficiary dependency, and helping to create sustainable livelihoods.

The close correlation between hunger and vulnerability to sexual violence in the GJC survey suggests that the trade-offs between ensuring immediate access to food and promoting sustainable recovery of livelihoods were not well calculated in Haiti. Moreover, the correlation suggests a need for increased cross-sectoral discussion and consideration, and more systematic attention to the balance between emergency response and “return to development” early in the humanitarian relief efforts. Insufficient attention to these dual (and often dueling) priorities appears to have contributed to the privileging of one aim (sustainability) to the detriment of another (prevention of GBV).

C. Violations of the Rights to Water and Sanitation Contribute to Vulnerability to Sexual Violence

1. The Right to Water

Like the right to food, access to adequate, affordable, and clean water is both a right unto itself and a necessary element in the realization of numerous other human rights, which together are essential for the achievement of basic human dignity. In 2010, both the UN General Assembly and the Human Rights Council passed resolutions recognizing the human right to water and the
responsibility of States to promote and protect this right.\textsuperscript{168} These resolutions did not create a new source for the right to water or State obligations to fulfill it, but rather recognized that the right to water is explicitly and implicitly contained in existing human rights treaties and is legally binding.

The CESCR has recognized the right to water as “inextricably related” to the right to health, the right to housing, and the right to food, and considers it fundamentally related to the right to life, which is protected by customary international law. The CESCR’s General Comment 15 makes clear that the right to water is not only implicit in the right to an adequate standard of living and to health under Articles 11 and 12 of the ICESCR; it “should also be seen in conjunction with other rights enshrined in the International Bill of Human Rights, foremost amongst them the right to life and human dignity.”\textsuperscript{169} International and regional human rights organizations and national and international courts have interpreted the right to water as an implicit component of other human rights, such as the right to life,\textsuperscript{170} the right to health, the right to an adequate standard of living, the right to food, the right to housing,\textsuperscript{171} and the right to education,\textsuperscript{172} enshrined in UN and regional human rights instruments.\textsuperscript{173} The rights to clean water and adequate sanitation are also implicitly protected by guarantees in the Haitian Constitution to health, decent housing, education, food, social security, and work.

\textbf{Box 14. Households Without Adequate Access to Water and Sanitation Are More Vulnerable to Sexual Violence}

In the GJC survey, IDP households that reported instances of sexual violence were more likely to indicate that they lacked consistent access to drinking water and that water sources were “too far” from their shelters. Victim households also complained about the distance to latrines and expressed fear of attacks when using latrines more often than households without any reported victims of sexual violence. These trends suggest that, much like the right to food, violations of the rights to water and sanitation—including the lack of safe and consistent access to clean and adequate water and sanitation facilities—contribute to individuals’ vulnerability to sexual violence.

The first legally binding international convention to explicitly include the right to water and sanitation was CEDAW, which entered into force in 1981 and which Haiti ratified that same year.\textsuperscript{174} Under CEDAW Article 14.2(h), rural women have the right to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity, and water supply. The Convention on the Rights of the Child, enacted in 1989, also explicitly references the right to water. It obliges State Parties to provide children with clean drinking water as part of the implementation of the right to health under Article 24. Furthermore, the CRC Committee has interpreted the right to an adequate standard of living to encompass access to potable water and sanitation facilities.\textsuperscript{175}

The right to water encompasses the availability, quality, and accessibility of water, where access means affordability and equitable physical access.\textsuperscript{176} It includes both freedoms and entitlements—such as the freedom from interference in the maintenance of access to and enjoyment of water, and the entitlement to a system of water supply—which together afford everyone equal opportunity to exercise their right to water.\textsuperscript{177} According to the CESCR, “The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”\textsuperscript{178} Every person has a right to a sufficient and continuous supply of
water that is safe for personal and domestic use, and physically and economically accessible to all without discrimination.\(^{179}\)

The CESCR has recognized the particular importance of ensuring nondiscrimination in the provision of water supplies, and in guaranteeing access to water for women, children, and other vulnerable or marginalized populations, including internally displaced persons.\(^{180}\) The IASC Operational Guidelines emphasize the need to protect the right to water and sanitation among vulnerable populations and to plan water and sanitation interventions accordingly: “At a minimum, safe water should be provided in a quantity that is necessary to prevent dehydration; and to provide for consumption, cooking, and personal and hygienic requirements necessary for a life in dignity.”\(^{181}\)

The right to a minimum essential quantity of water may not be abrogated. CESCR General Comment 15 states, “Under no circumstances shall an individual be deprived of the minimum essential level of water.”\(^{182}\) According to the Human Rights Council, “The term ‘safe drinking water’ covers a limited amount of water needed—along with sanitation requirements—to provide for personal and domestic uses, which comprise water for drinking, washing clothes, food preparation and for personal and household hygiene.”\(^{183}\) Estimates on the minimum amount of water needed to cover personal and domestic uses vary between 50 to 100 liters, according to the WHO, while 25 liters is considered the minimum to maintain life. However, the Sphere Handbook suggests provision of an average of at least 15 liters per person per day for drinking, cooking and personal hygiene, recognizing that water may be insufficient to cover all needs in emergency settings.\(^{184}\)

In addition to access to the minimum essential level of water, the right to water entitles all individuals to physical access to water supplies in safe conditions. As the High Commissioner for Human Rights has observed, “The physical security of individuals should not be threatened while accessing water and sanitation facilities and services.”\(^{185}\) The requirement of safe, physical access to clean water and sanitation “is implicit in several human rights treaties protecting respect for privacy, human dignity and the integrity of the person, as well as protecting against violence against women and girls.”\(^{186}\)

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**Box 15. The End of Free Water: Potential Impacts of DINEPA Policy Changes on Vulnerability to Sexual Violence**

The GJC survey data reflect a stronger correlation between insufficient access to food and sexual violence victimization than between inadequate access to water and sexual violence. However, this may be due in part to the fact that at the time of the survey, free water was available in many IDP camps, including several in the survey sample, whereas general food distribution had long since stopped. This is no longer the case. As of November 30, 2011, all NGOs and other actors providing humanitarian assistance in Port-au-Prince were required to cease free distribution of potable water.\(^{187}\) Under policy set out by the Haitian water agency, DINEPA, humanitarian organizations are henceforth to charge 5 Haitian gourdes (approximately 15 cents) per five-gallon bucket (“gwo gallon” in Kreyòl). Camp residents reported that treated water is significantly more expensive since the new policy went into effect, rising to approximately 25 Haitian gourdes for a “gwo gallon.” If the average household size in IDP camps is approximately four people and each person needs at least 20 liters of water per day, according to the WHO, that means that a household needs 80 liters of water daily, which is about 21 gallons or 4.2 “gwo galons.” This means that the average family living on the WHO minimum supply of water would pay about 55 cents per day.
for (potentially untreated) water. In a country where more than three-quarters of the population lives on less than $2 per day,\textsuperscript{188} that represents an onerous proportion of the average household’s income to expend on a basic resource necessary for survival.\textsuperscript{189}

NGOs are phasing out free distribution at different rates. Although the WASH Cluster, jointly coordinated by DINEPA, endorses this strategy, some groups are concerned that shifting to the sale of water will exacerbate abuse of power by IDP camp committees or others in control of distribution of water resources. A DINEPA official indicated that a chief purpose of this policy change is to improve efficiency of water distribution. While some humanitarian actors share concerns about the high cost of free-water distribution, the unsustainability of “handouts” and the continued use of trucked water, it is not clear that inefficient use has been the chief problem to date, nor that transitioning to water sales at this stage will solve more problems than it creates. Beyond budgetary burdens, the multiplicity of actors involved in free-water distribution created coordination problems, and the proliferation of community committees, some of which were opportunistically formed and lacked social grounding, generated a risk of “social breakdown.”\textsuperscript{190}

The transition away from free water has been under discussion for months, but was delayed because of the cholera outbreak in late 2010. In February 2011, GRET, a development NGO involved in public-sector water provision, said the end of water distribution by tanker is necessary because of “the exorbitant cost involved for the public authorities and international organizations and because it is unsustainable.”\textsuperscript{191} Despite original good intentions, GRET expressed concern that water provided for free is actually “sold several times before reaching its final destination so that, in the end, the users pay a high price for it.”\textsuperscript{192} This not only thwarts the humanitarian objectives of those agencies distributing water, but, according to GRET, also results in higher prices for the community than were paid under systems in place prior to the earthquake.

As the CESCR made clear in its General Comment 15, “[w]ater should be treated as a social and cultural good, and not primarily as an economic good,” and “[t]he direct and indirect costs and charges associated with securing water must be affordable, and must not compromise or threaten the realization of other Covenant rights.”\textsuperscript{193} It is unclear, however, that this policy change has been informed by lessons learned from the cessation of the provision of food aid, or “ability to pay” studies. Given the astronomical rate of unemployment in Port-au-Prince, many individuals lack any steady source of income, making payment for water to meet their most basic needs difficult, however minimal the per-bucket fee may seem. Human rights standards require that efforts be made to consider ways to ensure those without sustainable and affordable access to water can obtain it, such as through increasing revenue generation from the provision of piped water to wealthier areas or by implementing cross-subsidies to sustain lifeline use by poorer, vulnerable populations.

GRET’s February 2011 observation about the transition away from free water remains relevant two years after the earthquake: “As there is not enough water to satisfy the needs of the entire population of the city and the fact that the primary network is in a very damaged state, this transition will be long and difficult.” Rather than pointing fingers, the key challenge now is to ensure that lessons are learned from the experience with the abrupt end of food aid so that similar mistakes may be avoided as free water distribution comes to an end.
2. The Right to Sanitation

The Special Rapporteur on Violence Against Women has recognized that lack of adequate sanitation has a disproportionate impact on women and girls: “Not only do women and girls have different physical needs from men, but they also have greater need for privacy when using toilets and when bathing because of gender roles and sanitation requirements. Inaccessible toilets and bathrooms make them more vulnerable to rape and other forms of gender-based violence.”

Box 16. The Right to Sanitation and Risk of Sexual Violence

The Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, Catarina de Albuquerque, has called attention to the risks imposed by inadequate access to sanitation:

For many people, the simple act of “relieving oneself” is a risky affair. Women and girls especially are vulnerable to attack when they must walk a long way to access sanitation facilities or when they are forced to defecate in the open. In addition, women without access to sanitation often defecate under the cover of darkness in order to ensure a minimum of privacy, but at considerable risk to their physical security.

GJC survey participants in IDP camps were particularly sensitive to such risks. More than two-thirds of households that included victims of sexual violence expressed fear because of insufficient lighting in latrine areas, and focus group participants repeatedly mentioned the lack of privacy and security in latrines as factors affecting vulnerability to sexual violence.

Historically, international human rights instruments have provided little guidance regarding the scope and content of the right to sanitation. When acknowledged, it has been tied to the right to an adequate standard of living, set forth in Article 11 of the ICESCR and Article 25 of the UDHR, as well as the right to adequate housing, and the right to water. The IACtHR, for example, has linked the right to life with the right to sanitation in its jurisprudence. However, the right to sanitation is increasingly acknowledged as important on its own. In 2008, the Human Rights Council adopted a resolution emphasizing that international human rights instruments, including the ICESCR, CEDAW, and CRC, entail obligations in relation to access to sanitation, and a Special Rapporteur was appointed with a mandate to address both clean water and sanitation. In her report on the issue of human rights obligations related to access to safe drinking water and sanitation, the Special Rapporteur, Catarina de Albuquerque, made the case for considering the right to sanitation as “not only a human rights imperative but a distinct human right in itself” implicit in, and equivalent to the explicit components of, the right to an adequate standard of living guaranteed in Article 25 of the Universal Declaration of Human Rights or Article 11 of the International Covenant on Economic, Social and Cultural Rights. She wrote:

Sanitation is an integral part of numerous human rights and has been identified under these rights in various treaties, political declarations, national constitutions and legislation, international and domestic case law, and expert work. These include the
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rights to an adequate standard of living, adequate housing, health, education, water, work, life, physical security, the prohibition of inhuman or degrading treatment, gender equality, and the prohibition against discrimination.203

The water and sanitation guidelines adopted by the Sub-Commission on the Promotion and Protection of Human Rights in 2006 provide that “everyone has the right to have access to adequate and safe sanitation that is conducive to the protection of public health and the environment,” specifying that sanitation must be “physically accessible, culturally acceptable, safe, and affordable.” Principle 18(3)(d) of the Guiding Principles on Internal Displacement specifically entitles IDPs to “essential medical services and sanitation.” The Sphere Handbook provides that people affected by disaster should “have adequate, appropriate and acceptable toilet facilities, sufficiently close to their dwellings, to allow rapid, safe and secure access at all times, day and night.”204


The IASC GBV Guidelines emphasize the importance of “actively seeking women’s participation in water supply and sanitation programmes, especially when selecting sites, and constructing and maintaining the facilities,” as a way to minimize the risk of violence that women and girls face when using facilities.205 Before implementing a water and sanitation system in a post-disaster setting like the IDP camps in the GJC Study, there should be an assessment of the community, “including sex-disaggregated data, gender analysis and security considerations.” Safety and security risks to women and girls should be identified before making decisions about the location of water and sanitation systems. The Guidelines call for the establishment of water and/or sanitation committees comprising 50 percent women, and recommend that the water and sanitation sector “ensure continuous sex balance on committees and among hygiene promoters.” The gender balance on the committees is essential both to safeguard women from being overburdened with water and sanitation responsibilities, and to ensure equal influence over, and access to benefits or incentives from, water and sanitation activities.206 In designing latrines, the Guidelines recommend using sex-disaggregated data to plan the ratio of women’s facilities to men’s, installing locks on latrine doors, and providing communal lighting of latrine areas. Most importantly, the Guidelines state that the “[l]ocation of latrines should ensure that women and girls feel—and are—safe using them.”

The Sphere Handbook similarly stresses the importance of the input of community members, and particularly women and girls, in the design of sanitation facilities. Sphere recommends toilets be sited to minimize security threats to users, especially women and girls, throughout the day and the night; be used by no more than 20 people each (although it may be necessary to start at 50 people per toilet); be no more than 50 meters from dwellings; and be sex-segregated.207

GJC survey data and other studies of living conditions in the camps suggest that the need for adequate sanitation facilities is great but largely unmet. Interviews with key informants suggested that because of insufficient access or concern about safety, many individuals adopt a strategy of visiting latrines only in certain circumstances (e.g., when they are clean) or at certain hours, and using plastic bags or open defecation when necessary, such as at night or when alone. In January 2011, MSF reported that latrines were “widely and badly needed.”208 Limited latrine access, particularly where there is no segregation of latrines by gender, has increased exposure-related risks. Latrines
that are available are often unusable. A WASH Cluster report from September 2011 noted that only 63 percent of the 7260 latrines it inspected individually were even functional.\textsuperscript{209} When sanitation facilities fall short of standards designed to protect the right to sanitation in areas like lighting, privacy, and distance from dwellings, they not only deprive people of dignity, but also may render them more vulnerable to sexual violence. Inadequate input from camp residents in the design and maintenance of sanitation facilities may be one of the reasons latrine providers in IDP camps have not succeeded in providing women and girls in particular with safe and adequate access to sanitation.

The Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation has stressed the importance of participation to the fulfillment of the right to sanitation. She notes that “because of widespread discrimination against women, they are not included in the formulation of relevant policies and, therefore, their needs tend to be neglected.” She calls for special attention to be paid to IDPs, among other vulnerable populations, and greater participation of women and girls in decision-making regarding sanitation resources.\textsuperscript{210} Sphere calls for the humanitarian community to “consult and secure the approval of all users (especially women and people with limited mobility) on the siting, design and appropriateness of sanitation facilities.”\textsuperscript{211} Sphere links this directive with the Protection Principles 1 and 2, which state: “Avoid exposing people to further harm as a result of your actions” and “Ensure people’s access to impartial assistance—in proportion to need and without discrimination.”

\section*{D. Violation of the Right to Participation Facilitates Violation of Economic, Social, and Cultural Rights, Fostering Vulnerability to Sexual Violence}

All people have a right to informed participation in decisions that affect their lives and well-being. International human rights treaties protect the right to engage in public affairs, not only through direct participation in elections and government, but also through activities that seek to influence policy and public life, more broadly. Article 25 of the ICCPR guarantees to all citizens the right and opportunity to “take part in the conduct of public affairs, directly or through freely chosen representatives.”\textsuperscript{212} Article 7 of CEDAW provides that State Parties shall take measures to ensure that women have the right to “participate in the formulation of government policy and the implementation thereof” and “to participate in non-governmental organizations and associations concerned with the public and political life of the country.”\textsuperscript{213}

Respect for this fundamental right is not only important on its own; it is an essential guarantor of individuals’ ability to enjoy other human rights. The international community has long recognized the importance of women’s participation in decisions concerning access to basic resources, like water, for which they frequently bear primary responsibility. For example, the CESCR in its General Comment 15 on the right to water stresses the importance of ensuring that “[w]omen are not excluded from decision-making processes concerning water resources and entitlements.”\textsuperscript{214} Similarly, the Special Rapporteur on the Right to Health has emphasized that the right to participation is implicit in the right to health. In order for women and other victims of sexual violence to enjoy their right to health, “initiatives for the promotion and protection of sexual and reproductive health must be formulated, implemented and monitored in a participatory manner.”\textsuperscript{215}
Participation is a particularly important form of rights protection for groups that are disadvantaged, vulnerable, or subject to discrimination, such as IDPs and women. It is also an essential mechanism for ensuring the efficacy of interventions in reaching such populations. International standards on best practices for intervention in humanitarian settings emphasize participation of the target populations for precisely these reasons. Principle 7(3)(d) of the Guiding Principles on Internal Displacement incorporates the right to participation: “The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation.” Principle 18 also emphasizes the need to involve women in planning and distribution of basic resources.216

People-centered humanitarian response is the first core standard in the Sphere framework. According to Sphere, this principle recognizes that the participation of disaster-affected people and their capacity and strategies to survive with dignity are integral to humanitarian response.218 The Sphere Handbook encourages participation by all affected individuals and vulnerable people in decision-making regarding the design, provision and oversight of all essential services, from food and water distribution, to housing and latrine construction and maintenance.219

The IASC GBV Guidelines similarly stress the participation of affected populations in the design and implementation of protection strategies: “Ultimately the decision about the best protection option must rest with the threatened person/group, after a careful, participatory, consultative consideration of the situation. This approach is a central element of any protection strategy.” Recognizing that women and girls are vulnerable to sexual violence when they use communal water and sanitation facilities, the IASC GBV Guidelines emphasize the need to “actively seek women’s participation” in the design of such programs, to ensure their effectiveness at minimizing risk.221

The same goes for food-aid interventions. The Guidelines stress the importance of ensuring women’s participation in the design and implementation of food-distribution and nutrition programs, and enhancing their control over food more generally. The Guidelines identify “[t]he participation of women in decisions about how to best implement food security and nutrition programmes [as] critical to reducing the risks women and girls face in emergency situations.” Women’s participation in the needs-assessment and targeting process of any food program, as well as in the ongoing monitoring of their efficacy, is viewed as essential to minimizing vulnerability to sexual violence and maximizing enjoyment of the right to food. The Guidelines specifically recommend that there be “women staff from the implementing agency present during food distributions.”224

Box 18. The Participation of Women in Camp Governance Structures in Haiti

The GJC survey data and interviews suggest that when women are excluded from the governance bodies charged with distribution of essential goods, such as some CMAs and camp-committee structures, they are more vulnerable to abuse and exploitation by those with power. The majority of households surveyed, including those with victims of sexual violence, reported that camp-management structures had not consulted them regarding decisions affecting life in the camp.225 While data suggest that rates of participation in decisions affecting their lives may be strikingly low for camp residents of both genders, women appear to be even more marginalized. Findings indicate
that women and girls have not had equal influence on decisions regarding camp services, and have not been consistently included on camp committees or other management structures responsible for overseeing distribution of basic resources and services. In addition to concerns about corruption among camp committee members, participants in multiple GJC focus groups alleged that committee members subjected women to sexual exploitation by demanding sex for camp positions and resources. Camp leaders expressed a variety of views about the role of women in camp governance. While all four camps had one or more camp committees, it was unclear whether women were active participants in several. While one camp committee had strong female leadership, two key informants who were involved in governance in another camp, gave opposing views on whether a women’s committee existed there. Women’s committee members at another camp explained that they were not included in decision-making or resource distribution by the main camp committee. Women’s rights advocates said that even when women are included on camp committees, they rarely occupy positions of authority or influence.

A study conducted by Professor Mark Schuller found that many camp committees were selected under nondemocratic auspices, and the Humanitarian Accountability Partnership has dubbed Camp Committees in Haiti “Unaccountability Mechanisms.” While humanitarian agencies frequently treat camp committees as the “official voice” of the camps, Schuller notes that “the majority of committees leave the population out of decision-making and even communication,” and that “men predominate in official camp committees.”

Participation of beneficiaries is not just essential to ensure the efficacy of interventions; it is the right of beneficiaries to take part in decisions affecting them. The absence of effective mechanisms for including IDP residents, and particularly women and girls, in the design, implementation, and oversight of interventions concerning the provision of essential goods and services or prevention, protection, and remedy for sexual violence is contrary to international best practices and inconsistent with human rights law. By undermining the efficacy of food, water, and sanitation programs, the lack of participation indirectly exacerbated economic disadvantage and fueled vulnerability to sexual violence. And the failure to include women and girls in planning camp operations that impact GBV vulnerability further hindered responses to ongoing rights violations.

The following chapter examines who bears responsibility for these failings, and how those duty bearers are obliged to act under international, regional, and domestic law.

NOTES

1Haiti’s Constitution provides that international treaties or agreements that have been approved and ratified by the state are self-executing and automatically become part of the law of the country. LA CONSTITUTION DE LA REPUBLIQUE D’HAI TI (1987), art. 276-2 [hereinafter CONST. D’HAI TI (1987)].

2Customary international law is generally defined as international consensus on a legal rule. This consensus is formed and determined through state practice and opinio juris (the belief that the practice is obligatory). See, e.g., Statute of the International Court of Justice, art. 38, June 26, 1945, 59 Stat. 1055, 1060 [hereinafter ICJ Statute] (defining the sources of international law to include “international custom, as evidence of a general practice accepted as law”); RESTATEMENT
(THIRD) OF FOREIGN RELATIONS LAW § 702 cmt. a (1987) (“This section includes as customary law only those human rights whose status as customary law is generally accepted (as of 1987) and whose scope and content are generally agreed.”).


The term ‘gender-based violence against women’ is used throughout the Convention and refers to violence that is directed against a woman because she is a woman or that affects women disproportionately. It differs from other types of violence in that the victim’s gender is the primary motive for the acts of violence described under lit.a. In other words, gender-based violence refers to any harm that is perpetrated against a woman and that is both the cause and the result of unequal power relations based on perceived differences between women and men that lead to women’s subordinate status in both the private and public spheres. . . . The use of the expression ‘gender-based violence against women’ in this Convention is understood as equivalent to the expression ‘gender-based violence’ used in the CEDAW Committee General Recommendation No. 19 on violence against women (1992), the United Nations General Assembly Declaration on the Elimination of Violence against Women (1993) and Recommendation Rec(2002)5 of the Committee of Ministers of the Council of Europe to member states on the protection of women against violence (2002). This expression is to be understood as aimed at protecting women from violence resulting from gender stereotypes, and specifically encompasses women.


6 As the IASC Handbook for the Protection of Internally Displaced Persons explains, in contrast to “sex” which refers to fixed, biologically determined differences, the term “gender” connotes “social differences that are learned, that can change over time, and that can vary widely within and between cultures. Gender is a socio-economic, cultural and political variable that can be used to analyse roles, responsibilities, constraints, opportunities and needs of women and men in different contexts.” IASC HANDBOOK, supra note 4, at 168 n.2. See also NORWEGIAN REFUGEE COUNCIL, CAMP MANAGEMENT TOOLKIT 127 (2004), available at http://protection.unsdan.org/data/general/NRC%20Camp%20Management%20Toolkit%20-%20GBV%20Prevention%20Chapter.pdf (defining gender-based violence in the chapter discussing prevention of GBV).

7 WORLD HEALTH ORG., WORLD REPORT ON VIOLENCE AND HEALTH 149 (Etienne G. Krug et al. eds., 2002).


9 Id. ¶¶ 598, 688.

treatment of rape and sexual violence under human rights jurisprudence and international criminal law and assessing whether adjudication of GBV in international tribunals complies with a human rights framework).

11 For further discussion of these definitions, see Chapter 2: Study Design and Methods, supra at .

12 One notable exception is the Convention on Preventing and Combating Violence Against Women and Domestic Violence, adopted in April 2011 by the Council of Europe. The explanatory report to the Convention addresses the choice and meaning of the term “gender” in the Convention text:

[The term gender, based on the two sexes, male and female, explains that there are also socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men. Research has shown that certain roles or stereotypes reproduce unwanted and harmful practices and contribute to make violence against women acceptable. To overcome such gender roles, Article 12 (1) frames the eradication of prejudices, customs, traditions and other practices which are based on the idea of the inferiority of women or on stereotyped gender roles as a general obligation to prevent violence.

Council of Europe, Explanatory Report, supra note 5, ¶ 43.


14 The Committee on the Elimination of Discrimination Against Women was established by Article 17 of the Convention on the Elimination of all forms of Discrimination Against Women, as the body tasked with monitoring progress on implementation of the Convention. See id. art. 17.


22 Id. (emphasis added).

23 IASC GBV GUIDELINES, supra note 3, at 7.

Article 3 of the Convention of Belém do Pará provides: "Every woman has the right to be free from violence in both the public and private spheres." Convention of Belém do Pará, supra note 19, art. 3. In April 2011, the Council of Europe adopted the Convention on Preventing and Combating Violence Against Women and Domestic Violence. It recognizes the right to be free from violence in Article 4: "Parties shall take the necessary legislative and other measures to protect and promote the right for everyone, particularly women, to live free from violence in both the public and private sphere." See Convention on Preventing and Combating Violence Against Women and Domestic Violence, supra note 5, art. 4.


See IASC GBV GUIDELINES, supra note 3, at 1 (“Gender-based violence is a violation of universal human rights protected by international human rights conventions, including the right to security of person; the right to the highest attainable standard of physical and mental health; the right to freedom from torture or cruel, inhuman, or degrading treatment; and the right to life.”); see also CEDAW General Recommendation No. 19, supra note 16, at ¶ 7 (identifying the following rights and freedoms as those the enjoyment of which is impaired or nullified by GBV: (a) The right to life; (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict; (d) The right to liberty and security of person; (e) The right to equal protection under the law; (f) The right to equality in the family; (g) The right to the highest standard attainable of physical and mental health; (h) The right to just and favourable conditions of work”).

Declaration on the Elimination of Violence Against Women, supra note 17, pmbl.

Universal Declaration of Human Rights, G.A. Res. 217A (III), art. 3, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948) [hereinafter UDHR]. See also id. art. 5 (“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”).

The right to life and security of person is also implicit in Articles 1 and 2 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature Dec. 10, 1984, 1465 U.N.T.S. 85, G.A. Res. 39/46, U.N. Doc. A/RES/39/46 [hereinafter CAT], and Article 7 of the Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90, 37 ILM. 1002 [hereinafter Rome Statute], which define and protect against torture and crimes against humanity. However, Haiti is not a signatory to the CAT, and it has signed, but not ratified, the Rome Statute.

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34 American Convention on Human Rights, arts. 5, 7, 11, Nov. 21, 1969, O.A.S.T.S. No. 36; 1144 U.N.T.S. 143 [hereinafter American Convention] (protecting physical, mental, moral integrity (art. 5(1)), prohibiting CIDT and protecting inherent human dignity (art. 5(2)), guaranteeing personal liberty and security (art. 7), and setting forth the right to protection of honor and dignity (art. 11)).

35 See Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), arts. 2, 3, 5, 15, Nov. 4, 1950, Europ. T.S. No. 5; 213 U.N.T.S. 221 [hereinafter ECHR] (protecting the right to life (art. 2), prohibiting torture or inhumane or degrading treatment (art.3), guaranteeing liberty and security of person (art. 5), and prohibiting derogation from, inter alia, articles 2 or 3, even in times of emergency (art. 15)).


37 See African Charter on Human and Peoples Rights, arts. 4, 5, 6, June 27, 1981, 1520 U.N.T.S. 217, 245; 21 I.L.M. 58, 59 (1982) [hereinafter AfCHPR] (recognizing the right of every individual to respect for his life and the integrity of his person (art. 4), the right to respect of the dignity inherent in a human being and prohibiting torture and CIDT (art. 5), and the right to liberty and security of person (art. 6)).

38 See American Convention, supra note 34, art. 4, 5(1) (providing that “[e]very person has the right to have his physical, mental, and moral integrity respected”); American Declaration on the Rights and Duties of Man, art. 1, XXV, XXVI, Mar. 30-May 2, 1948, Organization of American States, Res. XXX, Int’l Conf. of Am. States, 9th Conf. (1948), reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OAS/Ser.L/V/I.4 rev. 13 (2010) [hereinafter American Declaration]; Convention of Belém do Pará, supra note 19, arts. 3–4. See also Report on Citizen Security and Human Rights, supra note 26, ¶ 121.

39 See Villagrán Morales et al. v. Guatemala, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 63, ¶ 144 (Nov. 19, 1999) (finding that the right to life requires States not only to ensure it is not arbitrarily denied, but also that States do not prevent access to conditions that guarantee a dignified existence).

40 CONST. D’HAÏTI, supra note 1, art. 19.

41 See U.N. Human Rights Comm., General Comment No. 28: Equality of rights between men and women (Art. 3), U.N. Doc. CCPR/C/21/Rev.1/Add.10, ¶ 11 (Mar. 29, 2000) [hereinafter CCPR General Comment 28] (instructing states to include an analysis of their laws on rape when reporting on their compliance with Article 7).

42 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85, 113; S. Treaty Doc. No. 100-20 (1988). Haiti is not a party to this Convention, but is under a duty to prohibit torture and other cruel, inhuman and degrading treatment according to international customary law, as well as its obligations under other international treaties prohibiting torture to which it is a State party.


46 Convention of Belém do Pará, supra note 19, pmbl.
CEDAW General Recommendation No. 19, supra note 16, at ¶ 6 (defining GBV as violence “directed against a woman because she is a woman or that affects women disproportionately . . . [including] acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”).

Declaration on the Elimination of Violence Against Women, supra note 17, pmbl.

See Convention on Preventing and Combating Violence Against Women and Domestic Violence, supra note 5, pmbl.


