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# From Violence Against Women to Women's Violence in Haiti

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## FROM VIOLENCE AGAINST WOMEN TO WOMEN'S VIOLENCE IN HAITI

BENEDETTA FAEDI

Much of the current scholarship, as well as international policy studies focusing on civil conflicts and armed violence, has primarily construed women as victims and men as perpetrators of violence. Although this prevalent interpretation certainly reflects conventional wisdom and tells part of a true war story, the remainder, which has been very much less publicized and addressed, also perceives women as participants in violence and men occasionally as victims. This Article joins the chorus of scholars that have only recently begun to highlight the flaws of this common belief and conversely, describe female participation in conflict and armed violence, often in order to discover a convincing explanation for why women engage in violence.

This Article goes even further in seeking to deepen the understanding of why women and girls, living in the slum communities of Haiti, participate in violence, by looking at the specific nexus between their prior victimization through sexual abuse and their ensuing decision to join the armed factions. To be sure, pertinent studies focusing either on violence against women and women's violence, or their reciprocal influences and correlations have already been conducted in several countries torn apart by civil conflict or armed violence. To date, however, this issue has not yet been explored in Haiti, where available data has nonetheless suggested a high prevalence of sexual violence against girls and women as well as their involvement in armed violence.

In particular, this study aims to shed light on female internalization of gender stereotypes and experience with violence, which produces common patterns of retaliation. It investigates the incentives, conditions and decision-making processes that motivate victims of rape and sexual abuse to join armed groups and to become active affiliates and perpetrators of violence themselves. Ultimately, by investigating the current international legal norms and Haitian legislation on both female

victimization and aggression, this analysis aims to contribute to the design of effective measures to free women from violence, to dispel their anger and resentment towards forms of community reconciliation, and to adequately reintegrate them into society.

This empirical research is informed by longitudinal fieldwork conducted over a seven-month period in the three cities of Haiti primarily affected by armed violence: Port-au-Prince, Cap Haitien and Gonaive. This research design included in-depth face-to-face interviews, focus groups and participant observation involving a heterogeneous sample of informants comprised of: women, who have either been victims of violence or who have been members of armed groups; and representatives of international and national institutions or civil society organizations working on resolving the issues of women and armed violence in Haiti.

The remainder of the Article proceeds as follows. In Section I, the Author summarizes the historical and social context for gender-based violence and female violence in Haiti. In Section II, the Author reviews the current literature on female participation in conflict and armed violence as well as on the victimization-offending nexus. In Section III, the Author explains the research methods and data sources adopted for the study. In Section IV, the Author presents empirical evidence from Haiti on women's experiences with violence—either as victims or as perpetrators—and examines the conditions and rationale that motivate them to become involved with the armed groups.

In Section IV, the Author suggests relevant implications for legal and policy interventions by considering the following: the main international legal norms protecting women and girls from sexual violence in conflict settings and addressing their consequent involvement in violence; the Haitian legal regime designed for the protection of victims of sexual violence, on the one hand, and the prosecution of girls and women associated with the gangs, on the other hand; and the current specific programs aimed at reintegrating female participants of armed and community violence into society. Finally, in Section VI, the Author concludes by summarizing the main contributions of this study.

## **I. SOCIAL AND HISTORICAL CONTEXT**

After the fall of the Duvalier dictatorship in 1986, a succession of precarious governments followed one after the other until the democratic election of Father Jean-Bertrand Aristide in 1990. As one of the most popular representatives of a group of progressive catholic priests, preaching evangelical compassion and justice for rich and poor alike, Aristide became a fervent opponent of both the Duvalier regime and the ensuing series of military administrations.<sup>1</sup> Inspiring worshippers to reclaim a better standard of living and equal participation in politics, Aristide called upon the underprivileged masses to aspire to what became his 1990 campaign slogan: "justice, participation and transparency."<sup>2</sup> The vast electoral support that brought him to power with 67% of the popular vote<sup>3</sup> also procured him the resentment and aversion of the elites and the military forces. In 1991, after being in office for only a few months, a bloody military coup removed Aristide and forced him into exile, first in Venezuela and later in the United States.<sup>4</sup>

During the subsequent four years, a series of provisional governments supported by armed forces under the command of General Cédras ruled the country and waged war against Aristide's supporters. Under the yoke of repression and abuse of power, thousands of Haitians were beaten, tortured and murdered by the military and police, obliterating the last

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<sup>1</sup> JOHN R. BALLARD, UPHOLDING DEMOCRACY: THE UNITED STATES MILITARY CAMPAIGN IN HAITI, 1994-1997, at 37-45 (1998).

<sup>2</sup> CATHOLIC INST. FOR INT'L RELATIONS, HAITI: BUILDING DEMOCRACY 3 (CIIR, 1996).

<sup>3</sup> Carrol F. Coates, *Chronology to JEAN-BERTRAND ARISTIDE, DIGNITY*, at vii, viii (Carrol F. Coates trans., 2d ed. 1996).

<sup>4</sup> JEAN-BERTRAND ARISTIDE, DIGNITY 4 (2d ed. 1996). *See generally* WILLIAM R. MCCLINTOCK & ALEXANDER G. MONROE, OPERATION GTMO, 1 OCTOBER 1991-1 JULY 1993, (1998) (analyzing historically the military operations carried out in Haiti); ROLAND PERUSSE, HAITIAN DEMOCRACY RESTORED 1991-1995 (1995) (exploring the international crisis caused by Aristide's overthrow in 1991 with reference to its multi-actor and cross-cultural dimensions).

vestiges of democracy.<sup>5</sup> Over 1680 girls and women, who were either pro-democracy supporters themselves or somehow closely related to the movement, reported having been brutally raped. Still, many other victims never did so, fearing further harm to themselves or their families.<sup>6</sup> A delegation of the Special Rapporteur on Violence Against Women visiting Haiti in 2000 estimated that only about 44% of the women and girls who had been sexually victimized during the period of the military regime between 1991 and 1994 actually reported the aggressions.<sup>7</sup>

Sexual violence, and particularly gang rape, were so widely employed at the time that they became part of a deliberate political strategy to terrorize and control the entire population.<sup>8</sup> The common pattern of violence, usually referred to as *zenglendos*, consisted of sudden raids by armed men in the middle of the night, beating and raping the young women of the house before their relatives' eyes. A further ruthless variant included forcing husbands and fathers—who were supporters of the opposition and, thus, the real targets of the punitive expeditions—to rape, under threat, their own daughters, sisters

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<sup>5</sup> ROBERT FATTON, HAITI'S PREDATORY REPUBLIC – THE UNENDING TRANSITION TO DEMOCRACY 77–96 (2002); M. CATHERINE MATERNOWSKA, REPRODUCING INEQUITIES: POVERTY AND THE POLITICS OF POPULATION IN HAITI 65–66 (2006). See generally PAUL FARMER, THE USES OF HAITI (1994) (analyzing chronically the events and processes of the political situation in Haiti); AMERICA'S WATCH COMMITTEE & NATIONAL COALITION FOR HAITIAN REFUGEES, SILENCING A PEOPLE: THE DESTRUCTION OF CIVIL SOCIETY IN HAITI (1993) (reporting on the violent repressions and systematic human rights abuses met out to the civil population in Haiti).

<sup>6</sup> U.N. Econ. & Soc. Council [ECOSOC], Special Rapporteur on Violence Against Women, Its Causes and Consequences, *Integration of the Human Rights of Women and the Gender Perspective—Violence Against Women, Report of the Special Rapporteur on Violence Against Women on the Mission to Haiti*, ¶56, U.N. Doc E/CN4./2000/68/Add. 3, 17 (Jan. 27, 2000) (prepared by Radhika Coomaraswamy). [hereinafter Report of the Special Rapporteur].

<sup>7</sup> *Id.*; see also CENTRE HAÏTIEN DE RECHERCHES ET D' ACTIONS POUR LA PROMOTION FÉMININE (CHREPROF), VIOLENCES EXERCÉES SUR LES FEMMES ET LES ENFANTS EN HAITI (1996).

<sup>8</sup> Myriam Merlet, *Between Love, Anger And Madness: Building Peace in Haiti*, in THE AFTERMATH: WOMEN IN POST-CONFLICT SITUATION 163 (Sheila Mcintjes, Anu Pillay & Mercedeth Turshen eds., 2002).

or mothers.<sup>9</sup> Amid the widespread repression and violent outbreaks that hastened the country into civil conflict, gang rape and battery became political weapons that were systematically employed to defeat rival factions and disrupt communities.<sup>10</sup>

The international community officially condemned the military coup, rallying in favor of Aristide's return to power. On July 31, 1994, gravely concerned about the deteriorating humanitarian situation in Haiti and the systematic violations of civil rights, the United Nations Security Council adopted Resolution 940, authorizing a military intervention to remove the coup leaders and restore Aristide to the presidency.<sup>11</sup> In turn, the Clinton Administration threatened to order an imminent invasion by the American troops into the country until the military junta eventually consented to their peaceful access into Haiti and the restoration of Aristide's government.<sup>12</sup> After finishing his term in office at the end of 1995, Aristide stepped aside to cede power to his first Prime Minister, Rene Preval, who was then elected the new president of Haiti in 1996.<sup>13</sup>

While approximately 1300 peacekeeping troops and 300 civilian police were deployed as part of the United Nations Support Mission in Haiti (UNSMIH) to maintain security and political stability in the country, Aristide launched his new political party, *Fanmi Lavalas* or the "Lavalas Family". Soon thereafter, several fringe groups, known as the *organisations populaires*, or "popular organizations," sprang up across the most impoverished Haitian communities, proselytizing in support of the former president.<sup>14</sup> During the following years, brutal slaughters and violent street confrontations among

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<sup>9</sup> *Id.* at 164.

<sup>10</sup> Danièle Magloire, *La Violence À L'Égard des Femmes: Une Violation Constante des Droits de la Personne*, in 5 CHEMINS CRITIQUES, NO. 2 – DE LA VIOLENCE 75 (2002).

<sup>11</sup> See S.C. Res. 940, S/RES/940 (July 31, 1994).

<sup>12</sup> See FATTON, *supra* note 5, at 112–13.

<sup>13</sup> MICHAEL DEIBERT, NOTES FROM THE LAST TESTAMENT—THE STRUGGLE FOR HAITI 48–51 (2005).

<sup>14</sup> *Id.*

Aristide supporters and opponents propelled the country into chaos and despair.<sup>15</sup>

In the presidential election of 2000, notwithstanding the gross irregularities and fraudulent manipulations denounced by the international community and the opponents of the *Fanmi Lavalas* party, Aristide was re-elected with 92% of the popular vote. In response, his political adversaries and many international policymakers waged a defamation campaign against him, accusing him of political repression, corruption, narcotics-trafficking, and human rights violations.<sup>16</sup> In 2004, following a bloody revolt of the armed factions based in northern Haiti that spread rapidly to the capital, Port-au-Prince, Aristide hastily left the country, fleeing first to the Central African Republic and later to South Africa, where he still currently resides.

