

**UNITED NATIONS  
HUMAN RIGHTS COMMITTEE  
112<sup>TH</sup> SESSION  
GENEVA SWITZERLAND  
OCTOBER 2014**

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**REPORT ON FAILURE TO INVESTIGATE AND  
PREVENT THREATS AND VIOLENCE AGAINST THE  
WOMEN HUMAN RIGHTS DEFENDERS AT KOFATIV\***



**IN RESPONSE TO  
THE SECOND PERIODIC  
REPORT OF HAITI**

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\*Photo: Malya Villard-Apollon stands in front of the gate of her home. The three bullet holes are the result of a recent attack where armed gunmen shot at her home in the middle of the night.



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INVESTIGATE AND PREVENT THREATS AND  
VIOLENCE AGAINST THE WOMEN HUMAN RIGHTS  
DEFENDERS AT KOFVIV**

**IN RESPONSE TO  
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**SUBMITTED BY:**  
(IN ALPHABETICAL ORDER)

**INTERNATIONAL WOMEN'S HUMAN RIGHTS CLINIC  
AT THE CITY UNIVERSITY OF NEW YORK (CUNY) LAW  
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MIAMI**

**ONE BILLION RISING**

**POTO FANM+FI**

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<sup>1</sup> This submission does not purport to represent UC Hastings' institutional views, if any.

<sup>2</sup> For identification purposes only. This document does not purport to represent NYU's institutional views.

## **INTRODUCTION**

Following the 2010 earthquake in Haiti, the nation's women and girls were faced with a dire reality. Widespread instances of sexual and gender-based violence (SGBV) against women and girls living in poor neighborhoods and displacement camps were rampant. In response to this urgent crisis, human rights defenders worked in cooperation to raise awareness of these violations and to encourage the State to prevent them from occurring in the first place and to investigate and prosecute the perpetrators.

As a result of their zealous fight for justice and redress for victims, women human rights defenders in Haiti have been met with increasing threats and violence. The threats have come from both within their communities and the greater public. Although some Haitian authorities have taken measures in response to complaints by documenting them, Haiti has failed to adequately investigate complaints and to protect women human rights defenders from danger and violence.

Haiti is obligated under international and domestic law to protect the rights of women and girls, as well as those of the women and men who seek to hold the government accountable to those obligations. Haiti has ratified the International Covenant on Civil and Political Rights (ICCPR), which sets forth steadfast obligations of the State to protect the rights of women and girls without discrimination. Haiti is also a State party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which requires States to eliminate prejudice and discrimination against women, and to promote gender-equality in their legislation. Once international treaties and agreements have been approved and ratified in the manner specified by Haiti's Constitution, they are integrated into local legislation and abrogate contrary law. Article 19 of Haiti's constitution guarantees the right to life and equal protection under the law to all citizens without distinction. Despite Haiti's international treaty and constitutional obligations, as this submission documents, women human rights defenders living and working in Port au Prince continue to be met with threats and violence with inadequate responses from the Haitian state.

Malya Villard-Apollon is a prominent women's rights leader and director of the country's foremost non-governmental organization providing psycho-social and legal services for sexual violence victims. As a woman human rights defender in Haiti, Ms. Villard-Apollon faces threats and violence to herself and her family due to her work with women and girl victims of SGBV. This report documents violations of Ms. Villard-Apollon's rights contained in ICCPR articles 3 and 6, specifically guaranteeing the rights of women and girls, including prevention and redress of violence and threats to the lives of women human rights defenders.

This report was written and prepared by KOFAVIV<sup>3</sup>, MADRE<sup>4</sup>, and the International Women's Human Rights (IWHR) Clinic at the City University of New York (CUNY) School of Law<sup>5</sup>.

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<sup>3</sup> *Komisyon Fanm Viktim Pou Viktim* or Commission of Women Victims for Victims.