See UDHR, supra note 29, art. 7 (“[A]ll are equal before the law and are entitled without any discrimination to equal protection of the law.”), art. 2 (“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”); see also ICCPR, supra note 31, arts. 2(1), 26; International Covenant on Economic, Social and Cultural Rights, arts. 2(2), 3, Dec. 16, 1966, 993 U.N.T.S. 3; S. Treaty Doc. No. 95-19, 6 I.L.M. 360 (1967) [hereinafter ICESCR] (“The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”).

See CEDAW Committee General Recommendation 19, supra note 16, ¶ 8 (drawing on the principle of due diligence under international law and the obligation to prevent, investigate, punish, and provide compensation for acts of violence, to find that the protections afforded by CEDAW are not limited to protection against government action, but extend to private acts as well).

CEDAW, supra note 13, arts. 1, 2 (“[D]iscrimination against women” shall mean 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.”).

CEDAW General Comment 28, supra note 41, ¶ 2. Article 3 of the ICCPR states: “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.” ICCPR, supra note 31, art. 3.


See CCPR General Comment No. 18, supra note 56, ¶ 8; see also KALIN, supra note 21, at 13 (explaining that treating IDPs differently to address their needs does not violate Article 26 of the ICCPR).

CCPR General Comment No. 28, supra note 41, ¶ 7.

Guiding Principles, supra note 20, princ. 4(2).

Gonzalez v. United States, Case 12.626, Inter-Am. Comm’n H.R., Report No. 80/11, ¶ 107 (July 21, 2011) (citing the International Covenant on Civil and Political Rights (Articles 2 and 26); International Covenant on Economic, Social and Cultural Rights (Articles 2.2 and 3); European Convention on Human Rights (Article 14); African Charter on Human and People’s Rights (Article 2)).
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61 Id. at ¶ 108 (citing Maya Indigenous Community v. Belize, Case 12.053, Inter-Am. Comm’n H.R., Report No. 40/04, ¶ 162 (Oct. 12, 2004)).

62 AMNESTY INTERNATIONAL, supra note 52, at 13.


64 Notes by MADRE of the July 2011 We-Lead Workshop on GBV in Port-au-Prince (August 2, 2011) (on file with the GJC).

65 IACHR Report on Women in Haiti, supra note 24, ¶ 82.

66 Id. ¶ 151.

67 CONST. D’HAÏTI, supra note 1, art. 19.

68 SR Report on VAW, supra note 50, ¶ 16.

69 Id. ¶ 43.


71 See SR Report on VAW, supra note 50, ¶ 51. Many equal protection provisions in international human rights texts prohibit discrimination based on not only sex, but also “other status,” which has been interpreted to cover the status of being internally displaced. See KALIN, supra note 21, at 11–12.

72 IASC HANDBOOK, supra note 4, pt. IV.4, at 167–80. For further discussion of the vulnerability of displaced populations to GBV, see the IASC GBV GUIDELINES, supra note 3, at 4 (“In emergencies, norms regulating social behavior are weakened and traditional social systems often break down. Women and children may be separated from family and community supports, making them more vulnerable to abuse and exploitation due to their gender, age, and dependence on others for help and safe passage.”).


74 Id.


76 Id. ¶ 22, at 5.

77 Id. ¶ 23, at 5–6.

78 Id.


80 See MADRE et al., UPR Submission on GBV, supra note 70.

81 The Universal Period Review (UPR) is a process for evaluating the human rights records of each U.N. member state. The process takes place every four years and allows states to demonstrate the measures they have undertaken to enhance enjoyment of human in their respective countries. A working group consisting of 47 member states reviews each
country and prepares a report, containing the group’s recommendations, which the country under review may accept or reject. For general information on the UPR process, see Universal Periodic Review, U.N. OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx (last visited Jan. 17, 2012).

82 See U.N. Human Rights Council, Universal Periodic Review, Rep. of the Working Group on the Universal Periodic Review: Haiti, U.N. Doc. A/HRC/19/19 (Dec. 8, 2011) (summarizing the proceedings of the review process including, inter alia, statements made by the following 19 States that mention gender-based violence or violence against women in Haiti: Djibouti ¶ 88.82, Sri Lanka ¶ 88.74, India ¶ 31, Brazil ¶ 32, South Africa ¶ 35, Argentina ¶ 88.76, Canada ¶ 88.78, Colombia ¶ 88.79, Slovenia ¶ 44, 88.107, Norway ¶ 45, 88.80, Thailand ¶ 88.62, Australia ¶ 48, 88.35, 88.86, Sweden ¶ 56, Trinidad and Tobago ¶ 88.60, Maldives ¶ 65, 88.77, United Kingdom ¶ 67, 88.49, 88.81, United States ¶ 70, 88.42, Congo ¶ 69, Luxembourg ¶ 72, 88.75).

83 See id. ¶ 88.76 (recommendation from Argentina), ¶ 88.78 (recommendation from Canada), ¶ 88.79 (recommendation from Colombia).

84 See id. ¶ 88.35 (Australia), ¶ 88.42 (United States), ¶ 88.62 (Thailand), ¶ 88.74 (Sri Lanka), ¶ 88.75 (Luxembourg), ¶ 88.76 (Argentina), ¶ 88.77 (Maldives), ¶ 88.111 (Canada), ¶ 88.79 (Colombia), ¶ 88.80 (Norway), ¶ 88.81 (United Kingdom), ¶ 88.82 (Djibouti), ¶ 88.107 (Slovenia).

85 For example, Thailand recommended that Haiti adopt legal and social strategies to eradicate stereotyping and violence against women. See id. ¶ 88.62. Trinidad and Tobago recommended that the government of Haiti implement policies to fight “all forms of stereotypes and discrimination against girls and women, thereby ensuring their right to social and economic security.” Id. ¶ 88.60.


87 Sexual violence during childhood may lead to increased use of chemical substances, risky sexual behaviors, and future perpetration (for males) or victimization (for females) later in life. See id.

88 Id.


Article 25.1 of the Universal Declaration of Human Rights affirms: ‘Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services.’ The International Covenant on Economic, Social and Cultural Rights provides the most comprehensive article on the right to health in international human rights law. In accordance with article 12.1 of the Covenant, States parties recognize ‘the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, while article 12.2 enumerates, by way of illustration, a number of ‘steps to be taken by the States parties ... to achieve the full realization of this right’. Additionally, the right to health is recognized, inter alia, in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination of 1965, in articles 11.1 (f) and 12 of the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and in article 24 of the Convention on the Rights of the Child of 1989. Several regional human rights instruments also recognize the right to health, such as the European Social Charter of 1961 as revised (art. 11), the African Charter on Human and Peoples’ Rights of 1981 (art. 16) and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1988 (art. 10).
Article 11 of the American Declaration states: “Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.” American Declaration, supra note 38, art. 11.


SR Report on VAW, supra note 50, ¶ 46.


For a discussion of the right to post-rape health care services and the accessibility of such services in post-earthquake Haiti, see HUMAN RIGHTS WATCH, “NOBODY REMEMBERS US”: FAILURE TO PROTECT WOMEN’S AND GIRLS’ RIGHT TO HEALTH AND SECURITY IN POST EARTHQUAKE HAITI 24-26, 52-60 (2011). The report states:

Some women’s groups told Human Rights Watch that emergency contraception and other post-rape care were sometimes unavailable at medical facilities designated as referral facilities for victims of sexual violence. Human Rights Watch found in its interviews that women and girls failed to access timely post-rape care because they did not know what to do or where to go for treatment, or they were ashamed to report the rape. . . . The earthquake destroyed the social network of many women and girls, including family connections, neighbors, schools, churches, and local clinics, disrupting the ability of women and girls to seek assistance after experiencing sexual violence.

Id. at 55.


CONST. HAITI (1987), supra note 1, art. 19 (emphasis added).

Id. art. 23.


Guiding Principles, supra note 20, princ. 19(2).


Id. at 36.
The age of civil majority is 18, according to the Haitian Constitution: Article 16-2, providing that “L’âge de la majorité est fixé à dix-huit (18) ans.” CONST. D’HAITI, supra note 1, art. 16-2. Although Article 279 of the Haitian criminal code provides for an aggravating circumstance for rapes committed against minors aged 15 or younger, thus possibly implying that minors older than 15 might be considered to have reached the age of consent, the law is currently interpreted as prohibiting sexual relations with all minors, that is, with all persons aged less than 18. See also STRUGGLING TO SURVIVE, supra note 111, at 29.

The National Assembly voted to ratify the ICESCR, supra note 5 (2007). The ICESCR may soon be directly binding on Haiti. In February 2012, both houses of the Haitian parliament voted to ratify the ICESCR. President Martelly is required to promulgate the law passed by the parliament to make it effective, and was expected to do so at the time this report went to press. See The National Assembly Voted the ICESCR, HAITILIBRE (Feb. 4, 2012, 11:33AM), http://www.haitilibre.com/en/news-4883-haiti-politic-the-national-assembly-voted-the-icesscr.html.

Article 38 of the Statute of the International Court of Justice defines the sources of international law to include “international custom, as evidence of a general practice accepted as law.” ICJ Statute, supra note 2, art. 38(1)(b); see also RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW, supra note 2, § 702.


See IAN BROWNLIE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 583 (5th ed. 1998) (“[T]he right to development already has a prominent position both in literature and in diplomacy, and is the subject of a Declaration on the Right to Development.”).


Guiding Principles, supra note 20 princ. 18(2). Principle 18 of the Guiding Principles on Internal Displacement corresponds to Article 11(1) of the ICESCR, Article 25(1) of the UDHR and Article 27(1) of the CRC.


For a human rights analysis of survival sex in post-earthquake Port-au-Prince, see STRUGGLING TO SURVIVE, supra note 111, at 15 (finding that women engaging in survival sex have reported that they frequently experience rape and beatings).

Although GJC survey data does not reveal a clear connection between the design or physical integrity of shelters and vulnerability to sexual violence, the IASC Handbook for the Protection of Internally Displaced Persons notes that “[s]ingle women or female-headed households can be at greater risk of harassment, assault or exploitation if they live in shelters without proper walls, partitioning or the possibility to lock shelter doors.” IASC HANDBOOK, supra note 4, at 238.

See supra Ch. 3: Report Findings, at 35.

According to a 2005-06 demographic and health survey, the national average household size was 4.6 persons. MINISTERE DE LA SANTE PUBLIQUE ET DE LA POPULATION, ENQUETE MORTALITE, MORBIDITE, ET
the exercise of this right and the possibility of enjoying the highest level of physical, emotional and intellectual development. In order to promote sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and water alia, the application of readily available technology and through measures “[t]o combat during pregnancy and lactation.”) (emphasis added); CRC, supra note 32, art. 27(3) (“States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”); CRPD, supra note 33, art. 28(1) (“States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing.”); see also KALIN, supra note 21, at 86 (describing the bases of the right to shelter and housing in international law).

CEDAW, supra note 13, art. 14(2)(h).


See CESCR General Comment 4, supra note 124, ¶ 7.

Id. ¶¶ 1, 7.


IASC GBV GUIDELINES, supra note 3, at 55.


Id. ¶ 4.

Id. ¶ 6.

IASC HANDBOOK, supra note 4, at 248.

CESCR General Comment 12, supra note 142, ¶ 8.


See CEDAW, supra note 13, art. 12(2) (“States Parties shall ensure to women appropriate services in connexion [sic] with pregnancy, confinement and the postnatal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”) (emphasis added); CRC, supra note 32, art. 24(2)(c) (obliging states to take appropriate measures “[t]o combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water”) (emphasis added).

Article XI of the American Declaration states: “Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.” American Declaration, supra note 38, art. 11.

See Protocol of San Salvador, supra note 92, art. 12 (“1. Everyone has the right to adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development. 2. In order to promote the exercise of this right and eradicate malnutrition, the States Parties undertake to improve methods of production,
supply and distribution of food, and to this end, agree to promote greater international cooperation in support of the relevant national policies.”

151 See ICESCR, supra note 51, art. 11(2) (“The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger . . .”); Smita Narula, The Right to Food: Holding Global Actors Accountable Under International Law (CHRGJ Working Paper No. 7, 2006) (analyzing the right to food as customary international law and arguing that the right to be free from hunger may already have attained customary status).

152 Special Rapporteur of the Comm’n on Human Rights on the Right to Food, Interim Report of the Special Rapporteur of the Commission of Human Rights on the Right to Food in Accordance with General Assembly Resolution 59/202, transmitted by Note of the Secretary General, ¶ 48, U.N. Doc. A/60/350 (Sept. 12, 2005) (by Jean Ziegler); see also Narula, supra note 151, pt. III, at 69–83. Narula writes: “The right to food actually encompasses two separate but related norms: The right to adequate food and the right to be free from hunger. While the right to adequate food is a “relative” standard, the right to be free from hunger is “absolute” and fundamental. The right to adequate food—defined as sustainable access to food in a quantity and quality sufficient to satisfy one’s dietary and cultural needs—may not yet be part of customary law, but a strong case can be made that the right to be free from hunger has achieved this status.” Id. at 69.

153 See also Narula, supra note 151, at 71 & n. 478 (“According to one commentator, the international community’s attempts to actualize the right to food can be found in “over one hundred instruments relevant to the right to food’s definition and establishment as a human right.”) (citing Anthony Paul Kearns, Note, The Right to Food Exists via Customary International Law, 22 SUFFOLK TRANSNAT’L L. REV. 223, 232–35 (1998)).


155 See, e.g. CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, GLOBAL JUSTICE CLINIC, PARTNERS IN HEALTH, ZANMI LASANTE, & ROBERT F. KENNEDY CENTER FOR JUSTICE AND HUMAN RIGHTS, SAK VID PA KANPE: THE IMPACT OF U.S. FOOD AID ON HAITIAN RIGHTS IN HAITI (2010); see also Elizabeth Arend & Lisa Vitale, Gender Action, Gender, IFIs and Food Insecurity Case Study: Haiti, GENDER ACTION, 1 (Nov. 2011), http://www.genderaction.org/publications/tdsec/haiti.pdf (arguing that “[IFIs] have severely undermined Haiti’s ability to improve food security and reduce hunger and malnutrition among Haiti’s poor,” and that aid programs have failed to emphasize agriculture, foster rural development, or address gender inequality in access to land and control of food production); Mark Weisbrot, Jake Johnston, & Rebecca Ray, Using Food Aid to Support, Not Harm, Haitian Agriculture, CENTER FOR ECONOMIC & POLICY RESEARCH (CEPR) (Apr. 2010), http://www.cepr.net/documents/publications/haiti-2010-04.pdf (explaining how dependence on imported rice has undermined Haitian agriculture, hindered economic recovery and ensured the unsustainability of food aid); Marc Cohen, Planting Now: Agricultural Challenges and Opportunities for Haiti’s Reconstruction, Oxfam Briefing Paper No. 140, OXFAM (Oct. 4, 2010), http://www.oxfam.org/sites/www.oxfam.org/files/bp140-planting-now-agriculture-haiti-051010-en_0.pdf (describing how past trade liberalization has exposed Haiti’s farmers to competition from subsidized US agricultural production and subjected consumers to volatile global prices, and calling for the international community to support a comprehensive agricultural recovery plan, with due attention to the role of women in agriculture and food security through small-scale local production).