After the ouster of Aristide's government, the poor slum communities that had chiefly served his interests and staunchly supported his policies were soon engulfed in disarray, leading to violent armed confrontations among rival groups. A few months later—noting the existence of challenges to the political, social and economic stability of Haiti, and determining that such a critical situation constituted a threat to the international peace and security of the entire region—the United Nations Security Council unanimously adopted Resolution 1542 and established the United Nations Stabilization Mission in Haiti (MINUSTAH).<sup>17</sup> Despite Haiti's severe poverty, domestic unrest, internal hostility between competing groups and widespread insecurity, the transitional international peacekeeping government ruled the country according to its mandate until February 2006, when Rene Preval was democratically elected as the new president of Haiti.

## II. A REVIEW OF THE CURRENT LITERATURE

The traditional understanding of women and violence reflects the commonly held belief that females are naturally averse to inflicting harm and are therefore less aggressive than

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<sup>15</sup> *Id.*

<sup>16</sup> FATTON, *supra* note 5, at 141–43.

<sup>17</sup> See S.C. Res. 1542, S/RES/1542 (Apr. 30 2004).

men in conflict settings. This interpretation is based on an intuitive understanding of the maternal role that women play and, more analytically, on the way in which women are socialized from an early age. Various scholars have explained women's aversion to violence either by emphasizing their inherent biological nurturing attitude or their ensuing socialization into the world.<sup>18</sup> Consequently, when girls and women engage in violence, their antagonistic behavior is usually compared to that of their male peers and often minimized by such a comparison, or at least put into perspective in light of the specific social, cultural, and economic circumstances associated with the notion of gender.<sup>19</sup>

In discussing armed conflicts, this traditional view has critical consequences for on women's agency. Several authors have emphasized that by confining females to their biological fate as mothers and custodians of the private realm, they are ultimately excluded not only from the decision-making processes of war, but also from peacemaking settlements and

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<sup>18</sup> For women's natural hostility to violence, see generally LIONEL TIGER, *MEN IN GROUPS* (1969); LIONEL TIGER & ROBIN FOX, *THE IMPERIAL ANIMAL* (1970). For women's socialization to that hostility, see generally JEANNE BLOCK, *SEX ROLE IDENTITY AND EGO DEVELOPMENT* (1984) (analyzing influences, including social influences, on sex roles); ANNE CAMPBELL, *THE GIRLS IN THE GANG* (2d ed. 1991) (examining women's roles in both all-female and male gangs); Darrell Steffensmeier & Emilie Allan, *Criminal Behavior: Gender and Age*, in *CRIMINOLOGY: A CONTEMPORARY HANDBOOK* 83, 83-97 (Joseph F. Shely ed., 2d ed. 1995) (examining the effects of gender on criminal roles and behavior). For more recent studies, see also Miranda Alison, *Women as Agents of Political Violence: Gendering Security*, 35 *SECURITY DIALOGUE* 447, 447-63 (2004); Lisa Sharlah, *Gender and Genocide in Rwanda: Women as Agents and Objects of Genocide*, 1 *J. OF GENOCIDE RES.* 387, 387-99 (1999).

<sup>19</sup> For comparisons of females to their male peers, see generally FRED A ADLER, *SISTERS IN CRIME* (1975); Josefina Figucira-McDonough, *Community Structure and Female Delinquency Rates*, 24 *YOUTH & SOC'Y* 3-30 (1992); JEAN RHODES & K. FISCHER, *Spanning the gender gap: Gender Differences In Delinquency Among Inner-City Adolescents*, 28 *ADOLESCENCE* 879, 879-89 (1993). For contextualization of female aggression, see generally KATHLEEN DALY & LISA MAHER, *CRIMINOLOGY AT THE CROSSROADS: FEMINIST READINGS IN CRIME AND JUSTICE* (1998); FRANCIS HEIDENSOHN, *WOMEN AND CRIME* (1985); Meda Chesney-Lind, *Girls' Crime and Woman's Place: Toward a Feminist Model of Female Delinquency*, 35 *CRIME & DELINQ.* 5-29 (1989); Mary Gilfus, *From Victims To Survivors To Offenders: Women's Routes Of Entry And Immersion In Street Crime*, 4 *WOMEN & CRIM. JUSTICE* 63-89 (1992).



post-conflict reconstruction.<sup>20</sup> Either because of their nature or because they have been socialized to be good mothers and wives, women's perceived role as peaceful and conciliatory beings eventually serves the purpose of reinforcing male supremacy both in war and peace times and thrusting men into the spotlight. As Cynthia Enloe once claimed, "militarized masculinity is a model of masculinity that is especially likely to be imagined as requiring a feminine complement that excludes women from full and assertive participation in postwar public life."<sup>21</sup>

To be sure, all of these accounts of the feminization of peace fail to grasp reality. As a matter of fact, female perpetrators of violence exist in both peacetime and in conflicts. Recent empirical studies aimed at gaining insights into female combatants' participation in Northern Ireland, Sri Lanka, Colombia and the Philippines have revealed that girls and women are often as violent as, or even more violent than, their male comrades in seeking to find a way to assert their social status in highly patriarchal contexts.<sup>22</sup> Similarly, a recent report commissioned by the United Nations Development Programme (UNDP) and the Gender Unit of the United Nations Stabilization Mission in Haiti (MINUSTAH) on the situation of women in the context of armed violence in Haiti has investigated females' active involvement in armed groups as well as their ruthless

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<sup>20</sup> Nadine Pucchguirbal, *Gender and Peace Building in Africa: Analysis of Some Structural Obstacles*, in *GENDER AND PEACE-BUILDING IN AFRICA* 4-6 (Kari Karamé ed., 2004); see also J. ANN TICKNER, *GENDER IN INTERNATIONAL RELATIONS* (1992) (examining the masculinist influence on international relations and the influence of feminist theory on the field).

<sup>21</sup> CYNTHIA ENLOE, *Demilitarization – Or More of the Same? Feminist Questions to Ask in the Post-War Moment*, in *THE POST WAR MOMENT, MILITARIES, MASCULINITIES AND INTERNATIONAL PEACEKEEPING* 23 (C. Cockburn, D. Zarkov eds., 2002).

<sup>22</sup> YVONNE E. KEAIRNS, QUAKER UNITED NATIONS OFFICE, *THE VOICES OF GIRL CHILD SOLDIERS* 3-4 (2002), available at <http://www.quono.org/newyork/Resources/QUNOchildsoldiers.pdf>; see also Alison, *supra* note 18.

actions, albeit to date, precise statistics remain largely unknown.<sup>23</sup>

The aforementioned traditional view of women's peaceful nature not only fails to provide a fair representation of reality, but also denies, or at the very least offers no hints regarding the incentives, conditions and decision-making processes that motivate women to become active agents of aggression. However, this is unsurprising since, unlike males, traditional literature has viewed female perpetrators of violence as defying their own feminine nature. Their violent behaviors have been thus dismissed as abominable and unworthy of further scientific research.<sup>24</sup> Subsequently, antagonistic feminine attitudes were interpreted as identification with masculinity,<sup>25</sup> contrary to the general perception that women tend to internalize their aggressiveness, whereas men are prone to externalize it.<sup>26</sup> It was only in the mid-1970's, after feminist theories began to question the social and cultural stereotypes which form the basis

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<sup>23</sup> UNITED NATIONS STABILIZATION MISSION IN HAITI (MINUSTAH) & UNITED NATIONS DEVELOPMENT PROGRAMME IN HAITI (UNDP), *THE SITUATION OF WOMEN IN THE CONTEXT OF ARMED VIOLENCE IN HAITI 17* (2006) [hereinafter *THE SITUATION OF WOMEN*].

<sup>24</sup> See generally CESARE LOMBROSO & WILLIAM FERRARO, *THE FEMALE OFFENDER* (Fred B. Rothman & Co. 1980) (1895) (analyzing characteristics and categories of female criminals); OTTO POLLAK, *THE CRIMINALITY OF WOMEN* (Perpetua 1961) (1950) (analyzing female crime and discussing various traits identifying female criminals).

<sup>25</sup> See Sigmund Freud, *Female Sexuality*, in 21 *THE STANDARD EDITION OF THE COMPLETE PSYCHOLOGICAL WORKS OF SIGMUND FREUD* (1931); Sigmund Freud, *New Introductory Lectures on Psychoanalysis*, in 22 *THE STANDARD EDITION OF THE COMPLETE PSYCHOLOGICAL WORKS OF SIGMUND FREUD* (1933); Sigmund Freud, *Some Psychological Consequences of the Anatomical Distinctions Between the Sexes*, in 19 *THE STANDARD EDITION OF THE COMPLETE PSYCHOLOGICAL WORKS OF SIGMUND FREUD* (1925); Sigmund Freud, *Three Essays on the Theory of Sexuality*, in 7 *THE STANDARD EDITION OF THE COMPLETE PSYCHOLOGICAL WORKS OF SIGMUND FREUD* (1905).

<sup>26</sup> See E. E. MACCOBY & C. N. JACKLIN, *THE PSYCHOLOGY OF SEX DIFFERENCES* (1974); Judith Hall, *Gender Effects in Decoding Nonverbal Cues*, 85 *PSYCHOL. BULL.* 845-57 (1978).

of gender inequality,<sup>27</sup> that a more complex analysis of women and violence began to appear in the relevant literature.<sup>28</sup>

Informed by such feminist discourses, more recent research has finally proposed a deeper rendering of females' active involvement in violence, contributing to a better understanding of the motives and conditions that might foster or determine their decision-making. Hence, empirical studies have increasingly begun to focus on female participation both in gangs responsible for community violence in inner cities<sup>29</sup> as well as in non-state actors in contemporary conflict settings.<sup>30</sup> In particular, some of the literature is now focusing on how girls and women are often coerced into civil wars to serve as combatants and agents of aggression.<sup>31</sup> These accounts have surely contributed to questioning whether under these circumstances, female soldiers should be understood as perpetrators or victims of violence. The criminal justice system is thus left with the challenging task of devising appropriate legal responses.

On the other hand, another strand of the current literature has investigated the reasons that motivate women and girls to join armed groups voluntarily and become combatants

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<sup>27</sup> See NANCY J. CHODOROW, *THE REPRODUCTION OF MOTHERING: PSYCHOANALYSIS AND THE SOCIOLOGY OF GENDER* (1999) (further developing psychoanalytic theory on mothering and critiquing traditional theories on why women mother).

<sup>28</sup> See JEAN BAKER-MILLER, *TOWARD A NEW PSYCHOLOGY OF WOMEN* (2d ed. 1986); CAROL GILLIGAN, *IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT* (1982); see also JOANNE BELKNAP, *THE INVISIBLE WOMAN: GENDER, CRIME, & JUSTICE* (1996); HEIDENSOHN, *supra* note 19; Chesney-Lind, *supra* note 19.

