

Ruhr-University Bochum

European Master's Degree in Human Rights and Democratisation
Academic Year 2013/2014

The Haitian Women are not just Victims

- An Analysis of the Human Rights Situation for the Haitian Women,
and a Discussion of the Focus on the Haitian Women and the State of
Haiti as Weak, rather than Agents of Change.

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Acronyms

CEDAW – The Convention on the Elimination of all Forms of Discrimination against Women

CSW – the Commission on the Status of Women

GBV – Gender Based Violence

IASC – Inter Agency Standing Committee

IDP – Internally Displaced People

ICESCR – International Covenant on Economic, Social and Cultural Rights

ICCPR – International Covenant on Political and Civil Rights

OAS – Organisation of American States

OCHA – The UN office for the Coordination of Humanitarian Affairs

UDHR – Universal Declaration of Human Rights

UN – United Nations

WHO – World Health Organization

Abstract

In the aftermath of natural disasters, there is a tendency to perceive women only as victims particularly in developing countries. It is true that the women are usually hit the hardest during and after natural disasters; more women die, more women experience violence and more women generally have their rights violated. This thesis demonstrates that this was the case as well in the aftermath of the earthquake in Haiti in 2010. The analysis shows that the Haitian women have experienced a discriminating high level of violations compared to the men. They have generally been overlooked and ignored in the reconstruction process. There is a clear need to include, consult and to have the women participate, as this could have minimized many of the violations. There has been a focus on their weaknesses and status as victims rather than their strengths and abilities to become agents of change. Similarly, the Haitian state has constantly been overlooked and undermined, as the donors have not trust their capabilities and have given the funds to the NGOs instead. The state cannot shoulder the entire responsibility alone, but cooperation between the state and the NGOs is needed. However, there is a general need to change this focus on the women and the state from their weaknesses to their strengths in order to move forward.

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1. Introduction

Natural disasters kill, injure and displace many people every year, particularly in developing countries. Recent examples are the typhoon in the Philippines last year¹, the drought in the Horn of Africa in 2011² and the earthquake in Haiti in 2010³.

It has been proved that there is a clear overweight of female casualties in the aftermath of a natural disaster compared to men. This has for example been seen after the tsunami in 2004⁴, where in many of the places it hit the ratio was as high as 3:1⁵. UNIFEM reports that also in Haiti the ratio was approximately the same⁶. In addition, women are in a vulnerable position after the actual disaster, and they become victims of sexual and physical violence in the time after⁷. This is also seen in Haiti where one out of three women experienced violence in the aftermath of the earthquake⁸. Women also have trouble having the right to health protected in the aftermath of a natural disaster – both generally and in Haiti⁹. Lastly, there is a great problem of participation for women in the reconstruction process in the aftermath of a natural disaster. This was and is particularly clear in Haiti¹⁰.

This is the starting point for this thesis, in which I will research the human rights situation of women in natural disasters with the case study of Haiti in order to understand the reasons why women are so vulnerable in disaster situations compared to men. It will be explored whether there was a similar tendency to discriminate women during and in the aftermath of the earthquake in Haiti when it comes to certain rights. The focus will be on violence against women, the right to health and the right to

¹ IRIN news: <http://www.irinnews.org/report/99102/micro-mapping-philippine-s-typhoon-disaster> [accessed 9 May 2014].

² IRIN news: <http://www.irinnews.org/report/93426/horn-of-africa-fast-facts-about-the-drought> [accessed 9 May 2014].

³ Reliefweb: <http://reliefweb.int/disaster/eq-2010-000009-hti> [accessed 9 May].

⁴ Akerkar, 2007, p. 358.

⁵ Felten-Biermann, 2006, p. 82.

⁶ UNIFEM Fact sheet Haiti: http://www.unifem.org/materials/fact_sheetsb666.html [accessed 27 February 2014].

⁷ Felten-Biermann, 2006, p. 82.

⁸ UNIFEM Fact sheet Haiti: http://www.unifem.org/materials/fact_sheetsb666.html [accessed 27 February 2014].

⁹ Enarson & Fordham, 2001, pp. 134-5 & Human Rights Watch, 2011 p. 23 & Bloem & Miller, 2013, p. 151.

¹⁰ Enarson & Fordham, 2001, p. 135 & Horton, 2012, pp. 299-300.

participation. It will be researched whether there have been violations of these rights taking place in Haiti and the reasons for this will be explored with a base in the previous analyses of women's rights and earthquake, particularly from the tsunami in 2004 from where there are the most analyses. To find the reasons for these, the socio-economic and social situations in Haiti will be explored. This includes in particular the gender roles, which might explain some of the discrimination women face during and in the aftermath of a natural disaster. Religion will be also be included, especially as in Haiti the religion is a separate element of people's lives, but it has varying influence on most aspects of the lives of the Haitian people. Through this analysis it will be determined whether there have been violations of the rights of the Haitian women, and whether it was caused by discrimination. The question is not solely, whether the rights are violated, but it is more relevant to find out whether women are discriminated against.

This will lead to a discussion of who is responsible for these violations, who is responsible for setting them right and even more important who should be responsible for ensuring these rights in the future. This will basically be a discussion of the situation in Haiti now, where the NGOs, the international community and the Haitian government are all trying to assert a level of authority in the country. The discussion will be exploring the consequences of the present situation, where the government is pushed to a side by donors and the international community, as all funds are bypassing the Haitian state. It will lead directly to a discussion, how the responsibility is to be carried out in the future, of which the first point is how important it is to tailor the method to the country in question. It is important to take into account the lessons learned from the analysis of the reasons to the violations that have happened in the past, when preparing a plan to ensure the rights of the women in the future. One important lesson to be remembered is that there is a need for a holistic response; in order to help the women the men will have to be helped too. It is clearly showed by the example that men with posttraumatic disorder after natural disasters have a tendency to be more violent, which was also the case in Haiti. Next, the recommendation will be to have higher corporation between the NGOs and the Haitian government, but in particular to trust the strengths of the Haitian government more. There is a tendency to focus on its weaknesses rather than strengths, which has forced the Haitian state into somewhat of a

stalemate, because without the trust and backing of funds from the international donors, it will be hard for the Haitian state to evolve into a 'real' state. This is also a point when discussing how to ensure the rights of the Haitian women in the future. There has been a tendency to see the women as only weak and vulnerable, but no one is placing any emphasis on the strengths of the women. Strengths, which they have actually been showing without any backing of any kind. Imagine what they could do, if the international and national systems and donors recognized them.

The structure of the thesis will be as follows. After the introduction the methodology, the case study, which is to be used in the thesis, will be presented. Then the human rights based approach will be defined – first in general then specifically for Haiti. In other words which human rights instruments are relevant for a human rights based analysis of the situation of women's rights in Haiti during and after the earthquake and natural disasters in general. Next, there will be an overview of some of the existing literature in the field to create a basis for the later analysis. Then Haiti as the case study will be described; first before, then right after the disaster and lastly today. Next, an analysis of the human rights situation for women in Haiti will be conducted, which will lead to the discussion of who is to carry the burden of setting the violations right and ensure these rights in the future. Lastly, the analysis and discussion will create the base for the establishment of four sets of recommendations; one for the government of Haiti, one for all actors in Haiti, one for the donors, and a general one. The thesis will then end with a conclusion.