156 See Gender Action, supra note 155, at 1 (“Gender Action’s monitoring shows that most of the 13 WB and 80 IDB post-earthquake commitments to Haiti, totaling over US$950 million as of fall 2011, ‘neither focus on agriculture and rural development, nor on the role of women.’”); see also Oxfam, supra note 155, at 2, 13–16 (“The immediate humanitarian response to the earthquake had a degree of bias towards external food aid, although some donors
emphasized procurement from Haitian farmers. Massive distribution of seeds, tools, and fertilisers in the earthquake zone and to those hosting displaced people bolstered prospects for 2010 harvests, although donors did not provide enough resources to assist all targeted households.

157 Const. d’Haiti, supra note 1, art. 22.


160 See CHRGJ et al., ¶ 16 in JJDH & BIA, UPR SUBMISSIONS TO THE UNHRC, supra note 158, at 75–76.

161 Id. ¶26, at 78. See also Oxfam, supra note 155, at 15 (“After 31 March, the government insisted that a higher proportion of food aid should come from Haitian farms, and that general food distribution should stop, with ongoing efforts targeted to vulnerable groups such as preschool and school-aged children.”).

162 IASC GBV GUIDELINES, supra note 3, at 50.

163 Id. at 51 (Action Sheet 6.1).

164 IASC HANDBOOK, supra note 4, at 251.

165 Id. at 252.

166 SPHERE HANDBOOK, supra note 73, at 203–213 (discussing three food security standards related to primary production, income generation and employment, and access to markets).

167 Id. at 372.


170 See, e.g., INTER-AM. COMM’N H.R., 1995 ANNUAL REPORT, available at http://www.iachr.org/annualrep/95eng/TOC.htm (directly linking the right to water with the right to life by analogizing environmental law violations with human rights violations, and stating that the provisions of Article 4 of the American Convention (right to life) necessitate government protection of water).


172 See, e.g., Free Legal Assistance Group et al. v. Zaire, Afr. Comm’n on Human & Peoples’ Rts., Comment No. 25/89, 47/90, 56/91, 100/93 (1995) (African Commission on Human and People’s Rights held the failure of the Government to provide basic services such as safe drinking water . . . constitutes a violation of the Article 16 right to health); Memoria Comunidad Payemutí s/acción de amparo, Expte. 311-CA-1997. Sala II. Cámara de Apelaciones en lo Civil, Neuquen, (1997) (Argentina court required States to address pollution of drinking water sources); F.K. Hussain v. Union of India, O.P. 2741/1988 (1990) (considering opposing views regarding the impact of a government agency’s plans to dig wells on a set of islands on water quality); Government of the Republic of South Africa & Others v. Groothoom & Others 2001 (1) SA 46 (CC) (S. Afr.) (addressing obligations of States to progressively fulfill socio-economic rights, including water).
173 See, e.g., ICCPR, supra note 31; ICESCR, supra note 51; American Convention, supra note 34; Protocol of San Salvador, supra note 92; American Declaration, supra note 38. Although the Declaration is not legally binding itself, the Inter-American Court of Human Rights expressly recognizes that the American Declaration defines the fundamental human rights referred to in the OAS Charter. See Interpretation of American Declaration of the Rights and Duties of Man, Advisory Opinion OC-10/89, Inter-Am. Ct. H.R. (ser. A) No. 10, ¶ 43 (July 14, 1989). See also UNHCHR Report on Obligations Related to Safe Water and Sanitation, supra note 171, at ¶ 6-7 (describing obligations relating to access to safe drinking water and sanitation implicit in human rights treaties and derived from obligations to promote and protect other rights).


175 See International Timeline, THE RIGHTS TO WATER AND SANITATION, http://www.righttowater.info/international-timeline/#1966iccpr (last visited Jan. 18, 2012). For a list of international declarations, treaties and standards that have recognized the right to water, see CESCR General Comment 15, supra note 169, at n. 5 (“art. 14, para. 2 (b), Convention on the Elimination of All Forms of Discrimination Against Women; art. 24, para. 2 (g), Convention on the Rights of the Child; arts. 20, 26, 29 and 46 of the Geneva Convention relative to the Treatment of Prisoners of War, of 1949; arts. 85, 89 and 127 of the Geneva Convention relative to the Treatment of Civilian Persons in Time of War, of 1949; arts. 54 and 55 of Additional Protocol I thereto of 1977; arts. 5 and 14 Additional Protocol II of 1977; preamble, Mar Del Plata Action Plan of the United Nations Water Conference…”). See also UNHCHR Report on Obligations Related to Safe Water and Sanitation, supra note 171, ¶ 5(d) (“Recommendation 14 of the Committee of Ministers of the Council of Europe to member States on the European Charter on Water Resources provides that everyone has the right to a sufficient quantity of water for his or her basic needs.”); id., ¶ 32 (“Human rights obligations in relation to access to safe drinking water and sanitation can be derived from various treaties, notably the International Covenant on Civil and Political Rights (ICCPR) (the right to life and the prohibition of torture) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (the right to an adequate standard of living, the right to adequate housing, the right to food and the right to health.”); id., Annex I at 28 (reviewing international human rights obligations related to the provision of safe drinking water and sanitation in various international instruments, including CEDAW, CRC, and ILO 161 on Occupational Health Services, and regional treaties in mentioning access to water).


177 See CESCR General Comment 15, supra note 169, ¶ 10, at 4.

178 Id., ¶2, at 2.


180 See CESCR General Comment 15, supra note 169, at 7-8, ¶¶ 15-16(a) (“With respect to the right to water, States parties have a special obligation to provide those who do not have sufficient means with the necessary water and water facilities and to prevent any discrimination on internationally prohibited grounds in the provision of water and water services. … Whereas the right to water applies to everyone, States parties should give special attention to those individuals and groups who have traditionally faced difficulties in exercising this right, including women, children, [and]… internally displaced persons…. “); see also Special Rapporteur of the Sub-Commission on the Right to Drinking Water Supply and Sanitation, Preliminary Rep. on the Relationship Between the Enjoyment of Economic, Social and Cultural Rights and the Promotion of the Realization of the Right to Drinking Water Supply and Sanitation, Comm’n on Human Rights, Sub-Comm’n on the Promotion and Protection of Human Rights, U.N. Doc. E/CN.4/Sub.2/2002/10 (June 25, 2002) (by El Hadji Guissé).

181 IASC OPERATIONAL GUIDELINES, supra note 103, at 33.

182 CESCR General Comment 15, supra note 169, ¶ 56.

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UNHCHR Report on Obligations Related to Safe Water and Sanitation, supra note 171, ¶ 25.
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See id. ¶ 15; SPHERE HANDBOOK, supra note 73, at 97–98 (noting that the total basic water needs for survival may range from 7.5 to 15 litres per day, depending on climate and physiology, but indicating that 15 litres is the average minimum essential amount necessary for survival). The Sphere indicators suggest that the maximum distance from any household to the nearest water point is 500 meters, and people should not have to wait more than 30 minutes to access water at a distribution point. Id. Sphere also articulates a maximum number of people per water source of 250 people per tap, 500 people per hand pump, and 400 people per single-user open well. Id. at 98.
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See generally Special Rapporteur on the Right to Water and Sanitation, July 2009 report, supra
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UDHR, supra note 51, at 50–51.
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ICESCR, supra note 169, ¶ 11–12.
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U.N. Office of the High Comm’r for Human Rights, Special Rapporteur on the Right to Water and Sanitation, July 2009 report, supra note 120, ¶ 43, at 15; see also id. ¶ 51 (discussing risks women and girls face when they are forced to walk to toilets in the dark).
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See UNHCHR Report on Obligations Related to Safe Water and Sanitation, supra note 171, ¶ 18 (“Human rights instruments offer little guidance as to the scope and content of the term “sanitation”. The Sub-Commission’s guidelines refer to a right to sanitation, defined as the right of everyone to have access to adequate and safe sanitation that is conducive to the protection of public health and the environment. Accordingly, sanitation and sanitation facilities should be physically accessible, affordable, of a sufficient and culturally acceptable quality and in a location where physical security can be ensured.”)
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ICESCR, supra note 51, art. 11.
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UDHR, supra note 29, art. 25(1).
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See Special Rapporteur on the Right to Water and Sanitation, July 2009 report, supra note 120 (discussing the linkages between the right to sanitation and other rights while asserting the need to consider sanitation a distinct right).
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Yon Je Louvri: Reducing Vulnerability to Sexual Violence in Haiti’s IDP Camps


204 SPHERE HANDBOOK, supra note 73, at 107.

205 IASC GBV GUIDELINES, supra note 3, at 47 (Water and Sanitation Action Sheet). Unless otherwise noted, all citations to the IASC GBV Guidelines in Text Box 17 refer to the Water and Sanitation Action Sheet.

206 Id. at 48.

207 SPHERE HANDBOOK, supra note 73, at 107–08.


210 Special Rapporteur on the Right to Water and Sanitation, July 2009 report, supra note 120, ¶¶ 65-66; see also U.N. Office of the High Comm’r for Human Right, Women and Girls and Their Right to Sanitation, OHCHR (Oct. 3, 2011) http://www.ohchr.org/EN/NewsEvents/Pages/Womenandgirlsrighttosanitation.aspx (“Women and girls place higher value on the need for a private toilet than men, and thus are often willing to devote household resources to gaining such access. However, women are rarely in control of the household budget, and access to sanitation remains a low priority in many parts of the world.”).

211 SPHERE HANDBOOK, supra note 73, at 107.

212 ICCPR, supra note 31, art. 25.

213 CEDAW, supra note 13, art. 7.

214 CEDAW General Comment 15, supra note 169, ¶ 16(a).


216 Guiding Principles, supra note 20, princl. 7(3)(d).

217 Id., princl. 18.

218 SPHERE HANDBOOK, supra note 73, at 53.

219 See, e.g. SPHERE HANDBOOK, supra note 73, at 103 (discussing the importance of participation to the design of water points and construction of bathing facilities).

220 IASC GBV GUIDELINES, supra note 3, at 31.

221 Id. at 47.

222 Id. at 50–52.

223 Id. at 50 (Action Sheet 6.1).

224 Id. at 51.

225 See supra Chapter 3: Report Findings, Part. G.

226 Across the entire GJC survey sample, 23.7 percent of males report being consulted about decisions in the camp, whereas only 18.5 percent of females report being consulted about decisions in the camp. While this data suggest that rates of consultation and participation in decisions affecting their lives may be strikingly low for residents of both genders, women appear to be even more marginalized from decision-making. See supra Chapter 3: Report Findings, at 35.

227 See also U.N. HIGH COMM’R FOR REFUGEES, DRIVEN BY DESPERATION: TRANSACTIONAL SEX AS A SURVIVAL STRATEGY IN PORT-AU-PRINCE IDP CAMPS (May 2011), available at http://www.unhcrwashington.org/atf/cf/%7Bc07eda5e-ac71-4340-8570-194d98bdc139 %7D/SGBV-HAITI-STUDY-
Several observers have faulted camp committee structures for a lack of transparent and democratic operating procedures.


230 Schuller, supra note 228, at 27, 29.

231 Id. at 29.
CHAPTER 5
THE LEGAL FRAMEWORK CONCERNING DUTIES TO SECURE HAITIANS’ HUMAN RIGHTS

I. RIGHTS AND DUTIES: WHO IS RESPONSIBLE FOR ENSURING THE RIGHTS OF IDPs IN HAITI?

The human rights discussed in the preceding chapter, including the right to be free from sexual violence, would have little meaning without corresponding responsibilities on the part of those with the capacity to make a difference in the lives of Haitians residing in IDP camps. Under international law and best practice, all the major players, from the government of Haiti and donor States to the United Nations and INGOs, have certain legal and moral obligations to take concrete, concerted actions to reduce vulnerabilities and increase the capacity of those living in camps to access what they need to survive in safety and dignity. Although the legal status and content of the duties differ depending on which actor is involved, the obligation to prevent and respond to sexual violence rests with all those who are intervening in the post-earthquake assistance and recovery process.

Generally, the government of each State bears the primary responsibility to ensure the protection and achievement of human rights for those on its territory or otherwise under its jurisdiction. In recent years, however, international human rights law has evolved to take better account of the forces impacting people’s lives in this increasingly interconnected world. Three major developments are relevant here. First, human rights norms have crystallized to make clear that State action directly affecting the human rights of people outside the State’s territory must be consistent with human rights law. Second, there is increased awareness of the limited capacity of some weak States to effectively fulfill the human rights of individuals on their territory or otherwise under their jurisdiction, especially in situations where other States or powerful private actors may hold sway. Third, international law has begun to develop rules that extend directly to non-State actors, such as companies, organizations, and individuals. While States have always had the obligation to guide, regulate, and punish the rights-violating conduct of individuals, companies, and other entities under their jurisdiction, in some circumstances recent efforts have begun to extend human rights norms directly to private actors.

All these developments are relevant in post-earthquake Haiti, where donor States, intergovernmental organizations, and private entities have a great deal of power and influence, and where the government of Haiti continues to suffer serious limitations. Human rights law can help point toward sustainable solutions by emphasizing that the activities of all actors in Haiti should be directed at two principal, complementary aims: to empower the people of Haiti to access their full rights, and to ensure that the State has the ability to protect and fulfill the rights of its citizens.
II. THE HUMAN RIGHTS RESPONSIBILITIES OF STATES

A. TYPES OF DUTIES: TO RESPECT, PROTECT, AND FULFILL

A State’s human rights obligations are based on national, regional, and international law, as defined by treaties and customary international law, which comprises legal norms that the international community widely accepts. In relation to States, this chapter focuses principally on international human rights law enshrined in treaties.

When a State becomes a party to an international human rights treaty, that government assumes certain responsibilities that guide and constrain its actions from that moment forward. When a State signs a treaty, it is required to refrain from any action that would contradict the object and purpose of the treaty,¹ and when a State ratifies a treaty, it is required to immediately take steps to realize the rights contained in that treaty. Furthermore, even if a State has neither signed nor ratified a human rights treaty, it still has certain obligations stemming from customary international law, which protects the most fundamental human rights and which, as a general matter, applies to all States. States’ human rights responsibilities typically fall into three categories: the responsibility to respect, the responsibility to protect, and the responsibility to fulfill.

Respect—The duty to respect requires governments to refrain from interfering directly or indirectly with the enjoyment of an individual’s rights.

Protect—The duty to protect requires governments to prevent the violation of human rights by others. This means that States must take actions to prevent, investigate, and punish individuals, companies, or other entities that infringe upon individuals’ human rights.

Fulfill—The duty to fulfill requires governments to adopt whatever measures are necessary, to the maximum of available resources, to achieve the full realization of human rights for all.

The precise steps that States must take to satisfy their affirmative duties to protect and fulfill vary according to the context in which a State is acting and the norms by which it is bound. However, the duty to respect human rights means that States must refrain from directly or indirectly violating the rights of individuals and communities, regardless of where those persons are located.

The State obligations relevant to this Study concern not only prevention of and responses to acts of sexual violence, but also progressive realization of the rights to food, water, sanitation, and housing, which the GJC survey data revealed to be correlated to vulnerability to violence.