<sup>29</sup> See GINI SIKES, *8 BALL CHICKS: A YEAR IN THE VIOLENT WORLD OF GIRL GANGS* (1998); JEFFREY FAGAN & DEANNA L. WILKINSON, *Youth Violence, and Social Identity in Inner Cities*, in *24 CRIME AND JUST.: YOUTH VIOLENCE* 105-188 (1998); Cindy D. Ness, *Why Girls Fight: Female Youth Violence in the Inner City*, in *ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE* VOL. 595, *BEING HERE AND BEING THERE: FIELDWORK ENCOUNTERS AND ETHNOGRAPHIC DISCOVERIES* 32-48 (2004).

<sup>30</sup> See Alison, *supra* note 18; Sharlah, *supra* note 18; Harry G. West, *Girls with Guns: Narrating the Experience of War of Frelimo's "Female Detachment"*, 73 *ANTHROPOLOGICAL Q.*, 180 (2000).

<sup>31</sup> See ED CAIRNS, *CHILDREN AND POLITICAL VIOLENCE* (1996).

within their ranks. Scholars have argued that women are often moved by ideological goals. They are, thus, more likely to join factions claiming to pursue revolutionary goals and social change strategies, as in the case of the Irish Republican Army (IRA) in Northern Ireland.<sup>32</sup> Political aims have also inspired women to enlist in the rebel forces in South Africa, Palestine, and several Central African conflicts.<sup>33</sup>

For better or for worse, participants in these studies have revealed a vast range of justifications for engaging in violent actions. Some report having deliberately chosen to join the armies. These women therefore, did not see themselves as victims of war or vulnerable groups, but rather as those who had espoused the revolutionary cause and resiliently coped with the consequences of the conflict.<sup>34</sup> For instance, a study of female ex-combatants in the guerrilla army FRELIMO during the Mozambique independence war between 1964 and 1974 revealed that those women had purposely joined the conflict to contribute to a social construction of new gender roles and identities within the revolutionary movement and the quest for a free country.<sup>35</sup> Finally, other research studies focusing on African civil conflicts have revealed that, due to struggling with hunger and despair, women opportunistically joined the rebels as fighters in exchange of food, shelter, security and companionship.<sup>36</sup>

Within the effort to discern women's motives to commit violence, other scholars have hinted at the diverse correlations

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<sup>32</sup> See Alison, *supra* note 18.

<sup>33</sup> Ahmad M. Bakcr, *Psychological Response Of Palestinian Children To Environmental Stress Associated With Military Occupation*, 4 J. REFUGEE STUD. 237 (1991); see also West, *supra* note 30.

<sup>34</sup> Sara Gibbs, *Post-War Social Reconstruction in Mozambique: Reframing Children's Experience of Trauma and Healing*, 18 DISASTERS 268 (1994) (arguing that Western ideas of children and child victims are inappropriate models for examining children affected by war in Mozambique).

<sup>35</sup> See West, *supra* note 30.

<sup>36</sup> Jo Boyden, *Children's Experience of Conflict Related Emergencies: Some Implications for Relief Policy And Practice*, 18 DISASTERS 254-267 (1994); see also Kcairms, *supra* note 22.

between sexual harm and female antagonistic attitudes and criminality. Some have, thus, explained girls' and women's rationale for aggression and delinquent behavior as a healing response to the long-lasting consequences of prior sexual abuse and injury they have experienced.<sup>37</sup> One study conducted in the United States's juvenile legal system estimated that over 90% of girls in custody who were interviewed for the study had a past of physical, sexual or emotional abuse.<sup>38</sup> Yet, a nationwide survey conducted by the American Correctional Association of girls detained in juvenile correctional facilities revealed that over 54% of them had been sexually abused and 61% had been physically abused.<sup>39</sup> Drawing from such empirical results, researchers have further linked female girls' and women's involvement in assaults and conflicts to their need to protect themselves, or to their anger resulting from the sexual and physical injury they have previously experienced.<sup>40</sup>

To comprehend the connection between female victimization and their retaliatory reactions, the current literature has properly broadened to include a focus on the surrounding context of girls' and women's lives. Poverty, depression, race, and socioeconomic class status have increasingly been adopted as key variables of research investigations.<sup>41</sup> Empirical evidence has supported the notion that women's experiences of cumulative victimization intertwined with loss and penury, race

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<sup>37</sup> LAURIE SCHAFFNER, *GIRLS IN TROUBLE WITH THE LAW* 57-76 (2006); Marsha Runtz & John Bricrc, *Adolescent "Acting Out" and Childhood History of Sexual Abuse*, 1 J. INTERPERSONAL VIOLENCE 326, 331-32 (1986).

<sup>38</sup> See LESLIE ACOCA & KELLY DEDEL, NAT'L COUNCIL ON CRIME & DELINQUENCY, *NO PLACE TO HIDE: UNDERSTANDING AND MEETING THE NEEDS OF GIRLS IN THE CALIFORNIA JUVENILE JUSTICE SYSTEM* 6 (1998), available at <http://www.justiceforallgirls.org/resources/No%20Place%20To%20Hide.pdf>.

<sup>39</sup> See AM. CORRECTIONAL ASSOC., *THE FEMALE OFFENDER: WHAT DOES THE FUTURE HOLD?* (1990).

<sup>40</sup> LESLIE WOLFE & JENNIFER TUCKER, CTR. FOR WOMEN POLICY STUDIES, *REPORT OF THE SUMMIT ON GIRLS AND VIOLENCE* (1998).

<sup>41</sup> LAURIE SCHAFFNER, *Violence Against Girls Provokes Girls' Violence: From Private Injury to Public Harm*, 13 VIOLENCE AGAINST WOMEN 1229, 1230 (2007).

and gender inequality, and social ostracism and stigmatization, dramatically influence and restrict their choices in terms of livelihood, safety, coping mechanisms and survival.<sup>42</sup> Furthermore, in warlike or distressed situations, it has been crucially acknowledged that “violence becomes normalized, even utilized, as an emotional strategy and a psychological response to troubles and frustrations.”<sup>43</sup>

So far in Haiti, current literature has primarily focused on gaining perspective on patterns of risk factors for the widespread and systematic sexual violence affecting girls and women. Indeed, besides a few studies addressing female participation in aggression that have been promoted by international organizations operating in the country and conducted in partnership with civil society organizations,<sup>44</sup> scholars still have not explicitly addressed the nexus between sexual violence against girls and women and their active involvement in armed violence. Therefore, combining empirical evidence with pertinent theories applied in similar contexts, this Article aims precisely to address this gap in the current literature on women’s violence in Haiti and its interplay with sexual victimization in both the private and public domain.

### III. RESEARCH METHODOLOGY

The data and observations in this Article are based on a research study completed during three separate field trips to Haiti, between June and September, 2007, December and January, 2007 and 2008, and June and September, 2008. A total of seven months of fieldwork was conducted in the three major urban settings of Haiti primarily affected by armed violence—Port-au-Prince, Cap Haitien and Gonaive. I deliberately selected the aforementioned research sites in order to assess variation, if any, in the levels of sexual violence experienced by girls and women as well as their active participation in armed violence.

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<sup>42</sup> Jennifer K. Wescly, *Considering the Context of Women’s Violence – Gender, Lived Experiences, and Cumulative Victimization*, 1 VIOLENCE AGAINST WOMEN 303 (2006).

<sup>43</sup> *Id.* at 1243; see also NANCY SCHEPER-HUGHES, *DEATH WITHOUT WEeping: THE VIOLENCE OF EVERYDAY LIFE IN BRAZIL* (1992).

<sup>44</sup> THE SITUATION OF WOMEN, *supra* note 23.

The sample of informants included rape victims, some of whom may also have been involved with gangs at some point in their lives, and representatives of international and national institutions and civil society organizations dealing with the research topic. Given the sensitive nature of the issue under investigation and the lack of aggregate data on sexual assaults in the country, a non-random sampling methodology was necessarily selected. Civil society organizations providing medical and psychological assistance to rape victims, some of whom have also been actively involved in community violence, drew on their extensive records of patients to arrange my encounters with those who, in their opinion, could have easily handled the interviews according to their own recovery processes.

The study used a qualitative research design to gauge the meaning women ascribed to their experiences with violence as well as the incentives and decision-making processes that motivated them to retaliate. This Article is based on findings from 125 in-depth interviews with the above sample group in addition to seven focus group sessions with victims living in the slum communities of Port-au-Prince affected by armed violence. Interviewees and women attending the focus groups were given information about the project beforehand to ascertain whether they still wanted to participate. Informed consent was obtained from all the participants according to the IRB rules.

The interviews included open-ended questions intended to accommodate extended narratives, to evoke personal memories and opinions, and to grasp decision-making processes and local understanding. The Author conducted the interviews, which lasted from thirty minutes to two hours, either in English, French or Haitian Creole; they were scheduled from thirty minutes to two hours. The interviews with victims focused on their life history to elicit family information, patterns of abuse and sexual violence experienced, and involvement with armed groups, if any. This was followed by a discussion about their memories and their understanding of incentives, responsibility and decision-making processes.

The interviews with representatives of international and national institutions and civil society organizations recounted representative instances of violence—either experienced or committed by girls and women—which had been the object of their work. This was followed by discussions of potential

explanations for the widespread and systematic sexual violence affecting girls and women in Haiti as well as their motivations to join armed groups and become perpetrators of violence themselves.

Focus group sessions were intended to facilitate the sharing of information and experiences among some of the informants and to assess their interactions and different attitudes when brought together in a common discussion. Each focus group included about seven women from the same neighborhood who had been victims of sexual violence and/or may have been involved with gangs at some point in their lives. Focus group sessions took place in a quiet, private room on the premises of a shelter that provides primary medical and psychological care and assistance to rape victims. Discussions were conducted either in French or Haitian Creole and lasted about two hours each. A translator and a psychologist for the organization attended the meetings.

In order to corroborate this data, interpret victims' behaviors and contextualize their stories, the Author also participated as an observer in support group sessions designed for rape victims by national civil society organizations within their psychological recovery programs. Support groups were held four days per week on the premises of the safe haven and were conducted by specialized personnel working for the organization. During the sessions, the Author took field notes and wrote reflections on the activities performed by the participants as well as noting their interactions, debates, and antagonistic or conciliatory attitudes.

The data gathered from interview/focus group transcripts and field notes were thematically coded to assess common patterns of sexual harm, emotional distress and rationale for retaliation. Pseudonyms were used to assure protection and privacy of participants' identities and organizations. Findings were also supported by evaluating pertinent secondary sources, including previous research studies, official reports, public documents and media coverage.

#### **IV. EMPIRICAL EVIDENCE FROM HAITI**

The following sections describe women's experiences with violence either as victims or perpetrators, examine the nature of the motives behind their decisions to join



the armed groups, question whether decisions are really made, and help appreciate whether women find themselves healing in response to violence.