1.1 Methodology

I will analyze and discuss the impact of natural disasters on women's rights through the use of the earthquake in Haiti in 2010 as a case study, as it is one of the more recent natural disasters. The case study and the justification of the choice of Haiti will be further explained under point 1.3 right after the methodology. My thesis will thereby be an analysis of a current development or event and its impacts on human rights. In my case, it will in particular be the rights of women - though the underlying idea is that everything is interconnected, and if you help the women, you help the men and vice

versa. As for my sources and materials, I am using human rights reports, articles and journals from within the academic field. I also use the different human rights instruments from both UN and OAS, both of which Haiti is a member, as I discuss the human rights obligations of Haiti in particular towards its female residents. In addition to the human rights instruments, I will use the different guidelines within the humanitarian field such as the Sphere guidelines and specific guidelines on gender based violence.

1.2 Case study

I choose for my case study Haiti, as it is a relatively recent disaster, which is not yet so well analysed in relation to women's rights. It is however well described through human rights reports from donors, NGOs and large institutions. Women's rights have both been well described and analysed in relation to the tsunami in 2004¹¹, but this is not the case with Haiti, which makes it an interesting case study.

Another reason to choose Haiti as a case study is, that the country is prone to natural disasters, and the chances that the country will be hit again are high¹². This is supported by the fact that Haiti has already been hit by as much as three tropical storms since the earthquake¹³. Therefore, it makes sense to analyse the human rights situation for the women and develop recommendations for both the NGOs in the country and the government how to improve the conditions for women. It is relevant to prepare recommendations for both NGOs and the government, as Haiti is often referred to as a "Nation of NGOs", because of the high number of NGOs in the country¹⁴. The government is of course important as it has the power to change things on an institutional level though some might argue that the government is quite weak in Haiti, and by extension so is its power to change anything¹⁵. This is to some extent supported by the fact that Haiti is ranked number 8 in Failed States Index from 2013 by the Fund

¹¹ See e.g. Felten-Bierman, 2006 & Pittaway, Bartolomei & Reesway, 2007 & Akerkar, 2007.

¹² The World Bank Haiti overview: <http://www.worldbank.org/en/country/haiti/overview> [accessed 1 May 2014].

¹³ Amnesty International, 2013, p. 10.

¹⁴ Kristoff & Panarelli, 2010, p. 1.

¹⁵ Call, 2008, p. 1492.

for Peace¹⁶, and in 2014 number 9 on the Fragile State Index, which Fund for Peace has recently changed the name to for a more precise description of the states on their index¹⁷. The level of governmental power is also an important consideration, but it also means that the government have built Haiti up from the ground. This means they have a chance to build a state, which is better prepared for and more focused on women's specific needs – and in general have a more differentiated approach to the different needs of the people. In addition, there should be a focus on its strengths and not its weaknesses, which I will expand on further in the discussion of responsibility towards the end of this thesis. That is why it is relevant to make recommendations directly to the state, so that when they begin to build up the state, they can take women's rights into consideration from the beginning.

1.3 Definitions and Limitations

I will explain my chosen definitions for the two key terms that I use throughout the thesis. I will also explain the reason for my definition and/or limitation of the term. The chosen terms are 'gender' and 'gender based violence', as they are central to understanding the aim of this thesis.

1.3.1 Definition of the Concept of 'Gender' and the Inherent Limitations from this Definition

I have chosen to use the following definition by the Inter Agency Standing Committee (IASC): "*Gender refers to the social differences between males and females that are learned, and though deeply rooted in every culture, are changeable over time, and have wide variations both within and between cultures. "Gender" determines the roles, responsibilities, opportunities, privileges, expectations, and limitations for males and for females in any culture*"¹⁸. However, I would like to add that in general, I understand the definition of gender to include not only men and women, but also all the people who fall outside those categories such as intersex people, transsexuals, homosexuals and

¹⁶ Failed State Index 2013: <http://ffp.statesindex.org/rankings-2013-sortable> [accessed 3 April 2014].

¹⁷ Fragile State Index 2014: <http://ffp.statesindex.org/rankings-2014> and <http://library.fundforpeace.org/fsi14-namechange> [accessed 27 June 2014].

¹⁸ IASC, 2005, p. 7.

others. However, I choose to limit the scope of this thesis to only focus on women and men. This is however not a prioritization of needs or ranking of importance, as the needs of those falling outside the categories are just as important as the ones my limited definition actually includes.

I choose to focus on women's rights only and not on a gender approach, where both the needs of women and men are taken into consideration, not because it is not relevant and important, but because it is beyond the scope of this thesis. I choose to focus on women, because the need to take their needs into account seems to be greater. More women than men are killed during natural disasters, more women experience sexual violence, more women do not have their right to health protected and women are underrepresented in roles of importance in the rebuilding after a natural disaster¹⁹. This is not to say that men are not killed during natural disasters or do not experience sexual violence, but women are disproportionately hit²⁰. This is the reason why I focus on women primarily. However, in order to focus on women I have addressed the needs of the men too, as they are often the perpetrators of the violence the women experience, and usually they do so because of mental issues like post-traumatic stress disorder, which have not been addressed properly²¹. It is therefore a chain reaction, and it will not do only to try to patch up the last link in the chain – you have to go to the source.

1.3.2 Definition of 'Gender Based Violence' and the Inherent Limitations from this Definition

*"Gender Based Violence (GBV) is an umbrella term for any harmful act that is perpetrated against a person's will, and that is based on ascribed gender differences between males and females"*²². I have again chosen the definition from IASC, but I would like to stress again as with the definition of gender, I understand gender to include not only males and females as in this definition, but for the purposes of this thesis, the definition is applicable. GBV is considered abuses or violations of

¹⁹ Akerkar, 2007, p. 358, Felten-Biermann, 2006, p. 82 & Enarson & Fordham, 2001, pp. 134-5.

²⁰ IASC, 2005, p. 7.

²¹ Vess, Barker, Naraghi-Anderlini & Hassink, 2013, p. 7.

²² IASC, 2005, p. 7.

international human rights, though they are not necessarily considered violation of national laws, which is an important difference to note²³. Another important point to make is that even though GBV as already mentioned mostly affects women and girls, men and boys are also affected – particularly by sexual violence – and often forgotten²⁴. This is seen for example with male rape in the war in, e.g. Uganda²⁵. Forms of GBV include most commonly, but not only: sexual violence, domestic violence, trafficking, forced/early marriage and harmful traditional practices such as female genital mutilation and honour killings²⁶. Next, the human rights based approach will be described and explained – both in general terms and specifically for Haiti.