## **I. Haiti's Failure to Adequately Investigate and Prevent Threats and Violence Against Malya Villard-Apollon and other Women Human Rights Defenders**

Stressing the importance of the contributions of human rights defenders to a just and democratic society, the Committee has recognized that their work can often lead to threats against their lives. Specifically, the Committee underscored State's obligation "to support the immediate, effective and impartial investigation of threats, attacks and assassinations of human rights defenders, and to prosecute and punish the perpetrators."<sup>6</sup> A State's failure to prevent and adequately investigate threats against the lives of women human rights defenders violates articles 2, 3, 6, 9, and 22 of the ICCPR. Broadly defining the right to life under article 6(1), the Committee requires States to prevent arbitrary killings whether by state or private actors. In connection with this, the Committee has clarified that States have an obligation under article 9(1) to protect people whose lives are threatened, including individuals who are not being detained.<sup>7</sup> Additionally, the States must take affirmative measures to adequately prevent, punish and redress threats and violence committed against women human rights defenders, in order to meet article 2 (3)'s due diligence obligations and article 3's gender equality guarantees. Further, insofar as the threats and violence that a State fails to address ultimately prevents human rights defenders' full enjoyment of their right to freedom of association, this can implicate its obligations under article 22 (1).<sup>8</sup>

Women's human rights defenders in Haiti are regularly threatened with violence. The Haitian government, however, has done little to investigate, follow up, or to hold the perpetrators accountable for these threats. In some instances, grassroots leaders have filed complaints with police, but police refused to assist, providing such reasons as the human rights defenders' work "has caused too much trouble."<sup>9</sup>

As a result of the increased visibility of her work after the earthquake due to international acclaim, Ms. Villard-Apollon has faced numerous threats and acts of violence with little redress. Ms. Villard-Apollon testified publically in several international forums, including to the UN Human Rights Council and the Inter-American

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<sup>4</sup> MADRE is an international women's human rights organization that works in partnership with community-based women's organizations worldwide to address issues of health and reproductive rights, economic development, education and other human rights.

<sup>5</sup> The International Women's Human Rights Clinic (IWHR) of the City University of New York (CUNY) School of Law works on gender human rights issues both at a domestic and international level.

<sup>6</sup> See, for example, Human Rights Committee, Concluding Observations: Guatemala, ¶ 22 (2012) U.N. Doc. CCPR/C/GTM/CO/3 (urging that immediate measures be taken to provide effective protection for defenders whose lives and security are under threat due to their professional activities).

<sup>7</sup> Human Rights Committee, *Vaca v Colombia*, Communication No. 859/1999, ¶¶ 7.2-7.3, (2002), UN Doc. CCPR/C/74/D/859/1999. See also, *Rajapakse v Sri Lanka*, Communication 1250/2004 ¶ 9.7 (2006) UN Doc. CCPR/C/87/D/1250/2004; and *Jayawardena v. Sri Lanka*, Communication No. 916/2000, ¶ 7.3, (2002) UN Doc. CCPR/C/75/D/916/2000.

<sup>8</sup> In its Concluding Observations, the Committee required Colombia to strengthen protection measures for human rights defenders who were facing threats and violence, so that they could fully enjoy their rights to expression and association under articles 19 and 22 of the Convention. Human Rights Committee, Concluding Observations: Colombia, ¶ 8, (2004), U.N. Doc. CCPR/CO/80/COL.

<sup>9</sup> KOFIV, International Women's Human Rights (IWHR) Clinic at City University of New York (CUNY) School of Law, MADRE, et al., Inter-American Commission., *In re Women and girls victims of sexual violence living in 22 internally displaced persons camps*, Precautionary Measures No. MC-340-10 Haiti, issued Dec. 22, 2010.

Commission on Human Rights. More recently she was given the CNN Heroes award, an achievement announced throughout Haitian media outlets.

These threats and acts against Ms. Villard-Apollon's life and the lives of her family and colleagues have become increasingly severe in recent months. On August 22, 2013, gunshots were fired at Ms. Villard-Apollon's home at night while she and her children slept. In September 2013, the family's two dogs were fatally poisoned at their home.<sup>10</sup> Ms. Villard-Apollon's children reported being followed to and from school by armed men in a car. Ms. Villard-Apollon received threatening anonymous phone calls and voicemails at the KOFAVIV center for months on end. As a result of these threats against her and her family, Ms. Villard-Apollon's family members have been forced to temporarily relocate on various occasions. In October 2013, a man arrived on a motorcycle at the KOFAVIV center. Brandishing a gun, he demanded Ms. Villard-Apollon come outside the center. Fearful of what he might do, Ms. Villard-Apollon remained trapped inside for several hours until police finally arrived. As of May 2014, the individual accused of orchestrating this threatening visit to Ms. Villard-Apollon is behind bars, pending further investigation. The KOFAVIV member who identified the individual who orchestrated the threatening visit to police authorities has since received numerous death threats and was forced to relocate. In late May 2014, Ms. Apollon and fellow KOFAVIV co-founder Marie Eramithe Delva received anonymous text messages threatening their lives. As of June 2014, Ms. Delva, KOFAVIV's lawyer, and KOFAVIV's communications director have been receiving anonymous phone calls and text messages threatening their lives and indicating they know their whereabouts.