#### A. GENDER-BASED VIOLENCE IN HAITI

Recent studies have thoroughly documented the rampant prevalence of violence against women in both industrialized and less-developed societies. A population-based survey conducted in ten countries, including data from over 24,000 informants around the world, revealed that the lifetime prevalence of physical violence affecting women since the age of fifteen ranged from less than 10% in Ethiopia, Japan, Serbia and Montenegro to 62% in Samoa.<sup>45</sup> Sexual violence against women over 15 years of age varied from less than 1% in Ethiopia and Bangladesh to between 10% and 12% in Peru, Samoa, and the United Republic of Tanzania.<sup>46</sup> Overall, data revealed that between 19% and 76% of women around the world have had suffered from physical and sexual violence by an intimate partner or a non-partner since the age of 15.<sup>47</sup> The Yet, the prevalence of sexual abuse against girls younger than 15 years of age ranged from 1% in Bangladesh to 21% in Namibia.<sup>48</sup> Forced sexual initiation affected between 9% of girls in the United States and 40% in Peru.<sup>49</sup>

This research study was conducted in the urban slums of Haiti, where available data suggests a high prevalence of sexual violence against girls and women. In the shantytowns of Port-au-Prince, Haiti's the capital, which is of the country, characterized by armed violence among rival gangs, an

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<sup>45</sup> See WORLD HEALTH ORG. [WHO], WHO MULTI-COUNTRY STUDY ON WOMEN'S HEALTH AND DOMESTIC VIOLENCE AGAINST WOMEN 43 (2005) [hereinafter WHO MULTI-COUNTRY STUDY], available at [http://www.who.int/gender/violence/who\\_multicountry\\_study/en](http://www.who.int/gender/violence/who_multicountry_study/en).

<sup>46</sup> *Id.* at 45.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 49.

<sup>49</sup> The Secretary-General, *In-Depth Study on All Forms of Violence Against Women*, ¶130, U.N. Doc. A/61/122/Add.1 (July 6, 2006).

estimated 50% of girls have been victims of rape, often by more than one perpetrator.<sup>50</sup> A recent study on factors impacting youth development in Haiti revealed that violence is part of everyday life and sexual violence is particularly rampant: 46% of Haitian girls have been sexually abused, among whom 33% were between five and nine years of age and 43% between ten and fourteen.<sup>51</sup> Findings from a random survey of households in Port-au-Prince suggested that, between 2004 and 2006, 35,000 women were sexually assaulted, half of whom were under the age of eighteen.<sup>52</sup> Aggregated figures showed that sexual violence against women is the most prevalent form of violence in Haiti, affecting 35% of women over fifteen years of age, with a higher incidence in provincial areas (41%) than in the urban settings (34%).<sup>53</sup>

Disaggregated data collected for the purpose of this study from civil society organizations that provide medical and psychological assistance to victims of sexual violence in Haiti reported that the number of rape cases per annum increased between threefold and twelvefold from 2002 to 2005.<sup>54</sup> Among the victims, 96.1% were single women, and between 34% and 76.1% were girls under 18 years of age.<sup>55</sup> Figures from one organization operating in Port-au-Prince showed the prevalence

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<sup>50</sup> See The Secretary-General, *Report of the Secretary-General on Children and Armed Conflict*, ¶ 39, delivered to the Security Council and the General Assembly, U.N. Doc. S/2006/826, A/61/529 (Oct. 26, 2006) [hereinafter Report on Children and Armed Conflict].

<sup>51</sup> Michael Justesen & Dorte Verncr, *Factors Impacting Youth Development in Haiti 4* (World Bank Policy Research Working Paper, Working Paper 4110, 2007).

<sup>52</sup> See Athena R. Kolbe & Royce A. Hutson, *Human Rights Abuse and Other Criminal Violations in Port-au-Prince, Haiti: A Random Survey of Households*, 368 THE LANCET 864, 868 (2006).

<sup>53</sup> WORLD BANK, *Social Resilience and State Fragility in Haiti: A Country Social Analysis*, 33, Rep. No. 36069-HT (April 27, 2006), available at [http://siteresources.worldbank.org/BOLIVIA/Resources/Haiti\\_CSA.pdf](http://siteresources.worldbank.org/BOLIVIA/Resources/Haiti_CSA.pdf).

<sup>54</sup> RAPPORT DE COMMISSION DE COLLECTE DE DONNÉES, TABLE DE CONCERTATION NATIONALE SUR LES VIOLENCES SPECIFIQUES FAITES AUX FEMMES ET LEUR PRISE EN CHARGE 8 (2005).

<sup>55</sup> *Id.* at 7–8.

of sexual violence in the conflict areas of the capital. It reported, reporting that 63% of rape cases occurred after intimidation with a firearm, 71% were committed by strangers, and between 41% and 62% were committed by more than one perpetrator.<sup>56</sup> Estimates of the prevalence of sexual violence in 2006 ranged from 64% in Port-au-Prince to 69% throughout the entire country.<sup>57</sup> Among the victims, 65% were girls between the ages of three and eighteen, 17% were between nineteen and twenty-five years of age, and 16% were over twenty-six.<sup>58</sup> Among the rape cases documented, 53% were committed by armed groups and 29% by more than one of their members.<sup>59</sup>

Patterns of risk factors for sexual violence in Haiti have been examined by several authors. A number of studies have discussed the interplay between political violence and forced sex since the Haitian military coup in 1991-1994.<sup>60</sup> Widely employed as a weapon of political oppression, rape against women has since remained deeply embedded in the Haitian society shaping gender relationships in both private and public spheres. Correlations between practices of gender discrimination and sexual abuse in the private realm and gender-based violence in the public domain have also been suggested.<sup>61</sup> Other studies acknowledged the challenges of Haitian women in both rural and impoverished urban settings, who are forced by extreme poverty and gender inequality to become entangled in various

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<sup>56</sup> *Id.* at 7-9.

<sup>57</sup> See KAY FANM, VIOLENCE ENVERS LES FEMME SET LES FILLES – BILAN DE L'ANNÉE 2006, at 19 (2007); SOFA, RAPPORT BILAN IV – CAS DE VIOLENCE ACCUEILLIS ET ACCOMPAGNÉS DANS LES CENTRES DOUVANJOU DE LA SOFA DE JUILLET À DECEMBRE 2006, at 10 (2007).

<sup>58</sup> KAY FANM, *supra* note 57, at 26.

<sup>59</sup> *Id.* at 19 and 27.

<sup>60</sup> See generally Magloire, *supra* note 10; see also Mclct, *supra* note 8.

<sup>61</sup> See Benedetta Facdi, *The Double Weakness of Girls: Discrimination and Sexual Violence in Haiti*, 44 STAN. J. INT'L L. 147, 185-86 (2008).

survival strategies, including abusive relationships or trading sex for food, money and protection.<sup>62</sup>

The aforementioned disturbing figures on sexual violence against women reported by the international organizations' policy papers and institutional documents mirror the data trend provided by civil society organizations. Nonetheless, the incidence of violence affecting women is presumably even more rampant than has been documented. Indeed, the report of the Special Rapporteur on violence against women on its mission to Haiti in 2000 estimated that over 66% of rape victims never reported the attacks for fear of reprisal and social stigmatization.<sup>63</sup> Interestingly, the interviews conducted for the purpose of this research revealed conflicting data. Representatives of international organizations operating in the country reported a significant improvement in security, suggesting positive implications for women's safety as well, particularly after the United Nations military interventions of December 2006 in the conflict areas of Port-au-Prince. On the other hand, interviews with victims revealed that rape and sexual violence are still widespread and systematically perpetrated, although in a more secretive way. When asked whether the United Nations military operations aimed at disbanding the armed groups in some shantytowns of the capital had made any difference, a young woman from one of the neighborhoods sadly responded:

Yes, the only difference is that now the gangs don't fight against each other during the day. But at night, they keep doing whatever they want. . . . They rape women and girls, sometime even babies. . . . This is the only difference. You can say that there is no war in the streets right now, but still they bring the war to the houses. Nothing

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<sup>62</sup> See MATERNOWSKA, *supra* note 5 at 62-63, 66-68; M.C. Smith Fawzi et al., *Factors Associated with Forced Sex among Women Accessing Health Services in Rural Haiti: Implications for the Prevention of HIV Infection and other Sexually Transmitted Diseases*, 60 SOC. SCI. & MED., 680 (2005).

<sup>63</sup> Report of the Special Rapporteur, *supra* note 6 at ¶32.

changes in these places, you know. . . .  
Bandits keep raping as it was before.<sup>64</sup>

Such data inconsistency may occur both because rape victims do not report the incidents to competent authorities, which then engenders the dearth of understanding and monitoring of the actual situation, and/or because the violence against women has become a recidivist part of daily life in Haiti. A representative of the *Institut du Bien-Etre Social et de la Recherche* (IBERS — The Institute of Social Well Being and Research) in Cap-Haitian crystallized this depraved custom in this expression: “*le viol est comme le bonjour*,” meaning that rape is so widely and habitually committed that is like saying “good morning” every day.<sup>65</sup>

Recent studies acknowledge the normalization of violence in Haitian society. They report that over 58% of residents in the metropolitan areas feel unsafe in their own homes and that women are the primary targets of assaults.<sup>66</sup> To that extent, excerpts of an interview recount the painful story of a young woman’s experience with violence:

*Interviewee:* I was home with my little brothers and sisters and my mom was at work at that time of the afternoon. An armed man forced the door and invaded the house. He was looking for money, but I did not have any and he got really upset.

*Interviewer:* Did you know this man?

*Interviewee:* Yes, he is one of the leaders of a gang. I knew that the money was just an excuse. He wanted more. . . . In fact, he started threatening to rape my two-year-old little sister. I was out of my mind and I started begging him to save my

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<sup>64</sup> Interview with A, Rape Victim, in Port-au-Prince, Haiti (July 2007).

<sup>65</sup> Interview with B, Public Officer of the Institute of Social Well Being and Research, in Cap-Haitian, Haiti (Aug. 2007).

<sup>66</sup> WORLD BANK, *supra* note 53, at 32-33.

sisters and brothers and to take me instead. I didn't know what else to do . . . I didn't want to go through the same pain and nightmare, but I couldn't do anything else. I had to save the children.

*Interviewer:* What happened then?

*Interviewee:* He accepted my offer to rape me instead of my little sister. I begged him to do it in another room because I didn't want the children to see me. He consented. I took him in the other room and I closed my eyes while he was over me. I couldn't even cry because I did not want to scare the kids.<sup>67</sup>

The majority of women interviewed confirmed their powerlessness facing armed men, as well as their steadfast belief that any response to violence would remain fruitless. "When armed men want you, there is nothing you can do but covering your eyes and wait the moment passes by,"<sup>68</sup> a fifty-three-year-old victim stated loudly in one of the focus group encounters. Another declared:

Armed men just want to take advantage of beautiful girls. . . . But they also rape old women just for fun and disrespect. You know, they can do whatever they want and have whoever they want, even very young girls or babies, because they have guns. Guns mean power, and, above all, being a man means having power over women.<sup>69</sup>

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<sup>67</sup> Interview with C, Rape Victim, in Port-au-Prince, Haiti (Aug. 2007).