2. The Human Rights Based Approach

A human rights based approach is based on the idea that for example an emergency response or a development strategy is made and executed within the normative framework of the human rights instruments. It is emphasizing the consensus that was reached with the Vienna Declaration 1993 – the idea that all rights are universal, indivisible, inalienable, and non-negotiable²⁷. In the context of development, a human rights approach has been defined as follows by Hamm (2001). First of all the approach is based on the human rights instruments, secondly a particular focus on avoiding discrimination of vulnerable groups is effectuated, thirdly there is emphasis on participation and empowerment and lastly also on good governance²⁸.

2.1. International Legally Binding Declarations, Covenants and Conventions

In relation to women, Akerkar (2007) has listed some of the most important human rights instruments. The chosen ones from this list, which are relevant for the situation in Haiti are the following:

- 1) Universal Declaration of Human Rights, 1949 (UDHR).

²³ IASC, 2005, p. 7.

²⁴ Humanitarian Practice Network paper, 2014, p. 1.

²⁵ Dolan, 2000, p. 15.

²⁶ Humanitarian Practice Network paper, 2014, p. 3.

²⁷ Akerkar, 2007, p. 379 & Hamm, 2001, p. 1006 & Vienna Declaration, 1993.

²⁸ Hamm, 2001, p. 1011.

- 2) The Convention on the Elimination of all Forms of Discrimination against Women, 1979 (entered into force 1981) (CEDAW).
- 3) The International Covenant on Economic, Social and Cultural Rights, 1966 (entered into force 1976) (ICESCR).
- 4) The International Covenant on Political and Civil Rights, 1966 (entered into force 1976) (ICCPR).
- 5) The UN Declaration on Elimination of all Forms of Violence against Women 1993.
- 6) The regional and sub-regional agreements and declarations²⁹

Additionally, the first optional protocol to both ICCPR and ICESCR, which gives individuals the right to raise complaints³⁰, are important, as they ensure that the accountability of the states can be pursued by other than others states. To some degree this prevents that legal matters and rights are not reduced to being completely controlled by politics. Another optional protocol to be mentioned is the one to CEDAW from 1999, which was created as there was missing an apt enforcement mechanism for women to have their justice fulfilled. It opened as the first optional protocols to ICCPR and ICESCR for individual complaints³¹.

2.2 Non-Legally Binding Resolutions and Guidelines

In addition to these more or less legally bounding instruments, such guidelines like the Sphere Standard Project and the various GBV guidelines are relevant for the normative framework of women's rights. These will among other relevant guidelines and resolutions be further explained in the next part. There are actually quite some existing guidelines and resolutions for humanitarian and development operations, which are relevant for the situation in Haiti. However, it is important to remember though that they are 'only' guidelines and principles and are not legally bounding such as the

²⁹ Akerkar, 2007, pp. 379-80.

³⁰ Nowak, 2012a, p. 73.

³¹ IRIN news: <http://www.irinnews.org/in-depth/62846/20/africa-asia-international-legal-instruments-protecting-women-s-right> [accessed 12 June 2014].

convention and covenants. The countries cannot ratify them – they can at the most state that they adhere to them.

First, the important set of guidelines from the Sphere Handbook will be introduced. They come from the Sphere Project, which made the “*Humanitarian Charter and Minimum Standards in Humanitarian Response*”. The core beliefs in the project and the handbook are that everyone has a right to dignity, and thereby a right to humanitarian assistance in the wake of a disaster, and that everything possible should be done to lessen human suffering after a disaster³². The Sphere Project takes an approach that is emphasizing the different needs of the gender, which is important for the discussion of how to improve women’s rights in the wake of a natural disaster³³. It is also particularly important in relation to creating recommendations to the NGOs on how to proceed in Haiti. The Sphere Handbook consists of the Humanitarian Charter, the Protection Principles and six Core Standards, and then the minimum standards in water supply, sanitation, and hygiene promotion, food security and nutrition, shelter, settlement and non-food items, and lastly health action³⁴.

In relation to GBV, there are a number of relevant guidelines, which complement each other. Some of the most important sets are as follows; “*Guidelines for Gender-based Violence Interventions in Humanitarian Settings: Focusing on Prevention of and Response to Sexual Violence in Emergencies*”³⁵, the “*Handbook for Coordinating GBV Interventions in Humanitarian Settings*”³⁶. They are important as they also include definitions of key terms and context. There are many others guidelines as well – all focusing on different phases or parts of the relief operation. Another non-legally binding document to be mentioned, when it comes to GBV, is the CEDAW General Recommendation no. 19 on violence from 1992. It is the first recommendation to really focus on violence against women, the relevant articles, the consequences of the

³² Sphere Project, 2011, p. 4.

³³ Sphere Project, 2011, p. 15.

³⁴ Sphere Project, 2011, p. 2.

³⁵ IASC, 2005.

³⁶ Gender Based Violence Area of Responsibility Working Group, 2010, p. 6.

violence, and to really underscore the importance of addressing this issue and taking responsibility for member states³⁷.

The seven Security Council resolutions need to be mentioned³⁸. They call for the three Ps as it is called – the three pillars of protection, prevention and participation.

Resolution 1325 is significant, as it marks the first time the UN Security Council has recognised the disproportional impact armed conflicts has on women³⁹. It calls for increased female participation on all levels of decision-making, for a greater attention to different needs of women and for better protection of women and girls from sexual violence and GBV. In order to achieve this, the resolution also calls for the national governments to include women's initiatives⁴⁰. As they are Security Council resolutions, they are binding for all member countries, but this has not been seen broadly in practice yet⁴¹. The resolutions are technically created for armed conflict, but it has been argued by Rosenberg (2011) that the situation in Haiti after the earthquake exceeds the situations after some armed conflicts, which qualifies the use of the resolution⁴².

Lastly, the Commission on the Status of Women (CSW), which is part of the United Nations Economic and Social Council, has adopted a resolution called 56/2 concerning 'Gender Equality and the Empowerment of Women in Natural Disasters'⁴³. The resolution acknowledges that women are often harder hit than men during natural disasters, because of gender inequality, discrimination, gender stereotypes, a general lack of access for women to economic opportunities and information, social exclusion,

³⁷ CEDAW, 1992.

³⁸ UN Peacekeeping webpage: <http://www.un.org/en/peacekeeping/issues/women/wps.shtml> [accessed 12 May 2014].

³⁹ UN Peace Women webpage: http://www.peacewomen.org/themes_page.php?id=14&subtheme=true&adhoc=91 [accessed 12 May 2014].

⁴⁰ Rosenberg, 2011, p. 6.

⁴¹ UN Peace Women webpage: http://www.peacewomen.org/themes_page.php?id=14&subtheme=true&adhoc=91 [accessed 12 May 2014].

⁴² Rosenberg, 2011, pp. 6-7.

⁴³ UN homepage: <http://www.un.org/womenwatch/daw/csw/56sess.htm#resolutions> [accessed 10 June 2014].

poverty, safety and the different responsibilities of men and women⁴⁴. The resolution also calls for inclusion and participation of women in all stages of the cycle of natural disasters, and for the governments to review and adjust their national policies to be more including and more conscious of gender issues. The governments should also generally offer better protection of women in the aftermath of a natural disaster⁴⁵.