Box 19. Making Sense of Responsibilities: State Duties to Respect, Protect, and Fulfill in Relation to Sexual Violence

Responsibility to Respect: The obligation to respect the right to be free from sexual violence means that a State must, inter alia:²

- Refrain from engaging in sexual violence and other forms of GBV;³
- Ensure that its authorities, officials, personnel, agents, and institutions act in conformity with this obligation;
• Refrain from engaging in any act or practice of discrimination on the basis of sex or gender and to ensure that public authorities and institutions shall act in conformity with this obligation.\(^4\)

**Responsibility to Protect:** The obligation to protect individuals from GBV, including sexual violence, and discrimination means that a State must, for example:\(^5\)

- Adopt specific legislation to address GBV and ensure its full implementation, such as by providing training to relevant professional groups;\(^6\)
- Provide protective services for victims of violence, including telephone hotlines, health care, counseling, legal assistance, protective shelters, restraining orders, and financial assistance;\(^7\)
- Apply due diligence to prevent, investigate, and punish GBV;\(^8\)
- Carry out public education campaigns, which include men and past perpetrators in prevention activities.\(^9\)

**Responsibility to Fulfill:** The obligation to fulfill the right not to be discriminated against on the basis of gender means that a State must, in relation to sexual violence, for example:\(^10\)

- Make available and accessible appropriate remedies, such as compensation, reparations, restitution, rehabilitation, guarantees of nonrepetition, declarations, public apologies, educational programs, and prevention programs;
- Establish appropriate venues for redress, such as courts and tribunals or administrative mechanisms that are equally accessible to all, including the most disadvantaged and marginalized populations;
- Develop monitoring mechanisms to ensure that the implementation of laws and policies aimed at promoting the equal enjoyment of economic, social, and cultural rights by men and women do not have unintended adverse effects on disadvantaged or marginalized individuals or groups, particularly women and girls;
- Design and implement policies and programs to ensure equal rights for men and women, including adoption of temporary special measures to accelerate women’s equal enjoyment of their rights, gender audits, and gender-specific allocation of resources;
- Conduct human rights education and training programs for judges and public officials;
- Promote equal participation of men and women in development planning, decision making, and the benefits of development, and in all programs related to the realization of economic, social, and cultural rights.

### B. WHICH STATE’S DUTIES? WHICH DUTIES?

#### 1. Obligations of the State of Haiti

The government of Haiti bears primary responsibility for guaranteeing the rights of all persons within its territory. As detailed in the preceding chapter, international, regional, and Haitian law protects the rights to liberty and security of person, nondiscrimination, and health. Because acts of sexual violence violate these fundamental rights, the Haitian government has a duty to undertake measures: 1) to prevent such violence, whether committed by State actors or private persons; 2) to provide victims with a remedy, through the investigation and punishment of abuses; and 3) to enable
individuals to live in security, free from vulnerability to sexual violence. As GJC survey data reveal, factors that increase an individual’s risk of experiencing sexual violence constitute, in themselves, violations of basic human rights—the rights to adequate and safe food, water, and sanitation.

The evidence of persistent hunger and insufficient access to water and sanitation among the IDP households surveyed further highlights the ways in which the government of Haiti is falling short of its obligations under the Haitian Constitution and international law to protect and fulfill economic, social, and cultural rights, including the rights to food, water, and sanitation. As a party to the ICCPR, the CEDAW, the CRC, the OAS Charter, and the American Convention, Haiti is bound by the obligations within each of those treaties. Because it had signed but not yet ratified the ICESCR and the Protocol of San Salvador at the time of the study—both of which enumerate economic and social rights—Haiti was not legally bound by their provisions, but was obliged to refrain from any actions that would frustrate the object and purpose of either treaty. Moreover, because the Haitian Constitution protects the rights to health and food, of which access to water is an integral component, the Haitian government has an obligation to ensure the satisfaction of minimum essential levels of each of these rights. Finally, as discussed in the preceding chapter, some scholars believe the right to be free from hunger is protected by customary international law, and as such, is binding on all States. The corresponding duties imply that the State, “as a last resort, must provide food ‘whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal.’”

International human rights law recognizes the resource constraints under which States, including Haiti, may be operating, particularly in times of emergency. In view of these limitations, it allows States to pursue the progressive realization of economic and social rights provided they immediately and without discrimination meet the minimum core obligations and take steps to fulfill economic and social rights by allocating the maximum available resources for the realization of the full content of those rights. The requirement that States use the “maximum available resources” places an obligation on weakened States to seek and accept international assistance from partners and donors when they are unable to fulfill the minimum core obligations on their own. According to the Food and Agricultural Organization (FAO), when the State in an emergency situation is unwilling or unable to fulfill the right to food, refusing access to humanitarian aid could constitute a violation of human rights law, particularly the obligation to respect. CESR General Comment 12 provides that “the prevention of access to humanitarian food aid in internal conflicts or other emergency situations” constitutes a violation of the right to adequate food. Moreover, the FAO notes that where denial of aid “would threaten the lives of the affected population, the State would violate the right to life.”

The actions of the government of Haiti to halt certain forms of humanitarian assistance to those living in camps—such as general food distribution and free potable water—without ensuring that IDPs have adequate alternative means to satisfy their basic needs have harmed the rights of the most vulnerable. Although these actions had laudable goals of protecting Haitian agricultural markets and ensuring sustainable water service, additional protective measures are needed to guarantee that those without the economic means to access adequate food and water can still find those essential resources. Similarly, the forced evictions of IDPs—without the provision of alternative housing options and with the assistance of government forces—violate the rights of displaced Haitians.

The duties implied by the rights to security of person and health require not only that States
refrain from violating these rights, but that they take reasonable steps to protect individuals from the violation of their rights by third parties through, *inter alia*, providing adequate policing, health and social services for victims, and judicial remedies. (*See Focus On: Access to Justice for Victims of Sexual Violence in Haiti, supra at 72.*) The rates of sexual violence and fear of sexual violence reported by the households in the GJC survey, when combined with evidence of failures in policing, limited access to justice for victims, and inaction to protect victims through safe shelter programs, indicate that the Haitian government is violating its obligations under domestic, regional, and international law to safeguard the rights to security of person and health. The Haitian government’s duties with respect to sexual violence encompass an obligation to use due diligence in taking steps, in collaboration with the international community as needed, to prevent and respond to the perpetration of violence by private actors (*See infra* Box 20: “Due Diligence” and Obligations Related to Sexual Violence and the Responsibility to Prevent Violence Against Women).

**Box 20. “Due Diligence” and Obligations Related to Sexual Violence and the Responsibility to Prevent Violence Against Women**

Under the Convention of Belém do Pará, States have an obligation to undertake due diligence to prevent, punish, and eradicate violence. To fulfill this obligation, States “must have in place an adequate and effective legal framework of protection, together with policies of prevention and practices which permit action in an efficacious manner against risk factors, and a condemnation of violence against women.”

Under the standard of due diligence, States must take reasonable steps to prevent the violation of human rights by third parties, including sexual violence. Whether the steps a State takes are “reasonable” and adequate to prevent violence depends on the context, including local laws, particular risks, and specific details of a given case. At a minimum, however, the State’s police forces and judiciary must respond to individuals complaining of violence and take steps to assist victims seeking remedy. The concept of due diligence has helped to clarify the role of the State in protecting women in situations considered “private,” such as the workplace or home, where women frequently suffer egregious human rights violations, including sexual violence. According to the Special Rapporteur on Violence Against Women, this is not only a treaty rule: “[T]here is a rule of customary international law that obliges States to prevent and respond to acts of violence against women with due diligence.”

International human rights bodies have interpreted the right to life, liberty, and security of person, implicit in freedom from sexual violence, as engendering State duties not only to respect the right, but also to protect and ensure its fulfillment by, *inter alia*, preventing its violation by State and non-State actors. The HRC has called for a broad interpretation of the right to life, requiring not only that States refrain from taking life or attacking the security of persons in their jurisdictions, but also that they affirmatively take measures to “reduce infant mortality, increase life expectancy, [and] especially . . . to eliminate malnutrition.” The CRC, which recognizes each child’s inherent right to life, has similarly been interpreted to require that States do more than refrain from infringing on the enjoyment of the right to life; they must “ensure to the maximum extent possible the survival . . . of the child.”

Regional human rights bodies have echoed this interpretation. The Inter-American Court has interpreted the right to life as requiring States to ensure access to conditions necessary for dignified
existence. Discussing State obligations to protect security of person, the Inter-American Commission has explained there is

a normative core demanding the protection of rights particularly vulnerable to criminal or violent acts that citizen security policies are intended to prevent and control . . . [including] the right to life, the right to physical integrity, the right to freedom, the right to due process and the right to the use and enjoyment of one’s property.27

The European Court of Human Rights has similarly recognized an affirmative obligation on the part of States to prevent and protect individuals from the violation of their right to life by non-State actors.28

The IACHR’s Report on Citizen Security and Human Rights describes the components of the State duty to prevent violence against women:

States must adopt comprehensive measures to comply with due diligence in cases of violence against women. In particular, they must have in place an adequate and effective legal framework of protection, together with policies of prevention and practices which permit action in an efficacious manner against risk factors, and a condemnation of violence against women. . . . [T]he UN Special Rapporteur on violence against women has provided guidelines on what measures States should take to fulfill their international obligations of due diligence regarding prevention, i.e.: ratification of international human rights instruments; constitutional guarantees on the equality of women; the existence of national laws and administrative sanctions that issue adequate compensation to women victims of violence; policies or plans of action that concentrate on the question of violence against women; making the criminal justice system and police more aware of gender issues; access to and availability of support services; the promotion of awareness and a modification of discriminatory policies in the sphere of education and the media, and the collection of data and publication of statistics on violence against women.29

Article 4(c) of the 1993 UN Declaration on the Elimination of Violence Against Women calls on States to “exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”—a call reiterated in paragraph 125 (b) of the 1995 Beijing Platform for Action.30 CEDAW has similarly recommended that States act with due diligence to prevent and respond to violence against women.31

Under the principle of nondiscrimination, “States are required to use the same level of commitment in relation to prevention, investigation, punishment and provision of remedies for violence against women as they do with regards to the other forms of violence.”32 Ensuring equal commitment to protection against sexual violence may require the State to use due diligence to create special police units focused on sexual and other forms of GBV; train criminal justice, health, and social-service workers to respond appropriately and effectively to violence; and engage in public education and awareness campaigns aimed at combating the structural inequalities that fuel such violence.
2. Obligations of Other States in Relation to Haiti

The government of Haiti does not bear sole responsibility for fulfilling the human rights of persons within its territory. Other States intervening in Haiti, either directly or indirectly, including through their activities as members of intergovernmental organizations such as the UN, have obligations to ensure that their actions and omissions do not impair or nullify the enjoyment of human rights. The human rights framework requires at a minimum that States do no harm to the human rights of individuals who are directly affected by their actions, regardless of where those individuals are found. Emerging norms go further, requiring States to regulate non-State actors to ensure that they do not impair or nullify rights abroad and to cooperate with other States in acting collectively to realize human rights extraterritorially.

a. States’ Extraterritorial Actions Impacting Haiti

States are bound by their treaty obligations not just within their own territories, but wherever they act. All of the major UN human rights treaty bodies, the International Court of Justice, and international legal scholars have found that human rights obligations extend extraterritorially. Beyond treaty obligations, many argue that States have an obligation not to violate customary international law, such as the principle of non discrimination and the protection of security of person, in their extraterritorial activities.

Some treaties explicitly provide that the scope of their application extends to the jurisdictions of the State parties, in addition to or instead of the territories of the parties. For example, the ICCPR speaks of “all individuals within [a State’s] territory and subject to its jurisdiction.” The CRC speaks of “each child within [a State’s] jurisdiction.” The American Convention requires member States to “respect the rights and freedoms recognized [in the Convention and to] ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.” While the ICESCR contains no jurisdictional clause, the CESCR has defined ICESCR obligations with respect to the concept of State jurisdiction, as opposed to State territory. Similarly, although the text of CEDAW does not explicitly address the scope of the Convention’s application, Committee comments indicate that CEDAW is interpreted as applying to all women “within the jurisdiction” of a State, not simply within its territory.

The Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights, issued in September 2011, reinforce this interpretation. Recognizing that “all human rights are universal, indivisible, interdependent, interrelated and of equal importance,” the Principles seek to clarify the content of State obligations not only to realize economic, social, and cultural rights within their territories, but also to respect, protect, and fulfill those rights when acting extraterritorially. These extraterritorial obligations include, “obligations relating to the acts and omissions of a State, within or beyond its territory, that have effects on the enjoyment of human rights outside of that State’s territory.”

This means that States should analyze their policies and programs to ensure they do not have unintended negative consequences. For example, research has revealed that certain forms of U.S. “monetized” food aid, which exports surplus domestic foodstuffs for sale in local markets, have had a negative impact on Haitian agricultural markets. Some analysts have suggested that similar
impacts may have occurred in the health-care sector following the earthquake, when free medical care by humanitarians reportedly drove some Haitian doctors and clinics out of business.\textsuperscript{47}

The solution to such problems is not to suspend aid altogether, as was done with food aid shortly after the earthquake. Rather, it is to improve its design to ensure that aid is well targeted and aimed at sustainably fulfilling the rights of Haitians and empowering the principal duty-bearer: the State of Haiti. The Special Rapporteur on the Right to Food has underscored this principle, explaining that donor States should “make reasonable progress towards contributing to the full realization of human rights by supporting the efforts of governments in developing countries.”\textsuperscript{48}

\textbf{b. States’ Actions Through International Organizations with an Impact on Haiti}

The actions that some States take at the international level through international organizations—including, most importantly for this report, UN bodies and humanitarian agencies—have implications for human rights protections. Principle 15 of the Maastricht Principles reaffirms that States do not escape their human rights responsibilities when they act through international organizations, but rather retain a duty to take steps to ensure that the organization’s actions are consistent with the State’s human rights obligations.\textsuperscript{49} Donors must take reasonable measures to ascertain how their donations have been used, and are responsible for the role their donations may play in impeding access to rights.\textsuperscript{50} This duty stems from donors’ obligation to respect human rights.

But as discussed above, States are not only obliged to do no harm; they may also have affirmative obligations to help protect and fulfill rights through their actions in international organizations. The ICESCR provides in Article 2(1) that States must “take steps, individually and through international assistance and cooperation” to fulfill the rights set out in the Convention.\textsuperscript{51} The Maastricht Principles assert that “obligations of a global character . . . set out in the Charter of the United Nations and human rights instruments [require States] to take action, separately, and jointly through international cooperation, to realize human rights universally.”\textsuperscript{52}

Donor States that are parties to the ICESCR and are intervening in Haiti through the provision of humanitarian assistance are thus bound to ensure that their actions within international organizations do not infringe on the enjoyment of economic, social, and cultural rights guaranteed in the Covenant. In an emergency situation like that of post-earthquake Haiti, donors may argue that any assistance they provide is better than none, and that obstacles to the enjoyment of rights exist regardless of international action. However, international intervention can inadvertently affect long-term capacity for recovery, exacerbate inequalities in the relative realization of rights between and among affected populations, and generate new risks related to the distribution of goods and services.