<sup>68</sup> Interview with D, Rape Victim, in Port-au-Prince, Haiti (July 2007).

<sup>69</sup> Interview with E, Rape Victim, in Port-au-Prince, Haiti (July 2007).

Gender disparities clearly emerged from women's accounts. Most of them seemed to passively accept their condition, confiding hopelessly that "women can only be victims, victims of everything."<sup>70</sup> Others became very quiet when the focus group discussions moved from violence committed by armed gangs to the general understanding of women's role in society, and, particularly, in the household. However, the most vocal women claimed that their status as victims had very little to do with being raped by gangs, but rather that it commenced in their childhood when inequality and sexual abuse became their very first memories. One reflected:

I was firstly raped when I was so small that I could not even count my age. That's my first memory. When I was raped many years later by three armed men one after the other, it did not even hurt anymore. It was just the same memory all over again.<sup>71</sup>

Representatives of civil society organizations interviewed for the purpose of this study confirmed that girls often experience sexual initiation at the age of five or six, primarily with relatives or neighbors. In particular, one psychologist working for the rape victims' rehabilitation programs revealed the lack of boundaries among family members and the prevalence of discrimination, neglect and concealed incest affecting girls behind closed doors. Another interviewee providing psychological support to rape victims explained that women are so accustomed to sexual abuse that by now they have accepted violence as part of their daily lives, simply resigning themselves to their unfortunate condition.

#### **B. Women and Armed Violence in Haiti**

According to accounts from international organizations operating in the country, which have also been corroborated by empirical evidence collected in this research, women and girls in

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<sup>70</sup> Interview with D, Rape Victim, in Port-au-Prince, Haiti (July 2007).

<sup>71</sup> Interview with F, Rape Victim, in Port-au-Prince, Haiti (July 2007).

Haiti are not only victims of armed violence.<sup>72</sup> Rather, they often join the armed factions either as partners and concubines of gang members or even as ruthless perpetrators, actively participating in illicit activities, such as kidnapping, extortion and narco-trafficking as well as in the violent attacks against the local population or rival groups. Although precise figures on female participation in the gangs are still unknown, data collected in the three major urban settings most affected by armed violence—Port-au-Prince, Gonaives and Cap-Haitien—in which no variation has been noted in this respect, revealed that girls and women are generally associated with the majority of the armed groups, with the sole exception of the political organizations.

Contrary to the conclusions drawn by other studies conducted in various conflict settings, such as in South Africa, Palestine, and several Central African conflicts,<sup>73</sup> these findings reveal that female participation in armed factions is not politically motivated in Haiti. Therefore, theories explaining women's rationale for violence by virtue of their pursuit of ideological goals and social change are not applicable in the Haitian context.<sup>74</sup> This conclusion contrasts the high male adhesion to the political organizations and considers the fact that armed violence has historically evolved as a political tool in Haiti. However, the findings demonstrate that, unlike men, women living in poor communities are minimally engaged in public and political actions, which reinforces the gender disparities in the Haitian nether society.

Although identifying and distinguishing different armed groups in Haiti is a difficult task because their structures, strategies, and purposes might often change as a result of criminal interests and political and social developments, the factions recruiting girls and women as actors of violence can

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<sup>72</sup> THE SITUATION OF WOMEN, *supra* note 23.

<sup>73</sup> See Baker, *supra* note 33; see also West, *supra* note 30.

<sup>74</sup> See *supra* Part III for discussion on theories explaining women's motivation to commit violence with ideological goals.



still be generally classified into the following categories described below.<sup>75</sup>

Originating from politically motivated organizations and currently fuelled by former police personnel and security forces, the *Milices Populaires* or “Popular Organizations” aim at controlling the impoverished areas of the capital and targeting the local population. They are involved in illicit activities, such as kidnapping, extortion and trafficking in drugs and arms. Girls and women are actively engaged in these groups—pursuing their goals and fighting alongside men in armed confrontations. They are often used to lure potential targets for kidnapping, to facilitate their capture and to hide the hostages inside their houses.

The “Armed Criminal Gangs” are similarly committed to organized crime, but are also often associated with or exploited by political segments. Oppressive poverty, high unemployment rates and poor governance in the last few decades have resulted in the breakdown of slum communities, leading to the emergence of these criminal groups. Engaged in various illicit activities, such as kidnapping, trafficking in drugs and arms, as well as in violent armed confrontations against opponent factions, these groups target girls and women for gang rape, abduction and sexual slavery as a means of controlling the community and spreading terror among the civilians. Women members of these groups become active agents of violence, including kidnapping and other criminal activities. Some gangs comprised solely of female members are even believed to be responsible for sexual violence against other women or members of rival groups.

Opponents to the aforementioned factions are the *Brigades de Vigilance* or “Vigilante Groups,” comprised of teenagers and adults of both sexes. These groups, which constitute aggressive self-defense associations, formed in response to the escalating violence and criminality in the slum communities. Group members aim to defend their own immediate environment from the attacks of bandits, gangsters, robbers and rapists. Female participants of the Vigilante Groups usually employ *armes blanches*, such as daggers and machetes,

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<sup>75</sup> See for general classifications of armed groups in Haiti, see THE SITUATION OF WOMEN, *supra* note 23; see also Report on Children and Armed Conflict, *supra* note 50, at ¶ 38.

to fight against the aggressors. Women also mobilize to organize solely female Vigilante Groups operating in defense of a specific area.

### **C. Women's Violence: Survival Strategy or Deliberate Choice?**

The majority of women whom I interviewed, as well as those participating in the focus group sessions, openly discussed their wretched living conditions and the oppressive poverty and insecurity affecting their neighborhoods. When asked to describe the areas they live in, their stories closely resembled one another. Despite their different ages, backgrounds and life histories, none of the women seemed to be able to cope with the grievous difficulties of her life. Furthermore, they did not appear to be able to imagine any alternative other than leaving their areas and moving to wealthier neighborhoods of the capital. One young girl vividly portrayed the slum where she lives in Port-au-Prince as follows:

It is very poor, crowded with desperate people looking for food and hope. Actually, they have lost all their hope and they are just angry, desperate and waiting to die. I just cannot stand it anymore. . . . The houses are crap, dirty and dark. . . . But I was born there, and I am used to it, you know. . . .<sup>76</sup>

When asked whether they feel safe in their areas, women lamented the widespread danger engulfing their streets, the gangs robbing their houses, terrorising their children and disposing of their bodies as their own property. Their reflections also suggested the intimate correlation between indigence, violence and human decay.

Interviewee: Safe? Oh no, [I do] not [feel safe] at all . . . poverty and violence come together, you know. . . . The armed groups control the area: they can do whatever they want. They were born there and know everybody and own everybody.

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<sup>76</sup> Interview with G, Rape Victim, in Port-au-Prince, Haiti (July 2008).

That's what they think at least, and what all the people think. They enter the houses, rob, rape and threaten. And people just don't know what to do . . . they just don't know what to do.<sup>77</sup>

There were many instances in which, as soon as the discussion focused on the incentives women who have been daily victims of terror and violence might have to become actively involved with their own perpetrators in the gangs' ranks, some participants became speechless, suggesting their remoteness from the armed factions. Others honestly contended that "it is impossible not to get involved with the armed groups when your children are starving and you just eat once a day if you are lucky."<sup>78</sup> In other words, in the impoverished slum communities that are disregarded by the state authorities and the police, gangs bring food and money in addition to terror and war, subverting civilians to their own needs and blurring the line between unforgivable violence and survival strategies.

Representatives of an international non-governmental organization working in one of the areas most affected by armed violence in Port-au-Prince recalled the words of a girl serving the gang by spying on police movements and carrying arms: "My family was killed and my brother starved to death, now I eat and, one day, the chief will send me to school and pay my fees."<sup>79</sup> In a place without law, order, and human compassion, gangs distribute the ransom from kidnappings and proceeds from narco-trafficking and other criminal activities among the population, providing food, basic resources, and even paying the funeral expenses for their losses. Poverty and desperation are intertwined with the destiny of victims and perpetrators, often switching their roles from one to another, and ultimately assuaging their grief. "My rapists were killed by a rival group in

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<sup>77</sup> *Id.*

<sup>78</sup> Interview with H, Rape Victim Affiliated with an Armed Faction, in Port-au-Prince, Haiti (August 2008).

<sup>79</sup> Interview with I, NGO Representative, in Port-au-Prince, Haiti (July 2008).

a gunfight. In the end, everybody needs to pay,"<sup>80</sup> a woman asserted. Another explained, instead, the repugnance she feels seeing her aggressors every day and having to meet their demands:

I have a friend who is blind, and she was raped as me, but now she cannot recognize her aggressors. Sometimes, I wish I could be her and not having to cross the street and bump into them, or work for them to get some money. I wish I could be her because my sight does not bring me any good.<sup>81</sup>

In general, most women justified their active involvement in the armed groups as being the result of their unbearable poverty and the lack of other resources to support their children and families. A few of them disagreed, countering that serving the gangs is ultimately a deliberate choice, a convenient solution; thus, they suggested that even in extreme poverty, degradation, and distress, individuals can still exercise free will and good judgment. When asked if, in her opinion, women join the bandits because they are poor and desperate, a young rape victim dissented, stating:

No, I think that they made a choice. I know a lot of other people who are poor, and I am kind of poor too, but I did not end up in a gang. Yeah, being poor sucks, but you can't go around robbing the others or raping girls, and making war in the streets before the eyes of children.<sup>82</sup>

Excerpts from the interviews and focus group sessions reported above reveal the complexity of rape victims' lives torn apart by continuous victimization and the everyday struggle against hunger, insecurity and degradation, thus confirming that a contextual appreciation is essential to comprehending female

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<sup>80</sup> Interview with I, Rape Victim Affiliated with an Armed Faction, in Port-au-Prince, Haiti (July 2008).

<sup>81</sup> Interview with J, Rape Victim, in Port-au-Prince, Haiti (July 2008).

<sup>82</sup> Interview with G, *supra* note 76.

violence in Haiti. The following sections investigate some of the decision-making processes that induce girls and women to participate in activities of armed violence. Drawn from interviewees' responses and focus group discussions, this analysis contributes to evaluating whether and to what extent women's violence should be understood as a survival strategy, a direct response to sexual harm previously experienced, or a deliberate choice in retaliation.