Since the focus of this thesis is on women's human rights, it is also relevant to remember the outcome of the Beijing Declaration and Platform for Action from 1995. It is important, though that is not legally binding, as it calls for greater action from the member states, when it comes to women's rights and for national plans and greater implementation⁴⁶.

2.3 Human Rights Instruments in a Haitian Context

The next question in relation to the case study of Haiti is now how many of these instruments have Haiti actually ratified and is therefore bounded by? First of all, Haiti is a member of the UN, and therefore party to Universal Declaration of Human Rights (UDHR)⁴⁷. It is as well party to the Convention of the Elimination of all forms of Discrimination Against Women (CEDAW) (1979) since 1981⁴⁸. Additionally the Haitian state has acceded to the International Covenant of Economic, Social and Cultural Rights (ICESCR) (1976) in 2013⁴⁹, and to the International Covenant of Civil and Political Rights (ICCPR) (1976) in 1991⁵⁰. They have nevertheless not ratified the optional protocol to either ICCPR or ICESCR⁵¹. They have not ratified the optional

⁴⁴ CSW, 2014b, p. 1.

⁴⁵ CSW, 2014b, p. 3.

⁴⁶ IRIN news: <http://www.irinnews.org/in-depth/62846/20/africa-asia-international-legal-instruments-protecting-women-s-right> [accessed 12 June 2014].

⁴⁷ UN webpage: <http://www.un.org/en/members/> [accessed 25 February 2014].

⁴⁸ UN webpage: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en [accessed 25 February 2014].

⁴⁹ UN Webpage: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en [accessed 25 February 2014].

⁵⁰ UN Webpage: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en [accessed 25 February 2014].

⁵¹ UN Webpage: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-5&chapter=4&lang=en [accessed 9 May 2014] and https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=iv-3-a&chapter=4&lang=en [accessed 9 May 2014].

protocol to CEDAW either⁵². This means as explained before that individuals cannot process a case against the state of Haiti.

What is also important to note, is that Haiti is also a member of the Organisation of American States (OAS)⁵³, and therefore a party to the American Declaration of Rights and Duties of Man. In addition to this declaration Haiti through its membership in the OAS is also a party to the American Convention of Human Rights, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belem do Para”)⁵⁴. In addition, Haiti is accountable for the American Convention of Human Rights and the rights within before the Inter–American Court of Human Rights⁵⁵.

After having established the different legal human rights instruments under which Haiti can be held responsible, the next part will be about the previous research in the field. The knowledge of the human rights instruments ratified by Haiti will come into play in the later analysis of the human rights violations in Haiti and the reasons for these.

3. The General Situation for Woman in Natural Disasters (Literature Review)

This part will as mentioned explain some of the previous research in the field of women’s rights and natural disasters. It is therefore technically a literature review, but it has also the aim of showing how the general situation for women is during and after natural disasters. This is relevant in order to gain a better understanding of the situation in the chosen case study of Haiti and as an example of how to approach the topic.

The main bulk of literature on women’s rights and natural disasters, which is the most recently written as well, is about the tsunami in 2004⁵⁶. Though, there has been writing

⁵² UN Webpage: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8-b&chapter=4&lang=en [accessed 11th of June 2014].

⁵³ OAS Webpage: http://www.oas.org/en/member_states/member_state.asp?sCode=HAI [accessed 25 February 2014].

⁵⁴ Human Rights Watch, 2011, p. 25.

⁵⁵ Binder, 2012, p. 243.

⁵⁶ See e.g. Felten-Bierman, 2006, Pittaway, Bartolomei & Reesway, 2007 & Akerkar, 2007.

in the field before the tsunami since the 70s, it has been of a lesser degree⁵⁷. The field is therefore still relatively new – or at least real in-depth research is somewhat new. Enarson (1998), Ikeda (1995) and Wiest, Mocellin & Motsisi (1994) were some of the first to focus more in-depth on women's needs in relation to disaster and the reason why disasters hit women harder. It had been documented before though that disaster hit the genders differently. For example, higher numbers of women than men died in the Russian earthquakes in 1948 and 1966 and the flash floods in Japan in 1982, but in contradiction a higher numbers of men than women died in the earthquake in Italy in 1976⁵⁸. However, it began to pick up slightly more after the 1991 cyclone in South Asia with a few more articles on the vulnerability of women in natural disasters. The research also began to focus slightly more on the reasons for the difference between the genders⁵⁹. Yet, the reasons for these numbers have not been researched in depth until the research done by Wiest et al., Enarson and Ikeda. The research done by Wiest et al. also showed that there was a considerable gender bias in the development and relief operations, and implicit and often un-intended discrimination on the base of gender took place. This implicit discrimination is reinforced by the patriarchal system in some of the countries, which receive the assistance⁶⁰.

The reasons for the high death rate of women were researched in the aftermath of the tsunami and the floods in Bangladesh, as research has shown though that in the aftermath of the tsunami the number of women who died in the disaster was three times higher than the number of men who had died⁶¹. This is also a general tendency in 'newer' natural disasters such as Hurricane Mitch, the European heat waves and the cyclones in South Asia, etc⁶². The researchers found that the reason for this is rooted in the social power that gender has. Ikeda points to the direction that social construction within Bangladesh bears part of the reason for the high number of young adult women who died during the disaster. The social norms separated the world of men and the

⁵⁷ Wiest, Mocellin & Motsisi, 1994, p. 12.

⁵⁸ Ikeda, 1995, p. 174.

⁵⁹ Enarson & Meyreles, 2004, p. 51.

⁶⁰ Wiest, Mocellin & Motsisi, 1994, p. 15.

⁶¹ Felten-Bierman, 2006, p. 82.

⁶² UN Women Watch, 2009, p. 9.

world of women, and the women are to stay within the household in order to avoid contact with other men than those from their families⁶³. Enarson and Fordham (2001) similarly described how a woman died in Bangladesh, because she would not leave the house alone, and her father applauded her choice⁶⁴. Pittaway, Bartolomei & Rees also found a similar tendency in their Bangladesh case study⁶⁵. Wiest et al. agree and point out that women's vulnerability is increased by their disempowerment in some societies⁶⁶. In addition, women are often in charge of taking care of elders and children, and many women were found entwined with either after the tsunami, as if they had been attempting to save them⁶⁷. This was seen after the floods in Bangladesh as well⁶⁸. Another reason for the higher number of deaths of women in Bangladesh was also that the women have to wear the traditional clothing sari, which is wrapped around the entire body making it hard for the women to swim⁶⁹. This was seen in some of the countries hit by the tsunami as well, as they are Muslims, and in some Muslim countries, Muslim women traditionally wear heavy and large clothing, which made it hard for them to swim as well⁷⁰. Lastly, the women in Bangladesh were often suffering from malnutrition and ill health, which made them less resistant to the storm and the surge of water⁷¹.

In addition, Enarson and Fordham (2001) argue why it is relevant to single out women's rights. They argue that women's right to life is violated, when the death toll are so disproportional between the genders. Women's right to economic security and housing, when the different needs of the genders are not taken into consideration, when emergency relief plans are made. Women's rights to health and safety are violated, when their special needs such as sanitary and privacy needs are not considered. Lastly, they point out that women's right to self-determination is in risk after disasters, as both

⁶³ Ikeda, 1995, p. 179.