With respect to sexual violence, States should ensure that the humanitarian actions of international organizations have not exacerbated or created new vulnerabilities, and should work to support the government of Haiti’s efforts to effectively protect women and other vulnerable groups from sexual violence. The former Special Rapporteur on Violence Against Women wrote:

While international organizations clearly have direct obligations not to commit or contribute to acts of violence against women through their programming or funding decisions, they also have additional duties to cooperate and to establish coherent
inter-agency strategies to work towards the elimination of violence against women in close collaboration with local communities and relevant civil society groups. The responsibilities of these organizations are in addition to the individual responsibilities of the States that are members of such organizations.53

In relation to weak States like Haiti, these obligations include the requirement that donors take concerted efforts to ensure that they actively reinforce the capacity of the State to prevent, respond to, and remedy sexual violence.

c. States’ Duties to Regulate Non-State Entities Acting in Haiti

Emerging legal principles suggest that States have a further obligation to regulate certain non-State entities to ensure they do not impair human rights through their extraterritorial actions. The Maastricht Principles assert that, pursuant to the obligation to protect, States must take administrative, legislative, investigative, adjudicatory, or other measures to ensure that individuals and entities subject to their regulation respect the economic, social, and cultural rights of those affected by their actions.54 Entities that States “are in a position to regulate” include organizations registered in that State and acting abroad.55 Under Principle 27:

All States must cooperate to ensure that non-State actors do not impair the enjoyment of the economic, social and cultural rights of any persons. This obligation includes measures to prevent human rights abuses by non-State actors, to hold them to account for any such abuses, and to ensure an effective remedy for those affected.56

Under these emerging rules, it could be asserted that States have an obligation to regulate companies and INGOs registered in their territories to ensure they do not impair human rights, including economic and social rights, in the countries in which they work, such as Haiti. However, some influential actors feel this principle goes too far. The Special Representative of the UN Secretary-General on Business and Human Rights, for example, found that States have no duty to regulate companies acting abroad, though he concluded that they do have such a right.57

This Report need not resolve the debate about the responsibility to regulate non-State actors, as the humanitarian organizations that are relevant to the GJC Study have, pursuant to their humanitarian objectives, largely taken on human rights duties voluntarily. They have done so through their commitments to various international standards and best practices for intervention in humanitarian settings. Those standards are examined in the next section.

Box 21. The Human Rights Mandate of UN Actors in Haiti

One of the purposes of the UN is to promote and encourage respect for human rights.58 Toward this end, the UN has embraced human rights as guiding all of its actions. Its development and humanitarian agencies are committed to using a rights-based approach to the assistance they provide.59 Such an approach is aimed at ensuring that aid is empowering, participatory, and accountable, and that the interconnections between rights are recognized and reinforced.60 In addition, UN peacekeeping forces have an explicit protection mandate. In Haiti, MINUSTAH was directed to protect the Haitian people. It is charged by the Security Council with, inter alia.61
International human rights law is therefore directly relevant to the actions of UN agencies and troops in Haiti, and should guide their emergency relief, development, and protection activities.

III. HUMAN RIGHTS PRINCIPLES RELEVANT TO NON-STATE HUMANITARIAN ACTORS IN HAITI

International human rights treaties were not designed to directly bind non-State actors under international law, but were instead aimed at ensuring that States regulate such actors. There is, however, growing support for the idea that non-State actors such as INGOs have direct obligations under international law and, at a minimum, must respect human rights.62 As with the nascent rules concerning the obligation of States to regulate the extraterritorial acts of non-State actors, this Report does not need to resolve the issue of non-State actors’ direct responsibilities under human rights law. The voluntary standards and guidelines that the international humanitarian community has designed to regulate its own actions are sufficiently robust to provide guidance for action to end sexual violence in Haiti’s IDP camps. In addition, many INGOs have individually committed themselves to taking a rights-based approach to programming.63

At the broadest level, the IASC has published an influential Human Rights Guidance Note for Humanitarian Actors (“Guidance Note”), which is a “specific, clear and field-oriented tool to facilitate the integration of human rights into humanitarian action.”64 The Guidance Note underscores the importance of activities to protect emergency-affected populations from human rights violations, including sexual assault.65 It also explains that “[p]articipation, local ownership, capacity development and sustainability are essential characteristics of a human rights based approach to programming.”66

Humanitarian agencies have established a variety of quality and accountability initiatives, which include minimum standards and best practices for protecting disaster-affected populations from GBV, including sexual violence.67 Two initiatives of relevance to the GJC Study are the Sphere Project’s Humanitarian Charter and Minimum Standards in Humanitarian Response (“Sphere Handbook”) and the IASC Guidelines on Gender-Based Violence Interventions in Humanitarian Settings (“IASC GBV Guidelines”).

Sphere seeks to “improve the quality and accountability of performance by humanitarian professionals” through the development of substantive standards and measurable indicators.68 Its Handbook lays out concrete criteria to which humanitarian actors should adhere in providing essential goods and services in disaster settings. The third edition of the Handbook, published in 2011, emphasizes prevention of and response to GBV under its Protection Principles as well as in key areas of its sectoral Standards and Guidance Notes.69
The 2005 IASC GBV Guidelines provide detailed recommendations for humanitarian actors about how to prevent and respond to sexual violence and other forms of GBV in crisis settings. The Guidelines address Coordination, Assessment and Monitoring, Protection (including provision of security), Human Resources (including the development of confidential complaint mechanisms), and minimum prevention and response interventions. The latter includes prevention in the areas of water and sanitation; food security and nutrition; shelter, site planning and nonfood items; health care and community services; and education.

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<th>Box 22. Guidelines on GBV Intervention in Humanitarian Settings: Where the Earthquake Response Fell Short</th>
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<tr>
<td>Although efforts were made to adhere to many of the IASC GBV Guidelines following the earthquake, GJC survey data, FGDs, and key informant interviews reveal numerous shortcomings in the humanitarian response.</td>
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<td><strong>Coordination:</strong> The creation of the GBV Sub-Cluster as an offshoot of the Protection Cluster was responsive to the IASC Guidelines, which call for an interorganizational, multisectoral GBV working group coordinated by two organizations at the national level. Originally this Sub-Cluster was led by UNFPA “with significant support from UNICEF as global Sub-Cluster co-lead,” and “include[d] UN and NGO membership (international and national) and the Haitian Government.” However, the Sub-Cluster struggled to access adequate staff and funding during the early stages of the emergency response. Grassroots women’s organizations and advocacy groups have expressed dissatisfaction with the Sub-Cluster’s coordination role and its persistent failure to empower local, grassroots organizations as full partners in GBV Sub-Cluster decision making, despite clear IASC guidelines on the need for participatory development of a plan of action for coordination, prevention, and response to sexual violence. The absence of Kreyòl interpretation at Sub-Cluster meetings is just one indication of the disconnect between the coordinating body and actors engaged on the ground. The IASC Guidelines stress: “Active community participation—women and men—should be ensured at all levels of coordination.”</td>
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<td>The IASC Guidelines call on the GBV coordinating body to “[c]ompile a resource list of organisations, focal points, and services for prevention and response to sexual violence…[d]istribute [it] to all actors, including the community, and update [it] regularly,” and to develop a brief set of materials on sexual violence and services in consultation with the affected population, in relevant languages. In Port-au-Prince, however, representatives of several women’s groups objected that their organizations and services were repeatedly omitted from lists of GBV service providers distributed within the humanitarian community and to the affected population.</td>
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<td><strong>Minimum prevention and response interventions in the areas of water and sanitation, shelter, site planning, and nonfood items:</strong> The IASC Guidelines provide detailed recommendations for how sectoral interventions should build GBV prevention into their programming. In relation to water and sanitation, for example, the Guidelines specify that bathing areas should be “well-lit in order to contribute to the safety of users,” and that shared latrines should also have lighting. Both bathing facilities and latrines “should have doors with locks on the inside.” Sphere also emphasizes the need for toilet facilities to be safe and secure “at all times, day and night.”</td>
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These clear and straightforward recommendations were widely violated in Haiti: lighting was a perpetual problem and was often the subject of extensive commentary by women’s rights advocates and in FGDs. Bathing areas were commonly constructed with plastic sheeting and were thus impossible to lock. Similarly, latrines were often in poorly lit areas, and many did not have locks. Furthermore, the failure to systematically include beneficiaries, particularly women, in decisions regarding the design and implementation of humanitarian aid programs undermined their efficacy and contravened best practices.

Explanations from humanitarian workers for these failures usually focused on resource constraints or lack of coordination: for example, there was not enough funding for lighting, and it was not within anyone’s purview—especially in relation to camps without CMAs. Obtaining locks and durable materials for latrines was not a priority in an emergency where adequate access to any sort of latrine by the whole IDP population was never achieved. In December 2010, the IACHR granted precautionary measures for women and girls in specific IDP camps that addressed several of these concerns: the Commission called for adequate lighting and the full inclusion of grassroots women’s organizations as urgent protective steps toward preventing sexual and gender-based violence.

Legal Services: The IASC Guidelines specify:

Ensuring redress for sexual violence also includes providing direct legal services to survivors, or working to empower and/or build capacity of existing national and local/traditional legal and court structures through project aid to enable them to carry out their functions. While it may not be feasible to implement comprehensive direct legal/justice programming during the early phases of an emergency, target personnel must be designated within the UN and/or humanitarian institutions to provide legal advice to the State as well as direct legal assistance to survivors.

A joint submission from Haitian and international women’s rights advocates to the Human Rights Council for Haiti’s Universal Periodic Review in 2011 highlights the absence of reliable, effective legal remedy for sexual violence. In its July 2011 submission, Amnesty International wrote:

Reporting sexual and gender-based violence remains highly problematic. There is a lack of information about how to report crimes of sexual violence to the police and the judiciary. The lack of adequate protection mechanisms for women and girls is also discouraging them from denouncing the violence: victims of rape told Amnesty International that they did not report to the police the attacks they suffered for fear of their aggressors, and that when they did, the police response was totally inadequate. The failure of the state to effectively and comprehensively address sexual violence contributes to a pervasive state of impunity surrounding human rights violations against women and girls.

In a workshop on sexual violence organized by grassroots women’s groups that same month in Port-au-Prince, participants repeatedly complained of a lack of confidence in the criminal justice system. They described persistent obstacles to pursuing effective remedies for sexual violence, including discrimination against victims by police, prosecutors, and judges; lack of training among public officers on how to respond to and investigate acts of sexual violence; and corruption in the judiciary. The few Haitian lawyers providing legal services to victims of sexual violence reported to the GJC that the humanitarian community has not provided adequate attention and support to legal
accompaniment and services, leaving underresourced Haitian lawyers overwhelmed. (See Focus On: Access to Justice for Victims of Sexual Violence in Haiti, supra at 72).

Protection and security: The IASC Guidelines emphasize the importance of building community confidence in police and security forces and developing strategies to ensure targeted presence of security agents in order to give the impression that “someone is ‘always around.” In its December 2010 precautionary measures, the IACHR emphasized the urgent need for improved security to protect against sexual and gender-based violence in the camps, including through improved policing. However, key informants and focus group participants in the Study frequently complained of the limited presence of police and MINUSTAH patrols in IDP camps.

Nearly 85 percent of survey respondents expressed a desire for more PNH and MINUSTAH presence in the camps. Several women’s advocates at the Champ de Mars camp explained that the PNH and sometimes MINUSTAH patrol outside the perimeter of the camp in the late afternoon, but do not enter the camp or patrol at night. Residents at Parc Vincent and Terrain de Golf reported seeing PNH and MINUSTAH troops more often because both had posts within the camps. However, an individual involved in camp governance at one of these camps reported that the PNH presence was “mediocre” and that MINUSTAH, while technically occupying a post within the camp, was “not really present.” Further, many key informants complained about the constraints on MINUSTAH’s mandate, which tasks them with working alongside, rather than independently of, the PNH, leading to instances in which MINUSTAH troops were reportedly unable to act because their PNH counterparts were absent.

**IV. CONCLUSION: STRENGTHENING THE CAPACITY OF THE PRIMARY DUTY-BEARER, THE HAITIAN STATE**

Given the primary role of the territorial State in respecting, protecting, and fulfilling human rights, including the right to be free from sexual violence, one of the chief duties of all actors intervening in post-earthquake Haiti is to improve the capacity of the Haitian State to fulfill its obligations. Donors and humanitarian actors can fill gaps themselves for only so long; interventions that bypass the State are never sustainable over the long term. Research from past efforts in Haiti bears this out. The U.S. Institute of Peace reports, “[H]istorically, funneling aid through NGOs has perpetuated a situation of limited government capacity and weak institutions. Haitians look to NGOs rather than their government for basic public services.”

This concern is especially relevant in relation to sexual violence, where no NGO initiative could ever begin to make up for the shortcomings of an ineffective and sometimes predatory police force, an outdated penal code, an ineffective judicial system, and virtually nonexistent victim services. Attempts to replace the State are out of line with the key human rights principles of participation, empowerment, accountability, and capacity development, and with recent agreements between donor States and their developing State partners. The 2005 Paris Declaration on Aid Effectiveness and the 2008 Accra Agenda for Action have embraced mutual accountability, coordination, and the alignment of aid with recipient government priorities. These principles are directly applicable to Haiti and the majority of the States active in the recovery process, who have agreed to abide by them. The difficulty has been in the implementation. Coordination is a complex and fraught
enterprise. But until all actors in post-earthquake Haiti prioritize measures aimed at strengthening the State’s capacity to fulfill its human rights obligations, Haiti’s citizens will continue to suffer the consequences.

At the same time, it is clear that many INGOs have worked hard to play a capacity-building role, and that they sometimes find themselves without adequate partnership from Haitian government entities. This issue must be acknowledged and addressed transparently. The ultimate beneficiaries or victims of direct Haitian government actions and increased State capacity, alike, are the Haitian people. The international community owes it to the population to act as a true partner, upholding its own responsibilities while simultaneously insisting on, and assisting in achieving, those of the government of Haiti.

NOTES


3. See Declaration on the Elimination of Violence Against Women, supra note 2, art. 4(b).


6. The Due Diligence Standard as a Tool for the Elimination of Violence Against Women, supra note 5, ¶¶ 39-40, 44.

7. Id. ¶ 46; see also Convention of Belém do Pará, supra note 2, art. 8(1)(d).

8. See Convention of Belém do Pará, supra note 2, art. 7(1)(b); see also Declaration on the Elimination of Violence against Women, supra note 2, art. 4(e). For further discussion of the due diligence standard, see infra page 124.

9. The Due Diligence Standard as a Tool for the Elimination of Violence Against Women, supra note 5, ¶ 42.


12. See VCLT, supra note 1, art. 18. As noted in Chapter 4, in February 2012, both houses of the Haitian parliament voted to ratify the ICESCR. President Martelly is required to promulgate the law passed by the parliament to make it effective and was expected to do so at the time this report went to press. See The National Assembly Voted the ICESCR,


17 COTULA & VIDAR, supra note 13, at 40.

18 Convention of Belém do Pará, supra note 2, art. 7(b).


20 See, e.g., U.N. Human Rights Comm., General Comment 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant, ¶ 8, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (May 26, 2004) (“The [ICCPR] itself envisages in some articles certain areas where there are positive obligations on States Parties to address the activities of private persons or entities.”); Velásquez Rodríguez v. Honduras, Decisions and Judgments, Inter-Am. Ct. H.R., (ser. C) No. 04, ¶ 172 (July 29, 1988) (“An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention.”); da Penha Maia Fernandes v. Brazil, Case 12051, Inter-Am. Comm’n H.R., Report No. 54/01, OEA/Ser.L.-V/II.111, doc. 20, ¶ 56 (2001) (finding that Brazil had failed to exercise due diligence to prevent and respond to a domestic violence case despite the clear evidence against the accused and the seriousness of the charges); Z and Others v. the United Kingdom 29392/95, [2001] Eur. Ct. H.R. 333, ¶¶ 69-77 (May 10, 2001) (finding the State breached its duty to protect the rights of children and take steps to prevent abuse by parents of which the authorities ought to have had knowledge); E and Others v. the United Kingdom, 33218/06, [2002] Eur. Ct. H.R. 590 (Nov. 26, 2002) (addressing the obligations of the State to protect against human rights violations by non-state actors).