### 1. NEED FOR PROTECTION

The recent study conducted by the Gender Unit of the United Nations Stabilization Mission in Haiti (MINUSTAH) and the United Nations Development Programme in Haiti (UNDP) on the situation of women within the context of armed violence reported a strong female component in the ranks of the *Vigilante Groups (Brigades de Vigilance)*.<sup>83</sup> The interviews and small group discussions substantially confirmed this data and the intrinsic characteristics of these armed segments. Women of different ages openly confessed to having been involved with militant self-defense groups at some point in their lives, encountering bandits and rapists within their respective neighborhoods. They lamented the escalation of violence and criminality swamping their communities and putting their children's lives and their own at risk.

Some women revealed that they had been solicited to join the *Vigilante Groups* by their own men, who were already members of the militant organizations. Others, as widows or heads of the household, mentioned the daily challenge of defending their children from the very same violence they had experienced. Despite the disparity in age, background and family history, all the women declared that their sole motivation for joining the *Vigilante Groups* was the urgent need for protection and self-defense. When asked what they actually thought about responding to violence with further violence, one woman simply countered:

You know, nobody really cared when my husband was murdered and I was beaten and raped until I fainted. Why should I care now about the others? I just want to protect my babies. . . . I just

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<sup>83</sup> For a description of the *Vigilante Groups (Brigades de Vigilance)*, see *supra* Part IV(B); see also THE SITUATION OF WOMEN, *supra* note 23.

want my daughter not to have to suffer what I suffered.<sup>84</sup>

Along the same line of the United Nations study above, the interviews with other experts of the field provided consistent descriptions of the armed confrontations. Serving on the frontline immediately after the child soldiers, women primarily use daggers and machetes, rather than firearms, to fight against bandits and rival groups.

When I investigated why women decided to adopt aggressive strategies of self-defense rather than resorting to public order forces' intervention, participants of the study unanimously unveiled their total distrust of the security system. They first confirmed that until very recently police did not even have access to the conflict areas in Port-au-Prince and Gonaive. Moreover, women deplored either the futility of police intervention, or often the corrupt relationships between the wrongdoers and security forces. Some of them even revealed that asking the police for help might put them in further danger. Excerpts from an interview report the considerations made of a young woman on this issue:

*Interviewer:* What about the police? Do the police intervene?

*Interviewee:* Ah, the police . . . better not to even see them. The police are scared, they did not even have access to the area until a few months ago. . . . And if they are not scared, they can be even worse than the bandits. You call the police for help and they can rape you as well. There is no difference. . . . No difference at all.

*Interviewer:* No difference between what?

*Interviewee:* No difference between the police and the gangs. They all have guns and they can do whatever they

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<sup>84</sup> Interview with K, Rape Victim Affiliated With an Armed Faction, in Port-au-Prince, Haiti (July 2007).

want. You just cannot do anything against them.<sup>85</sup>

A representative of a civil society organization responsible for the psychological recovery of rape victims, in fact, reported the story of a girl who asked a policeman for help while she was being gang raped by three armed men. The police officer simply joined the aggressors in raping the girl as well. Furthermore, a patient assisted by a center providing medical care for rape survivors recounted having been beaten, raped and sodomized for several hours by a police officer and his accomplices.<sup>86</sup> Medical exams also attested to the fact that the aggressors had lacerated the woman's genitals from the vagina to the anus before abandoning her in the street. Similar instances were recalled by participants in the focus group discussions. Hence, the majority of women avowed that, due to feeling unsafe in their own homes and being aware of, or having personally experienced police corruption and abuse, they had resolved to become members of the *Vigilante Groups* as a result of their primary need to protect their families and themselves.

## 2. Anger

Poverty, despair, and the lack of state intervention fuel the discontent of slum community inhabitants. Some of the interviewees and focus group participants expressed their utter resentment for the dearth of financial aid and consideration received from the actual government. They bemoaned the immense social inequality dividing the country into a few wealthy castes, on the one hand, and the hopeless masses, on the other. In their complaints about their unprivileged condition, women often recalled the sorrowful legacy of colonialism. In particular, they blamed the dark color of their skin compared to the lighter shades of the middle-class, and the slave origin of their clans still imbued in the current generations. "The colonialists left, but the psychological implications connected to their domination have been deeply absorbed by the Haitian

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<sup>85</sup> Interview with L, Rape Victim Affiliated with an Armed Faction, in Port-au-Prince, Haiti (Aug. 2007).

<sup>86</sup> See SOFA, *supra* note 57, at 15.

culture,"<sup>87</sup> a representative of a national institution acknowledged.

Disparities and oppressive poverty are also believed to be the basis for the kidnapping waves that have particularly plagued the cities of Port-au-Prince, Gonaive and Cap-Haitien in the last few years. Associated either with the Popular Organizations (*Milices Populaires*) or with the Armed Criminal Gangs,<sup>88</sup> many women have been held accountable for playing key roles in the operations by identifying, shadowing and luring the targets. Informants for this study who worked for national institutions explained that, in some cases, women have deceptively approached potential targets while they were driving, asked for a ride and took them to meet their kidnappers. In addition, they are often responsible for feeding and hiding the hostages in their houses.

None of the women participating in this study actually admitted to having been involved in a kidnapping operation. However, they were still able to provide relevant insights into the potential motivations behind such behavior. In their extended narratives, anger was the most recurrent incentive for retaliation. Deprived of their basic entitlements and expectations of a tolerable living existence, women directed their resentment toward the state and the society. A middle-aged woman explained:

Women are victims of everything, and we, raped victims, are even more so. But we don't get anything from the state, not even a place in the society . . . not even food, money or respect. Why should we respect the society then? I just want to say you something. . . . If people don't receive what they are entitled to, people will take it anyway by themselves. . . . This is what is happening. This is what all violence and kidnapping are about.<sup>89</sup>

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<sup>87</sup> Facdi, *supra* note 61, at 170.

<sup>88</sup> For a description of both the Popular Organizations (*Milices Populaires*) and the Armed Criminal Gangs, see *supra* Part IV(B). See also THE SITUATION OF WOMEN, *supra* note 23.

<sup>89</sup> Interview with D, *supra* note 68.



When asked whether such motives could still justify the recent escalation of kidnapping targeting children, in which even some women were actively involved, another participant claimed: "When women are so desperate they just remember to be their own children's mothers. They would do anything for them."<sup>90</sup> Interestingly, in their words, the supreme bond of motherhood became the main rationale for ruthless violence and revenge. Devoured by rancor and reciprocal jealousy, and powerless before societal iniquities, failing institutions and an inert State, women living in the poor communities end up venting their anger against each other, to the point that they become instigators or agents of cruel crimes. The following story of a young interviewee exemplifies the level of degradation, human decay and malice tearing the Haitian slum communities apart.

The first time I was [raped I was] 16 years-old. I remember that I was walking alone in the street. . . . I met these three guys and they told me that they wanted to talk to me. . . . I knew they were in the gangs . . . also they had guns and I was sure that they wanted to threaten me when they pulled me over and asked me to follow them. . . . They told me that someone had paid them to kidnap me and then kill me. And I asked them who was this person that wanted to kill me. I said 'I am a nice person and I don't bother anybody, and how come someone wants to kill me?' . . . They told me that they could not tell me who this person was, but that it was the truth. . . . [Then] they gave me an option. . . . I could [have] choose[n] between being killed or raped. I don't remember what I replied. I couldn't breathe. I just recall that they started beating me and two of them raped me one after the other. . . . I cannot be sure who

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<sup>90</sup> Interview with H, *supra* note 78.

was the person that paid them, but there was this woman, who was a neighbor that did not like my mom and I think she wanted to punish her. . . . She was envious that my mom had opened a business, like a store, and got most of her clients. . . . She wanted to punish her because she knows that my mom loves me so much.<sup>91</sup>

### 3. Social Revenge

Some research suggests that while older women tended to resort to violence and criminal activities primarily because of their need for protection or their resentment at being somehow deluded and forsaken, younger women revealed an additional motivation behind their decisions to participate in armed violence. During small group discussions, women, in fact, condemned the restrictive social expectations that confine them to preserving the domestic realm and, above all, pressure them to join a valuable marital union. In their accounts, a prospective marriage represents the sole opportunity women might have to escape a future of indigence and misery. Given their wretched living conditions, it is not surprising that girls seemed to value a relationship with a man much more for its material and economic return, rather than for affection and companionship. In practice, if economic potential is perceived as a screening device for men, virginity is definitely the necessary requirement for women to be marriageable.

Interviewees and participants of the focus group sessions openly shared their anxiety about this issue, acknowledging that their status as rape victims had permanently ruined any opportunity they might have to get married and, therefore, any hope for a better future as well. Girls also lamented the cruelty and wickedness of their own communities that marginalize them for their misfortune and deride their grief. When asked whether after being gang raped she had received any help or support from her community and neighbors, a young woman replied:

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<sup>91</sup> Interview with C, *supra* note 67.

Never! They are so awful and mean to me. You know, my community is making fun of me because I am a rape victim. That's what I am, that's the only thing I am to them. . . . I have no place in the society, no future and nobody will marry me this way. When I was raped . . . and I lost my virginity, I wanted to die rather than being marginalized by my own community. I have never had a boyfriend, you know . . . and I am twenty-seven-years-old. I would love to forget everything, but people are so cruel that they make me remember everything when I see a sarcastic smile on their face. The worst thing of all this story is the blame of the society. I have been blamed as if I was responsible for what happened to me and I deserved it.<sup>92</sup>

Considering the social stigmatization they have experienced on a daily basis and the lack of any prospects for improving their lives, some girls suggested that joining the Armed Criminal Gangs<sup>93</sup> was the only alternative left. Marginalized by their community and often abandoned even by their own families, these girls found a new social status and a source of economic support in the outlaw organizations.

Indeed, becoming gang members or the spouses and/or concubines of gang leaders has provided women with basic life necessities such as food, clothing, shelter, and above all, the leverage to regain the regard of their own communities and vindicate their reputations. A representative of an international non-governmental organization working for a vocational program designed for girls currently detained in the female prison of Port-au-Prince confirmed the fact that most of the inmates have been accused of the offense of association with armed groups. He also explained that the main incentive young

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<sup>92</sup> Interview with C, *supra* note 67.

<sup>93</sup> For a description of the Armed Criminal Gangs, see *supra* Section IV (B); see also THE SITUATION OF WOMEN, *supra* note 23.

women have to become involved with the gangs is their pressing need to gain social respect, nourish their self-esteem and ultimately avenge their injuries.

#### V. IMPLICATIONS FOR LEGAL AND POLICY INTERVENTIONS

The findings presented above contribute certain insights into the conditions, incentives and decision-making processes that motivate rape victims to join the armed groups in Haiti. My analysis of the data drawn from interviews and focus group sessions with female victims and perpetrators of violence or with representatives of international and national institutions or civil society organizations working on the research topic, has revealed three main categories of motivation. In particular, adult women reported having been chiefly driven to associate with armed factions by either a need to protect themselves and their families or by their rage against state negligence and ineffective law enforcement. Girls, on the other hand, reported being more prone to join the gangs to attain social status within their community and to retaliate against their past of sexual abuse and ostracism.