Other KOFAVIV members and employees, including community outreach workers, have also been targeted for violence as a result of their affiliation with the organization. KOFAVIV accompanies rape victims to and from the hospital or police station in a clearly marked KOFAVIV vehicle. On September 4, 2013, the driver of the KOFAVIV vehicle, KOFAVIV's accountant and a female KOFAVIV outreach worker were in the vehicle, headed to the KOFAVIV Center, about two blocks away. Two armed men on motorcycles blocked the vehicle and robbed them at gunpoint. One of the assailants hit the driver on the head with the handle of his gun, while the other held his gun in the female outreach worker's side. The men attempted to steal the KOFAVIV vehicle, but were scared away when police officers happened to pass by.<sup>11</sup> As a result of these threats, other KOFAVIV members and employees fear for their own lives as well. Many have discontinued their work at the center, to the great detriment of the women and children KOFAVIV uniquely serves.<sup>12</sup>

In January 2013, two women who are well known as the daughters of the KOFAVIV leaders, Ms. Villard-Apollon and Ms. Delva, visited a displacement camp to conduct educational trainings for women. At the training, they saw another outreach worker pointing them out to a group of men, identifying them as daughters of KOFAVIV leaders. The women notified a nearby police officer who drove them away from the

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<sup>10</sup> See Statement of Offense, KOFAVIV, August 15, 2013 (on file with authors).

<sup>11</sup> IWHR Clinic Interview, KOFAVIV, October 10, 2012 (on file with authors).

<sup>12</sup> *Id.*

scene. The men pursued the women but eventually gave up.<sup>13</sup> The two women had been followed on multiple occasions prior to this incident, and believe this is a result of their association with and work for KOFAVIV.<sup>14</sup> To date, the police have not followed up on this incident.

In addition to the cases where women human rights defenders have been targeted for violence, women outreach workers have reported having been raped by men in displacement camps while working. These rapes occurred after it was known that these outreach workers provided support to SGBV victims, including helping the victims bring the perpetrators to justice.<sup>15</sup>

## **RECOMMENDATIONS**

Ms. Villard-Apollon, as well as other members and employees of KOFAVIV and similar organizations are experiencing ongoing, escalating threats and acts of violence. The State has failed to provide redress. As a result, the Haitian government must take immediate measures to fully investigate and prevent threats and violence against Ms. Villard-Apollon, as well as other women human rights defenders.

### **The Government of Haiti should take the following immediate actions:**

1. As a matter of particular urgency, given that much time has elapsed since the initial threats and violence were reported to police, the Government of Haiti must implement immediate and effective steps to investigate threats against women human rights defenders, specifically those perpetrated against the members of KOFAVIV and bring the perpetrators to justice.
2. The Government of Haiti should provide increased police patrols, especially at night, for the KOFAVIV office and other similar organizations where members' safety, security, or life has been threatened.

### **The Government of Haiti should additionally take the following long-term actions:**

3. The Government of Haiti should provide training on preventing, investigating and prosecuting violence against women for public officials, particularly law enforcement personnel and the judiciary, to ensure that they are sensitized to all forms of violence against women so that they can adequately respond.

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<sup>13</sup> The outreach worker who identified the women never returned to the KOFAVIV center after that day and was assumed to be working in association with the gang members.

<sup>14</sup> IWHR Clinic Interview, KOFAVIV, October 10, 2012 (on file with authors).

<sup>15</sup> In February 2012, FAVILEK, another Haitian grassroots women's group for victims of sexual and gender-based violence, reported that two of its outreach workers were violently raped by four men in an internal displacement camp in September 2011. The women were visiting the camp as part of a community education mission. Before the rape, the women were asked about their FAVILEK badges, which identified them as agents of the human rights organization.

4. The government of Haiti must ensure that all complaints of gender-based violence are independently and thoroughly investigated, if evidence exists, prosecuted and the perpetrators brought to justice.
5. The Haitian government should finalize and pass the Draft Law on the Prevention, Punishment and Eradication of Violence Against Women, and include an explicit provision that a victim's testimony alone should be sufficient to secure a conviction. Furthermore, the Haitian government should finalize and pass the pending penal code revisions addressing gender-based violence in Haiti.