⁶⁴ Enarson and Ford, 2001, p. 133.

⁶⁵ Pittaway, Bartolomei & Rees, 2007, pp. 308-9.

⁶⁶ Wiest, Mocellin & Motsisi, 1994, p. 16.

⁶⁷ Pittaway, Bartolomei & Reesway, 2007, p. 309.

⁶⁸ Ikeda, 1995, p. 179.

⁶⁹ Ikeda, 1995, p. 180.

⁷⁰ Pittaway, Bartolomei & Rees, 2007, p. 308.

⁷¹ Ikeda, 1995, p. 180.

the countries and the NGOs have a tendency to fall back in preset plans that do not take into consideration women's rights nor are specific for the area⁷².

The studies from the tsunami also moved beyond the discussion of the reason for the higher death toll among women to discuss other dangers that women face in the aftermath of a natural disaster. For one, a high rate of sexual and domestic violence has been found to take place during unauthorised rescue operations and in the temporary camps. Generally, sexual GBV was found to be a huge problem in the aftermath of the tsunami. A lot of reasons contributed to this heightened risk; no separate toilets for men and women, no light in the camps at night, and public sanitation facilities are some of them. Secondly, many women lost their economic livelihood, as their home, goods or similar were destroyed during the tsunami, which again made them vulnerable to GBV⁷³. There were reports of women being forced to participate in transactional sex as well. The GBV is a huge problem in itself, but the problem was only made worse by the fact that there were nearly any health services in the response, which were geared to help this⁷⁴. Thirdly, there was a lack of female participation in any part of the response, be it the camp management committees or camp leadership. All these dangers that women faced in the aftermath are according to the research found to be based on the social structures in the society; such as power structures, class, and patriarchy⁷⁵.

The missing focus on women's needs that Wiest et al. called for in 1994 has more or less been established in the twenty years, which have passed, since their article was published, as seen in the coverage of women's needs after the tsunami. The emphasis is also slowly shifting to focus on women's possibilities to be agents of change as well⁷⁶. However, it must be mentioned that Wiest et al. already called for that in their article in 1994⁷⁷. As Enarson and Meyreles stated in 2004, the knowledge of the topic was growing into a decent size, but gender was not yet mainstreamed into relief and

⁷² Enarson & Fordham, 2001, pp. 133-35.

⁷³ Pittaway, Bartolomei & Rees, 2007, p. 309.

⁷⁴ Pittaway, Bartolomei & Rees, 2007, p. 310.

⁷⁵ Pittaway, Bartolomei & Rees, 2007, p. 311.

⁷⁶ Blomstrom, Cunningham, Johnson & Owren, 2009b, p. 4.

⁷⁷ Wiest, Mocellin & Motsisi, 1994, p. 21.

development operations yet⁷⁸. Today it must be said that the mainstreaming of gender is definitely there in theory – in guidelines and similar. It is seen for instance in many UN agencies from UNICEF and UN Women to UN Refugee Agency, and it is seen in the European Union, International Labour Organization and many other large organizations⁷⁹. However, the question remains whether it has been transferred into practice yet⁸⁰. The following findings in the research of the case study of Haiti show a slightly different picture, which will be clear in the later analysis of the human rights situation for women in Haiti and the following discussion of responsibility to ensure the rights and how to approach it.

4. Haiti as a Case Study

First, some general information about Haiti and the foreign presence in the country will be provided, before moving on to the description of the earthquake and its impact.

4.1. General Information on Haiti

Haiti is one of the smallest countries in the Caribbean with a population of 10,124,000 people in 2011⁸¹. Out of this number, women aged 10-49 constitute almost one third, and children under 15 years make up 39%⁸². The average population growth rate is set to be 1.3 from 2010 to 2015, while the average urban population growth is set to be 3.7⁸³. Haiti physically shares an island with the Dominican Republic called Hispaniola and has a surface area of about 27,700 square kilometres⁸⁴. This adds up to a population density per square metre of 364.8. The capital is Port-au-Prince, which had a population of 2,207,000 people in 2011⁸⁵. This makes it one of the most densely populated cities in

⁷⁸ Enarson & Meyreles, 2004, p. 53.

⁷⁹ Rosenberg, 2011, pp. 5-6.

⁸⁰ Pittaway, Bartolomei & Rees, 2007, p. 311.

⁸¹ UN Data: Haiti: <http://data.un.org/CountryProfile.aspx?crName=Haiti> [accessed 1 May 2014].

⁸² Bloem & Miller, 2013, p. 150.

⁸³ UN Data: Haiti: <http://data.un.org/CountryProfile.aspx?crName=Haiti> [accessed 1 May 2014].

⁸⁴ PAHO (WHO) Webpage:

http://www.paho.org/saludenlasamericas/index.php?id=38&option=com_content&Itemid=&lang=en [accessed 12 May 2014].

⁸⁵ UN Data: Haiti: <http://data.un.org/CountryProfile.aspx?crName=Haiti> [accessed 1 May 2014].

world⁸⁶. The official languages are French and Creole⁸⁷, which is even stated in their constitution in article 5⁸⁸.

Haiti was declared independent in 1804 after a long revolt by former slaves for independence, and it thereby became the first independent state in Latin America. The new country therefore also had trouble being recognized, as it was a nation built on a slave revolt in a time, when slavery was still not abolished and very at the heart of the market at the time. As recognition was essential for the country to survive through trade, the country found it necessary to sign a contract with France in 1825, in which France promised to acknowledge Haiti as independent in exchange for Haiti promising to pay back a indemnity of 150 million Francs and lower their import and export taxes by half. Haiti was still paying off this indemnity until after the Second World War. By the 19th century, the US became the most influential power in Haiti. In the eighties, the situation in the country was troubled; the self-acclaimed life-long president, Baby Doc Duvalier, had fled, and the country was ridden by disease and hunger⁸⁹. Since 1987, the country has officially been a constitutional republic based on a democracy with a multiparty system⁹⁰. Though it has to be mentioned that the first attempt at a democratic election in 1987 was a failure, causing massacres by the poles. The situation did not stabilize somewhat until the priest Aristide became president by a landslide victory in 1990. He was ousted in 1991, but was returned in 1994 and stayed for the remainder of his term, after which he was democratically succeeded in 1996 by another civilian⁹¹, Rene Preval⁹², which was a first for Haiti. In 2000, Aristide won the elections again, but there was trouble, when the US through the help of OAS blocked four loans from the Inter-American Development Bank to Haiti⁹³. Aristide was ousted again by the help of

⁸⁶ Amnesty International, 2013, p. 10.

⁸⁷ PAHO (WHO) webpage:

http://www.paho.org/saludenlasamericas/index.php?id=38&option=com_content&Itemid=&lang=en
[accessed 12 May 2014].

⁸⁸ Constitution of Haiti. 1987, article 5.

⁸⁹ Farmer, 2004.