23 See id. ¶29.


26 See Villagrán Morales et al. v. Guatemala, Judgment, Inter-Am. Ct. H.R., (ser. C) No. 63 ¶ 144 (Nov. 19, 1999), (finding that the right to life enshrined in Article 4 of the American Convention on Human Rights requires States to ensure not only that the right it is not arbitrarily denied, but also that States do not prevent access to conditions that guarantee a dignified existence).


30 See The Due Diligence Standard as a Tool for the Elimination of Violence Against Women, supra note 5, ¶ 25.

31 See CEDAW General Recommendation No. 19, supra note 2.


34 See Maastricht Principles, supra note 15, ¶¶ 24, 28, 29.

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37 See generally SKOGLY, BEYOND NATIONAL BORDERS, supra note 33; more generally on third state obligations, see Mark Gibney, Katarina Tomasevski & Jens Vedsted-Hansen, Transnational State Responsibility for Violations of Human Rights, 12 HARV. HUM. RTS J. 267 (1999); Sigrun Skogly & Mark Gibney, Transnational Human Rights Obligations, 24 HUM. RTS. Q. 781 (2002).


39 ICCPR, supra note 14, art. 2(1).

40 CRC, supra note 25, art. 2(1).


44 Maastricht Principles, supra note 15, ¶ 4-5.

45 Id. ¶ 8.


50 SKOGLY, BEYOND NATIONAL BORDERS, supra note 33, at 192.

51 ICESCR, supra note 14, art. 2(1) (emphasis added).

52 Maastricht Principles, supra note 15, ¶ 8.

53 The Due Diligence Standard as a Tool for the Elimination of Violence Against Women, supra note 5, ¶ 98.

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55 Id. ¶ 25.
56 Id. ¶ 27.
58 U.N. Charter art. 1(3).
60 Id.
62 John Ruggie’s ‘Protect, Respect, and Remedy Framework’ reflects an evolving trend toward recognition that non-state actors, particularly those that operate transnationally or internationally, must be held responsible for the impacts of their actions on human rights. See supra note 57 (citing multiple reports by Ruggie on the ‘Protect, Respect and Remedy Framework’).
63 For a discussion of such principles in relation to INGOs in Haiti, see Amanda Klasing, P. Scott Moses, & Margaret Satterthwaite, Measuring the Way Forward in Haiti: Grounding Disaster Relief in the Legal Framework of Human Rights, 13 HEALTH & HUM. RTS. 1 (2011).
65 Id. at 2.
66 Id.
68 Id. at 4.
69 See THE SPHERE PROJECT, HUMANITARIAN CHARTER AND MINIMUM STANDARDS IN HUMANITARIAN RESPONSE 31 (2011) [hereinafter SPHERE HANDBOOK] (listing gender-based violence as among the areas of concern on which the Global Protection Cluster’s coordination structure focal points are focused); id. at 40 (Protection Principle 3, guidance note 13: “Women and girls can be at particular risk of gender-based violence…”); id. at 42 (Protection Principle 4, guidance note 7 concerning health-care and other rehabilitation support after GBV).
71 See id. at 17–19 (Action Sheet 1.1).
73 See HUMAN RIGHTS WATCH, “NOBODY REMEMBERS US”: FAILURE TO PROTECT WOMEN’S AND GIRLS’ RIGHT TO HEALTH AND SECURITY IN POST EARTHQUAKE HAITI 68 (2011).

Numerous human rights organizations and researchers have expressed concern that the lack of lighting makes women and girls more vulnerable to sexual violence. See INST. FOR JUSTICE & DEMOCRACY IN HAITI, MADRE, TRANSAFRICA FORUM, U. VA. SCHOOL OF LAW, U. OF MINNESOTA HUMAN RIGHTS LITIG. AND ADVOCACY CLINIC, OUR BODIES ARE STILL TREMBLING: HAITIAN WOMEN’S FIGHT AGAINST RAPE, 4, 6, 7, 21-22 (July 2010); HUMAN RIGHTS WATCH, NOBODY REMEMBERS US, supra note 73, at 53, 60, 68; InterAction, Lessons Learned from the Haiti Response and Recommended Next Steps: An Analysis from InterAction’s Gender-Based Violence Working Group 2, 4 (InterAction Policy Paper, 2010), available at http://www.interaction.org/sites/default/files/2190/InterAction%20Policy%20Paper%20Haiti%20GBV.pdf.


For more on this concept, see PAUL FARMER, FROM AID TO ACCOMPANIMENT (forthcoming December 2012).
## Summary of Recommendations

1. **Take immediate action to reduce the vulnerability of women and girls to sexual violence in camps and other temporary settlements.**
   The government of Haiti, UN agencies, INGOs, and other actors working in the IDP camps and temporary settlements must take immediate, coordinated steps to reduce vulnerability to sexual violence in these settlements and to ensure that victims of sexual violence can access protective measures, medical care, legal services, and economic resources. Humanitarian best practices for preventing and responding to sexual violence must be adapted to the current situation and immediately implemented in Haiti's remaining IDP camps.

2. **Increase security presence and improve patrolling of camps and temporary settlements.**
   In concert with protection experts, women’s rights leaders, and existing community-based security initiatives, the PNH and MINUSTAH should immediately implement effective, coordinated, and transparent processes for patrolling the camps that respond to the needs identified by IDPs themselves.

3. **Ensure access to improved medical, legal and other support services for victims of sexual violence.**
   The government of Haiti, with support from donor States and UN agencies, must ensure victims of sexual violence have greater access to support services and legal remedies following attacks. Many victims of sexual violence find themselves re-victimized by a system that often silences them and denies them access to justice.

4. **Prioritize economic empowerment and income-generating opportunities for women.**
   The government of Haiti, donor States, UN agencies, INGOs, and other entities active in Haiti should prioritize relief and recovery activities that provide economic empowerment and sustainable, income-generating opportunities for women. Economic marginalization increases vulnerability to sexual violence and exploitation. Creating viable economic opportunities for women is the most durable strategy for reducing vulnerability to sexual violence.

5. **Strengthen coordination and communication, enhance accountability of relief and recovery efforts, and work to ensure the Haitian State can fulfill the rights of its citizens.**
   All actors in the relief and recovery process must consult rightsholders about their plans before acting, coordinate their efforts, and make themselves accountable to those they aim to assist. Meaningful accountability requires opportunities for informed participation by displaced individuals in decisions affecting their lives. Relief and recovery programs should be Haitian-led wherever possible.

6. **Implement a moratorium on evictions until permanent, safe, and sustainable housing solutions are found.**
   The Haitian State, donors, and multilateral actors must undertake intensive efforts to ensure that all Haitians have access to permanent, safe, and sustainable housing. Until such solutions are found
and as long as people continue to live in temporary settlements, the government of Haiti, supported by the international community, should institute a moratorium on evictions from IDP camps and other temporary settlements and ensure that funding streams are adequate to close gaps in basic protection and subsistence support for displaced communities.

7. Adopt a rights-based approach in which Haitians are at the helm of relief and recovery efforts.

Response to humanitarian emergencies must always respect and protect the human rights of disaster survivors. All international actors in Haiti should adopt a rights-based approach to development that supports the Haitian people in efforts to claim their rights, and empowers the government of Haiti as the principal duty-bearer to fulfill these rights. A rights-based approach also demands that all international actors, governmental and non-governmental alike, comply with their minimum obligations to do no harm and to uphold their commitments to support fulfillment of fundamental rights. This cannot be achieved without meaningful participation by the Haitian people and the Haitian State in all aspects of the recovery process. Haitians must be at the helm of their country’s post-earthquake revitalization.

1. Take immediate action to reduce the vulnerability of women and girls to sexual violence in camps and other temporary settlements.

The government of Haiti, UN agencies, INGOs, and other actors working in the IDP camps and temporary settlements must take immediate, coordinated steps to reduce vulnerability to sexual violence in these settlements and to ensure that victims of sexual violence can access protective measures, medical care, legal services, and economic resources. Humanitarian best practices for preventing and responding to sexual violence must be adapted to the current situation and immediately implemented in Haiti’s remaining IDP camps.

Best practices and guidance developed by humanitarian agencies recognize the connections between access to resources and vulnerability to sexual violence, but GJC data suggest that in post-earthquake Haiti, norms about how to integrate violence-prevention measures into resource provision and camp management have not always been implemented. In many cases, evidence-based best practices concerning the location of water points, latrines, and bathing areas, the provision of lighting, and the centrality of women’s leadership in camp governance structures were not followed. Evidence suggests that one of the main causes of these failures was the inadequate number of Camp Management Agencies, which left many camps without a dedicated structure to coordinate aid and ensure implementation of existing standards.

It is essential that the government of Haiti and the international community shift their planning and actions from emergency response towards reconstruction and focus on securing permanent housing for displaced individuals. However, the immediate needs of the more than 500,000 people who continue to live in the post-disaster IDP camps must not be ignored. For the vast majority of camp residents, there is no alternative on the horizon. Even as some camp residents resettle outside of camps there is a risk that the vulnerabilities found in camps will be replicated within relocated communities. The GJC data and other studies suggest that heightened vulnerability to sexual violence among women and girls will continue until all are resettled in permanent housing, making increased efforts to find long-term housing solutions imperative.
The GJC Study suggests that there is a high incidence of sexual violence and a high level of fear of sexual violence in the IDP camps. Humanitarian guidelines for concrete actions to reduce vulnerability to sexual violence, especially the IASC’s 2005 *Guidelines for Gender-Based Violence Interventions in Humanitarian Settings: Focusing on Prevention of and Response to Sexual Violence in Emergencies*, should be adapted as necessary and implemented now. Following are priority actions for reducing the risk of victimization.

- Donor States and other funding entities should ensure that adequate resources are available to provide essential services to camp residents until IDPs are resettled in permanent housing.

- The Haitian government and the international community must:
  - Monitor, document and address instances of sexual violence in camps and other temporary settlements.
  - Take immediate steps to ensure freedom from hunger and a lifeline supply of water for all residents of camps and other temporary settlements.
  - Ensure that camps have adequate bathing facilities and latrines that: are sited in easily reached areas; are well lit; are constructed from durable materials; have functioning locks; and are effectively gender-segregated. Humanitarian and development agencies should work with the government of Haiti to ensure facilities of comparable quality and security are available to communities in which camp residents relocate.
  - Monitor, document, and work to eliminate known aid-related protection concerns, such as reported incidents of women being obliged to exchange sex for protection, shelter, food, or water. Aid should not be distributed or coordinated through intermediaries without strict screening and continuous oversight to ensure that sexual exploitation does not occur.
  - Support and develop community-based safe shelter solutions for survivors of sexual violence in camps and other temporary settlements. Where community-based mechanisms are inadequate, temporary safe shelters or options for relocation should be established, maintained, and resourced.

- UN agencies should ensure that UN policies on Prevention of Sexual Exploitation and Abuse are strictly enforced and that personnel and agencies charged with PSEA implementation are adequately resourced.

- All actors in positions of authority over resources in camps and other temporary settlements, including INGO staff, camp management agencies and camp committees, should receive training from local organizations concerning sexual violence and exploitation awareness, sensitivity, and response. Where not already in place, these actors should adopt codes of conduct that prohibit sexual exploitation.

- As the Haitian government and the international community transition from relief to recovery and revitalization of the economy, they must anticipate and monitor the adverse impacts of cessation of aid programs on the vulnerability of IDPs to sexual violence and exploitation. Toward this end, in the coming months, DINEPA must be supported in monitoring the impact of the end of free trucked water on women and girls, in particular, to ensure that dynamics observed following the end of general food distributions—such as a reported increase in sexual exploitation and survival sex—do not recur.
2. Increase security presence and improve patrolling of camps and temporary settlements.

In concert with protection experts, women's rights leaders, and existing community-based security initiatives, the PNH and MINUSTAH should immediately implement effective, coordinated, and transparent processes for patrolling the camps that respond to the needs identified by IDPs themselves.

GJC Study data suggest that most camp residents believe their camps would be safer if the presence of security personnel were enhanced and patrols inside camps were more frequent. However, this belief is complicated by the fact that many camp residents reported fear of PNH and MINUSTAH forces and some recounted instances of aggression perpetrated by security forces. Residents cited several positive examples of community-based security initiatives aimed at reinforcing community cohesion and security. To ensure that all security initiatives have a positive impact, the following actions should be taken:

- PNH and MINUSTAH should hold formal meetings to consult camp populations and reach out to women leaders and women's committees for input on how to most effectively patrol the camps and respond to instances of sexual violence. When applicable, they should work in concert with any community-based security mechanisms to share relevant information and reinforce the deterrent effect of the community-based security.
- Donors should support community-based security mechanisms that are women-friendly, transparent, and non-violent.
- Donors and the government of Haiti should consider supporting programs that engage male camp residents in GBV prevention and train male peer-to-peer violence prevention agents.
- Improved training and monitoring must be provided to the PNH on appropriate responses to sexual violence in the camps and other temporary settlements, as well as actions the PNH can take to prevent such abuse.
- More frequent and improved patrols responsive to the recommendations of community members must be accompanied by improvements in the capacity of the judicial police to investigate and document cases of sexual violence.

3. Ensure access to improved medical, legal and other support services for victims of sexual violence.

The government of Haiti, with support from donor States and UN agencies, must ensure victims of sexual violence have greater access to support services and legal remedies following attacks. Many victims of sexual violence find themselves re-victimized by a system that often silences them and denies them access to justice.

Victims, women’s rights advocates, and legal professionals told GJC that medical and other services for victims of rape and other forms of sexual assault are expensive and often inadequate, and that insufficient support exists for reporting complaints of violence. Free or affordable legal services are extremely limited and safe shelter for victims is scarce. When victims make official reports, they find that police and judicial personnel are often disrespectful and sometimes directly abusive. When incidents are investigated, evidence-gathering is nearly non-existent and legal cases, if filed, suffer enormous delays. Victims also find themselves unable to access psychosocial services as they are virtually nonexistent.
The government of Haiti must ensure that all State agents fulfill the rights of victims of sexual violence, by undertaking the following actions, *inter alia*:

- The PNH must ensure that its personnel: treat victims with respect during all interactions and investigations; immediately respond to complaints of violence; execute arrest warrants in a timely manner and apprehend suspected perpetrators; collect and preserve evidence; and follow up on leads concerning unknown assailants.

- Medical personnel from public hospitals and other public healthcare institutions should receive adequate training and resources to ensure that they provide victims with prompt, respectful treatment following an attack. Medical certificates documenting cases of sexual assault should be sufficiently detailed, quickly completed, and provided free to victims.

- Judicial and prosecutorial personnel should treat victims with respect and equality before the law, and promptly pursue justice in all cases where the victim seeks pursuit.

The government of Haiti should commit greater resources to strengthening and expanding its gender-based violence prevention programs and staff, as well as training judges, police officers and prosecutors on the specific skills and sensitivities necessary in the prosecution of sexual violence complaints.

Legislators must work to address any outstanding concerns regarding the draft text before finalizing, passing and implementing the Draft Law on Violence Against Women (VAW Draft Law), currently titled the *Avant-projet de loi sur la prévention, la sanction et l’élimination des violences faites aux femmes*. Once passed, agencies implementing the law must be adequately resourced.

The government of Haiti should ensure that women and girls who experience sexual violence have access to free or affordable medical care and services, and free or affordable legal assistance to file complaints.