Although these motivations might often overlap and cannot totally encompass the complexity of the victimization-offending nexus, they still deepen the understanding of the diverse incentives women might have at different stages of their lives as well as the context within which female violence is rooted. To be sure, either because of their need for protection, or their anger and craving for social revenge, women engage in violence as a way of responding and resisting the cumulative ordeals of deprivation, denial and sexual harm. Analogous to other contexts, these living experiences critically shape women's choices and strategies of adaptation, livelihood, resilience and coping patterns.<sup>94</sup>

Ultimately, this investigation should lead scholars to question the extent to which female aggression committed within a context of armed violence should be understood as "an extremely practical survival mechanism,"<sup>95</sup> as opposed to a conscious decision. Important implications ensue from the

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<sup>94</sup> See Wesely, *supra* note 42; see also Boyden, *supra* note 36.

<sup>95</sup> BOYDEN, *supra* note 36, at 263.

answers to such a question, ultimately charging international and national legal institutions with the challenging duty of devising fair and adequate responses in addition to engendering practice and policy interventions. In an attempt to discern such implications, stimulate reflections and enhance the current measures, the following sections juxtapose the Haitian legislation to the international legal norms and programs protecting women and girls from sexual violence in conflict settings and addressing their subsequent involvement in violence.

#### A. International Legal Norms

The primary areas of international law addressing women and girls either as victims or as perpetrators of violence in hostilities are international humanitarian law and international human rights law. Historically devised in response to the atrocities committed during the two World Wars, the Xth Hague Convention and the Geneva Convention for the Relief of the Wounded and Sick in Armies in the Field, of 1907 and 1929, respectively, were the first two legal instruments under international humanitarian law providing that women who had been wounded or had fallen sick while fighting in the battlefield should be treated with all consideration due to their sex.<sup>96</sup>

Further provisions for women combatants were included in the Geneva Convention relative to the Treatment of Prisoners of War ("Geneva Convention III"), which set forth that prisoners of war were entitled to "respect for their persons and [ ] honor" and that particularly women should "be treated with all regard due to their sex" and should "benefit [from] treatment as favorable as that granted to men."<sup>97</sup> The Geneva Convention III also included specific protective measures aimed at deterring gender-based violence and degrading treatment of female prisoners by: requiring mandatory separate accommodations and

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<sup>96</sup> See Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea art. 12, Dec. 8, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 85 (latest version of Convention).

<sup>97</sup> See Geneva Convention Relative to the Treatment of Prisoners of War art. 14, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135 [hereinafter Geneva Convention III].

conveniences for men and women in the camps;<sup>98</sup> prohibiting punishment of women that was harsher than that inflicted on men for a similar offense;<sup>99</sup> and providing that the disciplinary punishment of female prisoners should be executed under the immediate supervision of women.<sup>100</sup>

With the adoption in 1949 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War ("Geneva Convention IV") for the first time international law extended protection to women and children as members of the civilian population, in particular setting forth that women should be especially protected against any attack on their honor, including rape, enforced prostitution, or any form of indecent assault.<sup>101</sup> Similar protective provisions were included for women and children in the Additional Protocols to the Geneva Conventions for the Protection of Victims of International Armed Conflict ("Additional Protocol I").<sup>102</sup>

Although the two Additional Protocols did not explicitly provide for gender-related distinctions, they prohibited the participation of children under fifteen years of age in hostilities.<sup>103</sup> In particular, Additional Protocol I called upon

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<sup>98</sup> *Id.* at arts. 25, 29.

<sup>99</sup> *See id.* at art. 88 (forbidding more severe treatment for female prisoners of war subject to disciplinary or judiciary sentences, than "male member[s] of the armed forces of the Detaining Power dealt with for a similar offence").

<sup>100</sup> *See id.* at art. 97.

<sup>101</sup> Geneva Convention Relative to the Protection of Civilian Persons in Time of War art. 27, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.C. 287 [hereinafter Geneva Convention IV].

<sup>102</sup> *See* Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts arts. 76, 77, June 8, 1977, 1125 U.N.T.C. 3 [hereinafter Additional Protocol I] (stating that women and children are "object[s] of special respect" and should not be subject to "indecent assault"). Protocol Additional to the Geneva Conventions Aug. 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts art. 4, June 8, 1977, 1125 U.N.T.C. 609 [hereinafter Additional Protocol II].

<sup>103</sup> *See infra* notes 104–105.

parties to the conflict to take all feasible measures to ensure that children below the age of fifteen do not take a direct part in hostilities.<sup>104</sup> This formulation raised the critical question of what should and should not be interpreted as *direct participation* and the reasons for such a distinction. As a matter of fact, modern conflicts have increasingly recruited and used children in many different ways. This is particularly the case for girls, whose involvement in armed forces may range from acting as cooks and porters of weapons, to messengers and combatants, thus leaving unsettled the issue of whether these various roles fall within the purview of the provision. Additional Protocol II attempted to remedy this flaw in clarifying that children under fifteen years of age should neither "be recruited in the armed forces or groups nor allowed to take part in hostilities."<sup>105</sup>

More recently, the Rome Statute of 1998 establishing the International Criminal Court listed within the crimes against humanity rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity committed against civilians in conflict settings.<sup>106</sup> Furthermore, it provided that recruiting children under the age of fifteen into the national armed forces or using them to participate actively in hostilities is a war crime—a serious violation of the laws and custom applicable in international armed conflict.<sup>107</sup>

Several specific instruments under international human rights law aim to protect the rights of women and children. First, the Convention on the Elimination of All Forms of Discrimination Against Women (hereinafter the "Women's Convention"), which is the paramount women-specific instrument under international law, was adopted by the United Nations General Assembly in 1979, when neither gender-based violence nor female violence in hostilities were part of the

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<sup>104</sup> See Additional Protocol I, *supra* note 102, at art. 77.

<sup>105</sup> See Protocol Additional to the Geneva Conventions Aug. 12, 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts art. 4, June 8, 1977, 1125 U.N.T.C. 609.

<sup>106</sup> See Rome Statute of the International Criminal Court art. 7, July 17, 1998, U.N. Doc. A/CONF.183/9.

<sup>107</sup> *Id.* at art. 8.

immediate agenda. As a result, the Women's Convention did not explicitly address them, but rather condemned any form of *discrimination against women*, meaning 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 of human rights and fundamental freedoms.<sup>108</sup>

Although an evolutionary interpretation of the Women's Convention could have eventually embraced gender-based violence under its focus, in January 1992 the Committee on the Elimination of Discrimination Against Women (hereinafter "CEDAW") adopted General recommendation No. 19, providing that the definition of discrimination should have also included *gender-based violence*, which impairs or nullifies the enjoyment by women of human rights, among which is the right to equal protection according to humanitarian norms in time of international or internal armed conflict.<sup>109</sup> Acknowledging the fact that wars often lead to increased prostitution, sexual assault and trafficking in women, General Recommendation No. 19 called upon member states to devise specific protective and punitive measures.<sup>110</sup>

The following year, concerned that some groups of women—including female children and women in situations of armed conflict—are especially vulnerable to violence, CEDAW fostered the adoption of the Declaration on the Elimination of Violence Against Women (hereinafter the "Declaration") by the United Nations General Assembly. The Declaration explicitly stated that *violence against women* includes any act of gender-based violence which results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including

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<sup>108</sup> See Convention on Elimination of All Forms of Discrimination against Women art. 1, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter the "Women's Convention"].

<sup>109</sup> See General Recommendation No. 19, Committee on the Elimination of Discrimination Against Women art. 7(c), U.N. Doc A/47/38 (1992).

<sup>110</sup> *Id.* at art. 16.



threats of such acts, coercion or arbitrary deprivation of liberty, either in public or in private life.<sup>111</sup>

Specifically for children, as was the case in the international humanitarian treaties, neither the Convention on the Rights of the Child (the "Children's Convention") nor the Optional Protocol on the involvement of children in armed conflict (hereinafter the "Optional Protocol") include any explicit reference to female combatants. In particular, the Children's Convention, adopted by the United Nations General Assembly in 1989, reemphasized that member states should "take all feasible measures to ensure that" children under the age of fifteen "do not take a direct part in hostilities."<sup>112</sup> Once again, this has left open the legal issue of how to protect those children, many of whom are girls, who have been indirectly involved in the conflict to perform other duties apart from serving in the battlefield.

On the other hand, despite the fact that the Optional Protocol, adopted by the United Nations General Assembly in 2000, has increased the recruitment threshold to eighteen years of age, it has not solved the "direct participation" question. Rather, it has further provided a controversial disparity between state armed forces, which are required to take all feasible measures to ensure that children under eighteen do not take a direct part in hostilities,<sup>113</sup> and non-state actors that should not, under any circumstances, recruit persons under the age of eighteen in hostilities.<sup>114</sup> Arguably, this set of asymmetrical obligations might easily lead to non-compliance by member states and parties to the conflict.

## B. National Legislation

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<sup>111</sup> See Declaration on the Elimination of Violence Against Women, G.A. Res. 48/104, art. 1, U.N. GAOR, 48th Sess., 85th plen. mtg., U.N. Doc. A/RES/48/104 (Feb. 23, 1994) [hereinafter the "Declaration"].

<sup>112</sup> See Convention on the Rights of the Child, G.A. Res. 44/25, art. 38, U.N. GAOR, 44th Sess., U.N. Doc. A/RES/44/25 (Nov. 20, 1989).

<sup>113</sup> See Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, G.A. Res. 54/263, art. 1, U.N. GAOR, 54th Sess., U.N. Doc. A/RES/54/263 (Mar. 16, 2001).

<sup>114</sup> *Id.* at art. 4.

Recent Haitian national legislation adopted in July 2005 amended the previous regime related to sexual aggression and discrimination against women. Acknowledging that some provisions of the Haitian Penal Code contravened the precepts of the Constitution and the aforementioned international conventions, which have been all ratified by the Republic of Haiti with the exception of the Rome Statute and the Optional Protocol,<sup>115</sup> the novel decree has recast the crime of rape as sexual aggression, committed or attempted with violence, threat, surprise or psychological intimidation.<sup>116</sup>

On the contrary, the old-fashioned original Penal Code's provision defined the crime of rape as "an assault to the honor of an individual," which should be punished with imprisonment.<sup>117</sup> Besides interpreting the rape offense as a violation of the right to individual integrity, the 2005 legislation has also strengthened its sanctions, providing ten years of forced labor or fifteen years for rape committed against a child under the age of fifteen. Despite such a positive evolution in the understanding and punishment of rape, the concrete adjudication of cases and the judicial redress for victims have failed to keep pace, as evidenced by the fact that only one rape case was successfully prosecuted in 2006.<sup>118</sup>

On the other hand, with respect to girls and women who are members of armed groups, the Haitian Penal Code holds them generally accountable for the offense of association with malefactors.<sup>119</sup> Consisting of participation in the gang

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<sup>115</sup> The Republic of Haiti ratified the Geneva Conventions on April 11, 1957, the two Additional Protocols on December 20, 2006, the Women's Convention on July 20, 1981, and the Children's Convention on June 8, 1995.