⁹⁰ US Department of State, 2012.

⁹¹ Farmer, 2004.

⁹² CNN: <http://edition.cnn.com/2013/07/18/world/jean-bertrand-aristide-fast-facts/> [accessed 2 July 2014].

⁹³ Farmer, 2004.

the US in 2004⁹⁴. There has therefore been some political unrest and instability for years now, as the ranking of the country on the failed/fragile state index is a good picture of⁹⁵, which was the reason why the UN stabilization mission (MINUSTAH) was established in the country in 2004²². Its mandate has been extended to October 15th 2014⁹⁶.

Haiti has a rich amount of natural resources. For example, the gold, copper and silver mining in the north is expected to yield the country about US\$ 20 billion⁹⁷. The question now is whether the money earned from the mining will help the dire situation of Haiti and her people or the money will only benefit the foreign investors and international mining companies. Haiti has also seen a great deforestation, and it is down to only 3 percent in the mountains that compose the countryside. This is a stark contrast to the situation 60 years ago, when the countryside was well covered by forest. Crops like cocoa and mango are close to having vanished completely. This also means that there is nothing to hold back the water, and it offers less protection against floods and tropical storms⁹⁸. This is important, as the country is also prone to natural disasters such as hurricanes, tropical storms, droughts and agricultural pests⁹⁹. Before the earthquake in 2010, Haiti was, e.g. hit by one tropical storm and three hurricanes within a two-month period in 2008¹⁰⁰.

Regarding the common diseases in the country, Haiti has its share of communicable ones. Of vector borne diseases, Haiti has a problem of malaria, which has a prevalence of 2-3%. From 2008 to 2010, the total number of reported cases went up from 29,825 to

⁹⁴ The Guardian: <http://www.theguardian.com/commentisfree/cifamerica/2011/mar/23/jean-bertrand-aristide-haiti> [accessed 2 June 2014].

⁹⁵ Failed/Fragile State Index: Failed State Index 2013: <http://ffp.statesindex.org/rankings-2013-sortable> [accessed 3 April 2014] and Fragile State Index 2014: <http://ffp.statesindex.org/rankings-2014> [accessed 27 June 2014].

⁹⁶ Human Rights Watch World Report 2014: <http://www.hrw.org/world-report/2014/country-chapters/haiti?page=3> [accessed 24 June 2014].

⁹⁷ Regan, 2012.

⁹⁸ Wortman, 2010.

⁹⁹ The World Bank Haiti overview: <http://www.worldbank.org/en/country/haiti/overview> [accessed 1 May 2014].

¹⁰⁰ PAHO (WHO) webpage: http://www.paho.org/saludenlasamericas/index.php?id=38&option=com_content&Itemid=&lang=en [accessed 12 May 2014].

84,153. Haiti has also a high prevalence of tuberculosis. Rabies is the most significant of the zoonoses diseases in Haiti, as Haiti is the country in all of South America, which is the most affected. Another disease to be mentioned is lymphatic filariasis, which as many as 30% of the population was infected by in 2002. Lastly, the HIV prevalence in the country in 2006 was about 2.2 % for the adult population¹⁰¹.

This was some general information on and history of Haiti. Next, the case study of Haiti will be described in three parts; the situation before the earthquake in 2010, right after it happened and lastly the situation in Haiti today. The parts will all focus in varying degrees on four topics; the general situation at the given time, the level and prevalence of GBV, the health situation and politics and participation. The information given in this rather descriptive part will then be the basis for the analysis of the human rights situation for women in Haiti and the impact on this by the earthquake.

4.2 The Human Rights Situation in Haiti before the Earthquake

4.2.1. General Situation

Before the earthquake, a stark 53% of the Haitian people lived for less than 1.25 dollar a day, which is classified as “extreme poverty”, and 77% for less than 2 dollars a day. These numbers have increased radically from 2003 when 23% of the households lived on less than 1.25 dollars and only 45% lived on less than 2. It has to be mentioned that the latter numbers are only from the Port-au-Prince area, but it still paints quite a picture¹⁰². Already before the earthquake the chronic malnourishment of the population was as high as 23,8 % and 9,1 % was acutely malnourished¹⁰³. In addition, before the earthquake more than 80% of the food consumed in the country was imported. This meant that in 2008, when the international oil prices rose and Haiti was hit by several hurricanes, food prices increased dramatically and a lot of the Haitian people were starving¹⁰⁴. This resulted in extensive protests and in the end the ousting of the president

¹⁰¹ PAHO (WHO) webpage:
http://www.paho.org/saludenlasamericas/index.php?id=38&option=com_content&Itemid=&lang=en
[accessed 12 May 2014].

¹⁰² Amnesty International, 2013, p. 11.

¹⁰³ Human Rights Watch, 2011, p. 48.

¹⁰⁴ Zanotti, 2010, p. 764.

at the time¹⁰⁵. The 2008 international economic crisis did not hit Haiti the way it had hit most of the rest of the world through the banking sector, as this sector was quite underdeveloped at the time. It did however hit Haiti through its dependency on remittances, as the amount of remittances was as high as US\$ 985 million in 2006, which in 2005 added up to 20% of Haiti's GDP¹⁰⁶. As the remittance senders were hard hit, e.g. in the US the remittances were cut by 50-75% in order for the foreign-based relatives to cover their own daily costs¹⁰⁷.

4.2.2. Gender Based Violence

Gender based violence has been a general part of Haitian society, and rape has been used as a means of repression under several regimes in the history of Haiti. Later after 2000, also criminal gangs have used sexual violence as a means to terrorize communities. Numbers from 2004-06 say that about 50% of women and girls have experienced sexual violence in the conflict zone in Port-au-Prince, and over half of the 3,1 % who had been sexually assaulted was under 18 years. Many accounts show that over half of the rapes are gang rapes¹⁰⁸. More than a quarter of the women in Haiti have reported having experienced physical violence since the age of 15. The government then decided to make a five-year 'National Plan to Fight Violence Done against Women' together with the Women's Ministry, women's NGO and UN agencies. This has resulted in making rape a punishable crime and a policy to ensure medical help for all victims¹⁰⁹.

4.2.3. Health

Already before the earthquake hit Haiti had one of the highest maternal mortality rates outside Sub Saharan Africa. This high and to a large extent excessive rate compared to the region has been labelled as discrimination by the Inter-American Commission on Human Rights¹¹⁰. The rate is as high as 630 deaths pr. 100.000 births in 2005-06, and it

¹⁰⁵ Warnecke & Padgett, 2011, p. 11.

¹⁰⁶ Warnecke & Padgett, 2011, p. 11.

¹⁰⁷ Warnecke & Padgett, 2011, p. 12.

¹⁰⁸ Human Rights Watch, 2011, p. 17.

¹⁰⁹ Human Rights Watch, 2011, p. 18.

¹¹⁰ Human Rights Watch, 2011, pp. 12-13.

had even increased from 573 pr. 100.000 in the period from 1993-2000, which has been linked to instability in the country in this period. The instability has contributed to a lack of services, missing access to services and the fear of sexual violence. Even when the situation improved slightly for the women, it was unequal, as it was mainly in the urban areas the improvements took place. In total only less than 25 % of the births took place at a medical facility¹¹¹.