The government of Haiti should ensure that safe shelter solutions are available to victims of sexual violence. Toward this end, the government should help coordinate programming by humanitarian and development partners, INGOs, and Haitian women’s rights organizations. At a minimum, an immediate resettlement option should be available for internally displaced women who report sexual violence in camps so that they are protected against reprisals.

4. **Prioritize economic empowerment and income-generating opportunities for women.**

The government of Haiti, donor States, UN agencies, INGOs, and other entities active in Haiti should prioritize relief and recovery activities that provide economic empowerment and sustainable, income-generating opportunities for women. Economic marginalization increases vulnerability to sexual violence and exploitation. Creating viable economic opportunities for women is the most durable strategy for reducing vulnerability to sexual violence.

The GJC data suggest that vulnerability to sexual violence increases when individuals—women and girls especially—have difficulty accessing adequate food, water, and sanitation. In order to best guarantee consistent, safe, and sustainable access to these resources, women need financial stability. Programs that create jobs, encourage income-generating activities, and help revive the Haitian economy will do more good in the long term than aid distribution. Women in Haiti are

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disproportionately represented in the informal economy and have limited opportunities to educate themselves and develop the skills needed for employment in the formal sector. Research suggests that women who do not have access to jobs or income-generating activities may resort to “survival sex.” Women may also have little option but to stay in abusive relationships or in unsafe living conditions when they lack economic independence.

Innovative strategies have been developed that incorporate employment with aid distribution and emergency recovery. Some evidence suggests that programs providing women with economic opportunities including payment to clean public facilities, clear rubble, and assist in water access—in addition to revitalized micro-loan programs—have provided important first steps toward developing more effective and sustainable programs. While cash-for-work programs were implemented in Haiti with some success, focus group participants reported that they did not provide job training and in many instances women were asked to trade sex to participate in such programs. Investors and development organizations should work to create economic opportunities that will revive formal and informal economies. These new strategies must not lend themselves to opportunities for further exploitation and should include job training for long-term sustainability. In focus groups, camp residents almost universally requested that jobs and educational access be prioritized as the main solution to sexual violence in the camps. Camp residents also stressed that attention must be given to meeting the economic needs of unaccompanied minors. Toward this end:

- Economic recovery must be a constant priority, in both urban and rural areas. Humanitarian organizations and donors should assess their impacts on the local economy and coordinate with the Haitian Government to ensure sustainability. Donors and aid organizations should procure local goods and should similarly decrease their dependency on international personnel.
- Economic empowerment programs should be designed with women in mind and job opportunities must include guarantees of a living wage. Programs must conform to the principle of non-discrimination and ensure equal opportunities for women. Furthermore, strict monitoring must ensure that such programs are free of sexual exploitation and abuse in their administration and a secure and accessible complaint mechanism should be created to allow victims of alleged sexual exploitation to report their victimization.
- Governmental and donor economic efforts must be targeted at the informal economy, as well as the formal economy. Women are disproportionately represented in the informal sector where they, for example, sell food and other inexpensive items in the streets. Development of the more formalized business sector is important, but support and vocational training of women engaged in informal activities must be a priority to develop their economic prospects and increase their economic independence.
- Economic programs should encourage decentralization: Haitians must be able to find economic opportunities outside of Port-au-Prince.
- Economic programs should revitalize local agriculture and local agricultural practices. Local agriculture will encourage reforestation, relieve Haiti’s dependence on imported goods and provide opportunity to export raw and finished products.
- Programs to restore schools, extend free primary education to all, and provide girls priority access to education must continue during recovery efforts.
5. Strengthen coordination and communication, enhance accountability of relief and recovery efforts, and work to ensure the Haitian State can fulfill the rights of its citizens.

All actors in the relief and recovery process must consult about their plans before acting, coordinate their efforts, and make themselves accountable to those they aim to assist. Meaningful accountability requires opportunities for informed participation by displaced individuals in decisions affecting their lives. Relief and recovery programs should be Haitian-led wherever possible.

Evidence suggests that failures in coordination and communication have had adverse impacts in the post-earthquake environment. The continued circumvention of the Haitian government throughout the relief and recovery process has in some cases undermined rather than reinforced the capacity of the State to fulfill its obligations towards its own people. Ensuring this capacity requires that the international community work with and through the Haitian State whenever possible. Although the humanitarian system has developed extensive coordination and communication structures—most notably through the Cluster Approach—coordination with Haitian NGOs, grassroots groups, and at times, municipal and national government agencies has not been as effective as it could have been. INGOs, which often command huge budgets relative to their Haitian counterparts, have not always successfully made themselves accountable to the local population. Nor have they always publicized, in accessible ways, their plans and methods. Actions to enhance public accountability, improve coordination, and ultimately increase the efficacy of relief and recovery efforts should include the following:

- All actors engaged in relief and recovery efforts should prioritize reinforcing the capacity of the Haitian State, so as to ensure the sustainability of measures designed to protect against sexual violence and meet the needs of Haitians to access basic resources. Essential services, such as those securing access to food, water and sanitation, must outlast the presence of international humanitarian agencies.

- Coordination and communication between and among Haitian NGOs, INGOs, donor States and Haitian national and municipal government agencies must be prioritized in continued recovery efforts. For as long as they continue to remain active in Haiti, the Clusters should ensure they coordinate effectively across sectors to provide protection against sexual violence. With support from the international community, the Haitian government should create a national reconstruction agency to take over the responsibilities of the Interim Haiti Recovery Commission and strengthen state-led coordination mechanisms.

- INGOs and donors active in specific sectors should work to collaborate more effectively with each other, as well as with the government of Haiti, Haitian NGOs and the Haitian population. Both to avoid creation of parallel structures and conflicting programs and to support Haiti’s leadership role in its own recovery, international donors must align their aid priorities with those identified by the government of Haiti. Post-disaster recovery is a holistic process and excessive specialization can result in overlapping service provision, unnecessary replication of existing local mechanisms for services, as well as service provision deficits.

- Actors in post-disaster settings must keep in mind that certain groups—such as the young, the elderly, the disabled, and women—are particularly vulnerable to violence and exploitation during times of crisis. Actors should design their programs and deliver aid in such a way that is not only conscious of, but works to mitigate, such vulnerabilities.

- INGOs should find ways to make themselves accountable to those they aim to serve. This includes publicizing their plans and methods, creating complaints mechanisms, and coordinating
with Haitian government counterparts, including through formal agreements such as MOUs, formal registration, contracts, and licensing. Members of the international community active in Haiti must proactively share information with and report to the people of Haiti on their activities, including through communications to relevant Haitian government ministries.

- INGOs must aim to work in Kreyòl. Employing Kreyòl-speaking staff, ensuring that information is distributed in Kreyòl and conducting meetings in Kreyòl are all essential to the success of continuing recovery efforts.

6. Implement a moratorium on evictions until permanent, safe, and sustainable housing solutions are found.

The Haitian State, donors, and multilateral actors must undertake intensive efforts to ensure that all Haitians have access to permanent, safe, and sustainable housing. Until such solutions are found and as long as people continue to live in temporary settlements, the government of Haiti, supported by the international community, should institute a moratorium on evictions from IDP camps and other temporary settlements and ensure that funding streams are adequate to close gaps in basic protection and subsistence support for displaced communities.

More than 500,000 people continue to live in approximately 500 camps in the greater Port-au-Prince area. Without adequate attention to the needs of these remaining residents in temporary settlements, the vulnerabilities identified by the GJC Study will persist. The Haitian government, donors, Haitian NGOs, and INGOs must focus on creating a comprehensive and sustainable housing plan and must fully implement it. That plan must ensure that the sexual violence risk factors present in the camps do not reemerge in communities where IDPs are relocated.

Relocation without strategic planning and reflection on the evident dangers created in the camps will only serve to replicate the vulnerabilities discussed in this report. Moving camp residents into resource-strained neighborhoods that lack access to basic necessities such as food, water, and sanitation is not a viable solution and will only maintain the danger to women and girls. Some of Haiti’s most vulnerable families—those now living under tents—must be able to settle where they can access income-generating activities as well as basic services and goods. Toward this end:

- The government of Haiti should institute a moratorium on evictions until safe, adequate, and affordable housing is available for camp residents.
- The government of Haiti and the international community should work aggressively to identify suitable land for acquisition and should develop a comprehensive strategy for resettlement.
- The government of Haiti, with the support of the international community, must negotiate fairly with existing landowners in creating a sustainable solution.
- Efforts aimed at restoring structurally unsound homes (coded “yellow” in post-earthquake evaluations) should be intensified. In the absence of such assistance and coordinated efforts to increase the availability of safe, affordable housing, studies indicate that people have resorted to reoccupying unsafe homes, including those structures coded “red.”
- New and rehabilitated housing should be designed with the active collaboration of those intended to benefit and should reflect the needs of Haiti’s climate, as well as natural and structural risks, and community and family structures.
- Permanent rebuilding should be prioritized over “transitional” housing (“T-shelters”).
The government of Haiti should partner with INGOs and Haitian NGOs to assure that long-term infrastructure is put into place in the areas to which communities are relocating. As camp residents move to neighborhoods, necessary services should follow this population migration and relocate to ensure continued access.

Until all IDPs have been safely resettled, donors should ensure that funding streams are adequate to close gaps in basic protection and subsistence support for displaced communities.

7. Adopt a rights-based approach in which Haitians are at the helm of relief and recovery efforts.

Response to humanitarian emergencies must always respect and protect the human rights of disaster survivors. All international actors in Haiti should adopt a rights-based approach to development that supports the Haitian people in efforts to claim their rights, and empowers the government of Haiti as the principal duty-bearer to fulfill these rights. A rights-based approach also demands that all international actors, both governmental and non-governmental alike, comply with their minimum obligations to do no harm and to uphold their commitments to support fulfillment of fundamental rights. This cannot be achieved without meaningful participation by the Haitian people and the Haitian State in all aspects of the recovery process. Haitians must be at the helm of their country’s post-earthquake revitalization.

Meaningful participation in their country’s recovery is not only a right of all Haitians; it is essential to the efficacy of any relief and reconstruction programs. The GJC Study suggests that in camps where residents participate in camp decision-making, residents also report lower levels of fear of violence as well as fewer incidents of violence. However, there are limited mechanisms through which camp residents can communicate their needs and opinions to authorities and take part in decisions that affect their lives, such as decisions regarding the distribution of essential goods and services, the design of latrines, or the presence of security forces. Haitian grassroots organizations report that members living in camps feel abandoned to their fate as they struggle to protect themselves from sexual violence and forced eviction. A rights-based approach requires relief and reconstruction actors to consult those they seek to assist and to empower them to participate in creating sustainable solutions.

International actors working in Haiti should coordinate closely with and take their lead from relevant Haitian government ministries, and ensure opportunities for participation by camp and community residents in the planning, implementation, and termination of aid programs. Communication strategies should be adapted to the reality of life in the camps and poor communities: in addition to use of SMS and radio, “town hall” meetings and other low-tech, face-to-face opportunities for interaction should be used.

All humanitarian and development actors should follow a rights-based approach. This approach prioritizes the most vulnerable, ensures opportunities for participation by the public, supports leadership by the Haitian government, establishes mechanisms of accountability, and recognizes the indivisibility of all human rights.
The Global Justice Clinic salutes the life-saving work of all actors involved in the post-earthquake effort to relieve the suffering of disaster survivors and to rebuild Haiti. The GJC offers recommendations with an appreciation for the difficult constraints of this work and an awareness of the many similar recommendations that have been made before—often by the relief and development community itself. In a world of limited resources, some objectives must receive priority over others. The GJC therefore highlights several practical recommendations that, if implemented immediately, and with the full participation of the Haitian government and people, would translate into tangible improvements in the lives of many:

1) Provide IDPs who have been sexually assaulted in camps with free and immediate access to alternative shelter, medical services, and legal assistance
2) Expand security patrols in and around camps and install lighting and locks in sanitation facilities in camps
3) Prioritize creation of income-generating activities for women
4) Ensure all IDPs have access to free or affordable clean water
5) Stop forced evictions of IDPs
APPENDIX
EXTENDED DISCUSSION AND DOCUMENTS

This appendix contains links to several documents related to the Report, Yon Je Louvrie: Reducing Vulnerability to Sexual Violence in Haiti’s IDP Camps, published by the Center for Human Rights and Global Justice in January 2012. First, this appendix provides access to the original survey instrument in English and Kreyòl. Second, it offers access to a cross-tabulation of all numeric survey question responses by gender, camp, and the household victimization status. The final table also includes a limited (t-test) examination of the statistical difference between responses from victim and non-victim households. Third, this appendix provides a brief commentary prepared by GJC on the Draft Law on Violence Against Women (VAW Draft Law), entitled the Avant-projet de loi sur la prévention, la sanction et l'élimination des violences faites aux femmes. For further information on the Study and survey data, please contact Margaret Satterthwaite (margaret.satterthwaite@nyu.edu) or Justin Simeone (jsimeone@princeton.edu).

1. Survey Instrument (English)
   (www.chrgj.org/projects/docs/GJCSurveyEnglish.pdf)

2. Survey Instrument (Kreyol)
   (www.chrgj.org/projects/docs/GJCSurveyKreyol.pdf)

3. Survey Results by Gender
   (www.chrgj.org/projects/docs/results-gender.pdf)

4. Survey Results by Camp
   (www.chrgj.org/projects/docs/results-camp.pdf)

5. Survey Results by Household Victim Status
   (www.chrgj.org/projects/docs/results-household.pdf)

6. CHRGJ Commentary on Haitian Draft Law (English and French)
   (www.chrgj.org/projects/docs/CHRGJcommentary.pdf)
YON JE LOUVRI
Reducing Vulnerability to Sexual Violence in Haiti’s IDP Camps

_Nouv domi yon je louvri, yon je femin._
We sleep with one eye open and one eye shut. —Focus Group Participant

The title of this Report draws on a Haitian proverb that describes how people who live in fear are forced to sleep: “with one eye open and one eye shut.” The saying was used during a focus group discussion on sexual violence held with residents in one of Haiti’s many post-earthquake camps for internally displaced persons (IDPs). In the two years since the January 12, 2010 earthquake, women and girls living in Haiti’s displacement camps have been forced to keep “one eye open and one eye shut,” as they face food insecurity, inadequate water and sanitation, and a lack of basic physical protection. This Report is the result of a comprehensive study undertaken to understand and ultimately ameliorate the conditions that exacerbate vulnerability to sexual violence in Haiti’s IDP camps. It draws on human rights and social science methodologies to assess the likely correlations between violations of economic, social, and cultural rights—most notably the rights to food, water, and sanitation—and increased vulnerability to sexual violence. The conclusions reflect the findings of a survey of 365 households in four camps in Port-au-Prince, data from 18 focus group discussions, dozens of key informant interviews, multiple on-site visits, and extensive secondary source research. It finds that certain conditions are linked with higher reported prevalence—and greater perceived threat—of sexual violence. The Report identifies a “victim profile” that reflects the characteristics of those individuals at heightened risk of sexual violence in the camps. Based on these findings, the Report presents concrete recommendations to the UN, INGOs, donor States, and Haitian government officials, who share an obligation to protect the human rights of all Haitian people. Immediate steps could lower risks for the most vulnerable populations living in the camps today, and help prevent sexual violence in the future, as communities transition to more permanent settlements. The right to be free from acts and threats of sexual violence—in conjunction with secure access to adequate food, water, and other basic standards of living on which that freedom depends—are fundamental to Haiti’s recovery and to the advancement of human rights for all Haitian people.