<sup>116</sup> See "Le Decret Modifiant le Régime des Agressions Sexuelles et Éliminant en la Matière les Discriminations Contre la Femme" (Decree Changing the Regulation of Sexual Aggressions and Eliminating Forms of Discrimination Against Women), July 2005.

<sup>117</sup> See CODE PÉNAL [C. PÉN] art. 279 (Haiti).

<sup>118</sup> Sarah Fort, *Violence: An Ever-Present Threat: HIV in Haiti is Spread by Violence and Little is Done to Prevent the Attacks*, THE CTR. FOR PUB. INTEGRITY – INVESTIGATIVE JOURNALISM IN PUB. INTEREST, Nov. 30, 2006, <http://projects.publicintegrity.org/aids/report.aspx?aid=814>.

<sup>119</sup> See CODE PÉNAL [C. PÉN] art. 225 (Haiti).

organization, correspondence among gang members and their leaders, or in the agreements for the distribution and partition of illicit proceeds, the crime of association with malefactors is punished with forced labor if it is not accompanied by other crimes.<sup>120</sup> However, if the members provide any service to the gangs or procure arms, munitions or instruments of crimes, they will be sentenced to imprisonment.<sup>121</sup> Recent records of the female prison in Port-au-Prince revealed that over 50% of inmates have been held accountable for the offense of association with malefactors, thus revealing the high rate of female participation in armed violence in Haiti.<sup>122</sup>

### C. Women Living without Violence

Although the government of Haiti has ratified most of the paramount treaties mentioned above, there is still a long road ahead. For example, it is critical that the Republic of Haiti ratifies the Rome Statute as well as the Optional Protocol in order to make state and non-state actors accountable for the recruitment and use of children in hostilities, regardless of their direct or indirect involvement in armed violence. In fact, notwithstanding the distinctions between the dynamics of violence in Haiti and those of other countries in conflict, it is noteworthy that the United Nations Special Representative of the Secretary-General for Children and Armed Conflict (hereinafter the "Special Representative") has recently declared that "there is no universally applicable definition of 'armed conflict.'"<sup>123</sup> Rather, it has espoused a pragmatic and cooperative approach to this issue, focusing on ensuring broad and effective protection for children exposed to situations of concern, regardless of the definition of the term "armed conflict."<sup>124</sup>

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<sup>120</sup> *Id.* at art. 226.

<sup>121</sup> *Id.* at art. 227.

<sup>122</sup> Records of the Prison of Pétiion Ville, in Port-au-Prince, Haiti (May 28, 2007).

<sup>123</sup> See The Secretary-General, *Report of the Secretary-General on Children and Armed Conflict*, ¶7, delivered to the Security Council and the General Assembly, U.N. Doc. S/2005/72, A/59/695, (February 9, 2005).

<sup>124</sup> *Id.*

Based on these conclusion and in light of the grave violations committed against children in Haiti—including *inter alia* sexual violence against girls and their recruitment into armed groups—the Special Representative has included Haiti among the countries listed in the 2006 and 2007 Reports of the Secretary-General on Children and Armed Conflict to the Security Council.<sup>125</sup> According to the empirical evidence presented in this study, the aforementioned pragmatic and extensive interpretation of the term “armed conflict” has become even more pertinent in the Haitian context. Indeed, the findings have revealed that not only is gender-based violence widespread and systematically perpetrated, but also that female aggression is principally employed as a coping response to previous victimization and as an adaptive strategy to the daily hardship women and girls face in the context of armed violence.

Therefore, if female participation in the gangs is to be understood as a survival strategy, the current Haitian legislation which provides solely for girls’ and women’s prosecution for the offense of association with malefactors, is at the very least inadequate. This is not to suggest that fair legal action should not be pursued against them if they have indeed engaged in violence; rather, as in other conflict settings, specific programs should be designed for the social rehabilitation and reintegration of girls and women who have either been victims or agents of aggression within the coercive context of armed violence.

The legal basis for the establishment and development of such programs, better known as Disarmament, Demobilization and Reintegration (DDR) programs (hereinafter “DDR programs”), has been laid out by several international legal instruments. In particular, Resolution 1325 on Women Peace and Security (hereinafter “Resolution 1325”), adopted by the United Nations Security Council in 2000, has called on all actors involved in the peace settlement negotiations to adopt a gender perspective and take girls’ and women’s needs during rehabilitation, reintegration and post-conflict reconstruction into account.<sup>126</sup> Furthermore, reasserting that women can be not only

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<sup>125</sup> See Report on Children and Armed Conflict, *supra* note 50, at ¶ 38–40; Report Of the Special Representative of the Secretary-General for Children And Armed Conflict, U.N. GAOR, 62d Sess., at ¶7, U.N. DOC No. A/62/228 (Aug. 13, 2007).

<sup>126</sup> S. C. Res. 1325, ¶ 8, U.N. Doc. S/RES/1325 (Oct. 31, 2000).

victims but also actors of war, Resolution 1325 has encouraged all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants.<sup>127</sup>

Similarly, the Children's Convention provides that member states "shall take all appropriate measures to promote physical and psychological recovery" as well as the "social reintegration" of child victims of armed conflict and other forms of abuse.<sup>128</sup> Along the same line, over seventy-eight member states, including Haiti, have recently expressed their full commitment to the Paris Principles and Guidelines on Children Associated With Armed Forces or Armed Groups (hereinafter the "Paris Principles"), which provide guidelines regarding the disarmament, demobilization and reintegration of all categories of children associated with armed groups.<sup>129</sup>

Specifically for girls, the Paris Principles have crucially clarified the fact that using them as spouses or for other forced sexual relations, as well as exploiting them for domestic labor and logistical support in armed conflict constitute acts of recruitment are contrary to fundamental human rights and humanitarian law.<sup>130</sup> Such a provision has finally solved the critical question of whether girls who are *indirectly* involved in the conflict because their roles are not related to weapons could still benefit from specific programs aimed at their rehabilitation and reintegration into society. In short, the Paris Principles assert that DDR programs for girls should ensure that their specific needs are met, including safe and private accommodations with specific facilities, measures for their safety and protection in residential settings, support for girl mothers, and education and opportunities to develop skills and generate income in non-exploitative settings.<sup>131</sup>

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<sup>127</sup> *Id.* at ¶13.

<sup>128</sup> See G.A. Res. 44/25, *supra* note 112, at art. 39.

<sup>129</sup> See Paris Principles and Guidelines on Children Associated With Armed Forces or Armed Groups (2007).

<sup>130</sup> *Id.* at 23.

<sup>131</sup> *Id.* at 29.

Although the adoption of both Resolution 1325 and the Paris Principles represents a significant political initiative and a shared commitment by the international community, unfortunately these two legal instruments are not legally binding on member states; thus, it has been difficult to enforce them effectively. In practice, regardless of any relevant provision, one of the main obstacles for females' inclusion in the DDR programs is the fact that, usually having not been provided with weapons, they cannot return arms in exchange for reintegration assistance. Recent worldwide statistics have confirmed the fact that only approximately 2% of girls are included in DDR programs, whereas at least 40% of them participate or have participated in conflicts and armed violence.<sup>132</sup>

Obviously, similar challenges are faced by women and girls in Haiti. Despite the adoption of a National Strategy for Disarmament, Violence Reduction and Community Security (hereinafter the "National Strategy") by the government in 2006, little has been done in this regard since that time. The National Strategy's vision included the express intent of prioritizing the special needs of women and children associated with armed groups, including reintegration support for women who have been also victims of gender-based violence and the promotion of their key role in achieving peaceful forms of conflict mediation.<sup>133</sup> However, specific programs for these women have rarely been implemented, are usually under-funded and thus have rapidly disappeared. Equally unsuccessful and apparently a low priority has been female inclusion in DDR programs designed for male combatants.

Several authors have suggested that in order to extend the eligibility as beneficiaries of the programs to women and girls, who are often indirectly involved in armed violence, the reintegration component should be given a greater emphasis than

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<sup>132</sup> SAVE THE CHILDREN, FORGOTTEN CASUALTIES OF WAR: GIRLS IN ARMED CONFLICT I (2005).

<sup>133</sup> National Commission for Disarmament, Demobilization and Reintegration (CNDDR), National Strategy for Disarmament, Violence Reduction and Community Security *adopted* on December 2006, Port-au-Prince, Haiti.

it currently receives.<sup>134</sup> Others have emphasized the need to strengthen the psychological and social factors inherent in reintegration and rehabilitation, rather than focusing exclusively on the economic and educational aspects.<sup>135</sup> Further weaknesses of the DDR programs have been reported by informants of this study, who have declared that one of the remaining challenges is how to create living options and concrete opportunities for women and girls upon their return to their own communities.

## VI. CONCLUSION

The findings presented in this Article have illustrated some of the influences that violence against women, and particularly sexual harm, might have in the decision-making processes of the victims with respect to their ultimate involvement in criminal and community violence. The data, drawn from in-depth interviews and focus group sessions with women, either as victims or as perpetrators of violence, as well as representatives of international and national institutions and civil society organizations, suggest the strong correlation between violence against women and women's violence in the metropolitan slum communities of Haiti.

To be sure, the ultimate understanding of the conditions and incentives that motivate women to become involved with armed groups has much to do with the various ways in which violence is intertwined with poverty and gender inequality in Haitian cultural and social settings. The three main motivations women had to engage in criminal and community violence included their need to protect themselves and their families, their resentment toward state negligence and denial of their plight, and their dysfunctional desire to attain personal and social respect through retaliation.

The analysis presented in this Article also questions whether and to what extent women's violence committed within a context of armed violence should be interpreted as a response to the struggle for survival or as a deliberate decision. Important implications for legal and policy interventions may be derived

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<sup>134</sup> Priya Pillai, *A "Call to Arms": A Gender Sensitive Approach to the Plight of Female Child Soldiers in International Law*, 15 HUM. RTS. BRIEF 2, 23, 26 (2008).

<sup>135</sup> *Id.*

from such disparate interpretative lenses. If women's violence is to be understood as a survival strategy, the current Haitian legal regime that prosecutes girls and women for the offense of associating with malefactors, is at the very least inadequate. Indeed, according to legal norms under international humanitarian law and human rights, specific programs, along the lines of those implemented in other countries affected by armed conflict, should be effectively designed for the rehabilitation and reintegration of women and girls in the society.

On a broader scale, solutions for the structural causes of both violence against women and women's violence largely depend on increasing women's educational level and implementing effective measures aimed at strengthening their personal, social and economic empowerment.