4.2.4. Female Participation

In 2008, only 11% of the ministers were women, and women only held 4.1% of the seats in the national parliament in Haiti in the period from 2007-2010 – this was even an increase from the previous period¹¹². This tendency of minimal female participation in the structure of the government and legislative powers echoed throughout the system, as only 6 out of 129 legislators were women, only 3 women had a seat in the 18 seats cabinet, and no women served in the Supreme Court. This is despite an existing electoral code that calls for at least 30% female candidates from each party and there is even a financial incentive. No parties were upholding this mandate before 2010¹¹³.

4.3 The Human Rights Situation in Haiti Right after the Earthquake

4.3.1. General Situation

The earthquake happened at 12 January 2010. It was measured to be 7.0 on the Richter scale and killed 222,750 people, injured 300,000, rendered 1,5 million people displaced and in total affected more than 3 million people¹¹⁴. The 222,750 people killed during the earthquake equal 2.5 % of the population at the time¹¹⁵. Besides the approximately 1,5 million people who went to the temporary camps, another 600,000 people left for other parts of the country. About 105,000 buildings were completely demolished, whereas more than 208,164 were severely damaged. The government of Haiti assessed the damage of the buildings to be US\$ 2,3 billions¹¹⁶. The earthquake had its epicentre

¹¹¹ Human Rights Watch, 2011, pp. 14-15.

¹¹² Warnecke & Padgett, 2011, p. 20.

¹¹³ Human Rights Watch, 2011, p. 13.

¹¹⁴ Doocy, Jacquet, Cherewick & Kirsch, 2013, p. 842.

¹¹⁵ Cénat & Derivois, 2014.

¹¹⁶ Amnesty International, 2013, p. 10.

about 25 kilometres outside the capitol of Haiti, Port-au-Prince¹¹⁷. It was also followed by an aftershock eight days later, which measured 6.1 on the Richter scale, which only complicated the response further¹¹⁸.

The disaster resulted in one of the largest relief operations ever, which is estimated to have cost more than US\$ 4.5 billion¹¹⁹. The US alone pledged themselves to an amount as large as US\$ 3.6 billion¹²⁰. Until March 2010, four million people in Haiti received emergency food relief¹²¹. The relief operation was met with some difficult challenges such as the density of the city, the high number of agencies and NGOs on the ground, the leadership from the government's side, the troubles of getting the aid out to the people needing it through the damaged city¹²². In the beginning of 2011 most of the humanitarian organizations left Haiti. This is part of the reason for a dramatic decrease in the people living in the camps, who had access to water from 48% in the beginning of the year to only 7% later in the year¹²³.

The Haitian state was severely weakened in their capacity after the earthquake as well. Several people from the senate and the government in general were killed or injured, and more and a third of the country's 60,000 civil servants were killed. Most of the governmental buildings were destroyed or damaged including the courts and the parliament. The elections originally set for February were postponed, and the condition of the Haitian state was generally one of chaos. In addition, the police were severely hit and about half of the 8,535 prisoners escaped in the aftermath of the earthquake¹²⁴.

¹¹⁷ Doocy, Jacquet, Cherewick & Kirsch, 2013, p. 842.

¹¹⁸ BBC News: <http://news.bbc.co.uk/2/hi/americas/8469800.stm> [accessed 24 June 2014].

¹¹⁹ Doocy, Jacquet, Cherewick & Kirsch, 2013, p. 842.

¹²⁰ Foreign Policy in Focus: <http://fpif.org/23183/> [accessed 7 May 2014].

¹²¹ Human Rights Watch, 2011, p. 48.

¹²² Amnesty International, 2013, p. 10.

¹²³ Amnesty International, 2013, p. 12.

¹²⁴ UN Security Council, 2010, pp. 1-2.

4.3.2. Gender Based Violence

The number of reported sexual assaults increased considerably after the earthquake from 218 in the end of 2009, of which 84 was under age, to 974 in the end of 2010. It has been reported from NGOs that these assaults particularly happened in the IDP camps¹²⁵. As many of the police station and courthouses were destroyed or damaged after the earthquake, complicating the functioning of the legal system, it created a feeling of impunity among the perpetrators¹²⁶. In addition, a UN High Commissioner for Refugees study showed that there were high rates of transactional sex in the displacement settlements, as the women had no other possibilities to generate economic income¹²⁷. The women are in a vulnerable situation and therefore they did not have the means to negotiate the use of condoms with the men that pay them for sex¹²⁸. This heightens the risk of sexually transmitted diseases and unwanted pregnancies. This ties up neatly with the next right, which is the right to health.

4.3.3. Health

During the earthquake up to sixty percent of the medical facilities were destroyed and 10 percent of the skilled employees were killed or gone. The offices of the ministry of public health and population were completely gone. Most medical schools were gone as well, which hindered new professionals from being trained. Right after the disaster there was great coordination and construction of temporary medical centres, but 9 months later less than 20 % of the camps did not have any access to any sort of medical help¹²⁹.

The UN office for the Coordination of Humanitarian Affairs estimated that there were some 63.000 pregnant and 114.000 lactating mothers in February 2010¹³⁰. Over half of the women whom the Human Rights Watch interviewed did not give birth at a health facility¹³¹. This is often due to the fact that the women and girls do not have adequate

¹²⁵ United States Department of State, 2011.

¹²⁶ Canada Immigration and Refugee Board, 2013.

¹²⁷ Human Rights Watch, 2011, p. 50.

¹²⁸ Human Rights Watch, 2011, pp. 51-52.

¹²⁹ Human Rights Watch, 2011, p. 21.

¹³⁰ Human Rights Watch, 2011, p. 23.

¹³¹ Human Rights Watch, 2011, p. 41.

knowledge of the process, and they therefore discover that they are in labour too late¹³². Another reason is the costs, as the care is free, but not easily accessible, and the transportation costs are therefore too high¹³³.

One of the largest issues for women's health in the aftermath of the earthquake was the lack of access to contraception¹³⁴. About 74 percent of the people living in displacement settlements express a lack of knowledge concerning family planning according to the findings of UN Population Fund¹³⁵. This resulted in unsafe attempts at abortion for some women and girls, as there were up to 66 percent unwanted or unplanned pregnancies in the settlements. The women and girls do so by using medicine to induce labour, before the child is able to live or via traditional means, as abortion is illegal in Haiti¹³⁶. These abortions are part of the high rates of maternal mortality; about 13 percent of the deaths are because of these unsafe abortions¹³⁷.

Lastly, the outbreak of cholera has to be mentioned. It broke out on 20 October 2010 55 miles from the nearest displacement camp in the coastal city of Saint Marc¹³⁸. Between the 20 October 2010 and 9 November the NGO Partners in Health, which have been present in the area since 2008, recorded 7159 cases of cholera in the city, of which 161 cases were so severe that the patients died. Until November 8th there were only few mostly so-called 'imported' cases recorded in Port-au-Prince. However, 2 days after the flooding caused by the Hurricane Thomas, Partners in Health found seven cases in one of the largest displacement camps in Haiti Parc Jean-Marie Vincent. Doctors without Borders also found several cases in the nearby slum. Therefore, on November 9th the number of hospitalized patients have risen to 11,125 and 724 had died¹³⁹. In April this year, the dead toll had risen to 8,562. It finally seems to be winding down, as the number of new infections was 50,000 cases in 2013 compared to 350,000 in 2011.

¹³² Human Rights Watch, 2011, p. 43.

¹³³ Human Rights Watch, 2011, pp. 37-38.

¹³⁴ Human Rights Watch, 2011, p. 23.

¹³⁵ Human Rights Watch, 2011, p. 29.

¹³⁶ Human Rights Watch, 2011, p. 32.

¹³⁷ Human Rights Watch, 2011, pp. 34-35.

¹³⁸ Walden & Ivers, 2011, p. 3.

¹³⁹ Walden & Ivers, 2011, p. 4.

Research has shown that the disease came from an Asian strain found in Nepal, and as many of the UN peacekeepers stationed in the country were Nepalese, the responsibility of UN for bringing the disease to the country has been discussed as the most likely explanation. The UN has not really responded to this accusation, and has merely declared the organization immune to legal process¹⁴⁰.

4.3.4. Female Participation

Multiparty presidential and parliamentary elections were held in November 2010, but they were deemed unfair by the international society. Many candidates said so even before the voting was even finished. The government had even barred many opponents from entering the elections on little or non-explained grounds. When the results were published on 7 December, it caused public protests from the Haitian people, as they as well doubted the legitimacy of the elections. By the end of the month, OAS had gotten involved and convinced the government to make an impartial investigation of the election process and the results by legal experts¹⁴¹. The legal demand for female participation in the election from each party was not met at this election either. In the end after the second round of elections in May 2011, 5 women were elected to the Chamber of Deputies out of 99 seats. The newly elected president Martelly placed 3 women in ministerial positions. There were 16 positions in total. He also chose 4 women as secretaries general out of 19, and 2 women to be the vice director general and the director general of one of the two national banks¹⁴².

4.4 The Human Rights Situation in Haiti Today

4.4.1 General Situation

Today it is over four years after the earthquake, and the situation has improved somewhat. After the earthquake 1,5 million people became internally displaced, but today 1,3 million have left the camps. However, this still leaves 200,000 people living in the camps. Most of the remains of the damage (up to 11 million cubic metres) that

¹⁴⁰ Archibold & Sengupta, 2014.

¹⁴¹ US Department of State, 2011.

¹⁴² US Department of State, 2012.

have been covering the roads and other places in Port-au-Prince have been removed¹⁴³, and much of it has been reused to the paving of stairs, roads and public spaces¹⁴⁴. In addition, the latest numbers from 2011 show that the GDP per capita was US\$ 665.0, and it had increased about US\$ 250 since 2005. The growth rate has also increased from 1.8 in 2005 to 5.6 in 2011 with a sharp downswing in 2010 to -5.4¹⁴⁵. However, today Haiti's population is still the poorest in the region of the Americas and as well as one of the poorest in the world. Still more than 50% of the Haitian people make do for less than a dollar a day and as many as 80% for less than 2 dollars a day¹⁴⁶. In addition, the population of Port-au-Prince has increased radically since 2010 and holds 53% of the entire population of Haiti¹⁴⁷.

4.4.2. Gender Based Violence

The prevalence of GBV in Haiti has been measured to be as many as 70 percent of the women in Haiti have experienced some kind of GBV. In particular, domestic violence is a widespread phenomenon in Haiti. One organization working with female victims of violence has stated that out of the 2,370 women victims of violence that they have been in contact with 86 percent were victims of domestic violence. Yet, also sexual violence has in a recent research shown prevalence as high as 10,8 percent of the women in the ages from 15-49 years. In addition, domestic violence in the country happens both in the city and the countryside, though the women residing in the countryside seem to be particularly vulnerable. This is highly underreported though¹⁴⁸. In addition, the practice of transactional sex, e.g. in exchange for food was still common in the camps in 2013¹⁴⁹.

¹⁴³ The World Bank: <http://www.worldbank.org/en/country/haiti/overview> [accessed 2 May 2014]

¹⁴⁴ United Nations Development Programme: <http://www.undp.org/content/undp/en/home/presscenter/articles/2014/01/09/haiti-undp-remains-engaged-with-people-and-government-in-transition-to-development-/> [accessed 7 May 2014]

¹⁴⁵ UN Data Haiti: <http://data.un.org/CountryProfile.aspx?crName=Haiti> [accessed 1 May 2014]

¹⁴⁶ The World Bank: <http://www.worldbank.org/en/country/haiti/overview> [accessed 2 May 2014].

¹⁴⁷ The World Bank news: <http://www.worldbank.org/en/news/feature/2014/03/14/public-policy-routemap> [accessed 7 May 2014].

¹⁴⁸ Immigration and Refugee Board of Canada, 2013.

¹⁴⁹ Amnesty International, 2013, p. 13.

4.4.3. Health

Regarding health, women can now expect to live an average of 63 years, and 80 children out of a thousand will die before their fifth birthday. Regarding maternal health, there are 630 deaths per 100,000 births. The severity of the situation becomes clear when comparing the number to the neighbour country, the Dominican Republic, where the corresponding numbers are 73 years of life expectancy for women, only 33 out of thousand die before their fifth birthday, and only 86 women die per 100,000 births¹⁵⁰. Another health issue still present four years after the earthquake is posttraumatic stress disorder symptoms and signs of depression – the percentage being respectively 36.57% and 25.98%. The research also shows that women demonstrate a higher occurrence than men. The same goes for young people and older people. More low-educated people also show signs of depression¹⁵¹.

4.4.4. Female Participation

In May 2011, Michel Martelly was elected president after an election that was somewhat tainted by accusations of fraud, but was judged to fair by the international society. There have, however, been no senate or local elections, which have been continuously delayed since October 2011. This is due to a gridlock between the government, the courts and the security forces, which might have led to some human right violations, as the government might not have been in as much control of the security forces all the time as they claimed¹⁵². In the recent minister reshuffle, Prime Minister Laurent Lamothe, changed the setup from having 45% women to only 30% now, which equals 7 female ministers. The number of ministers did not change, but 45% was replaced. However, out of a total of 20 secretary of state positions, 15% are now women, which means 3 positions, in opposition to before, when only 10% or 1

¹⁵⁰ Bloem & Miller, 2013, p.151.

¹⁵¹ Cénat & Derivois, 2014.

¹⁵² United States Department of State, 2014.

position was filled by a women. This might also have to do with the fact the number of secretary of state positions had increased from 10 to 20¹⁵³.

5. Analysis of the Human Rights Situation in Haiti; Particularly for the Women

In the following, the human rights situation for women in Haiti will be analysed, as it is important to explore some of the reasons behind the higher number of deaths and injuries among women than men and the higher number of violations of human rights for women. The analysis will in particular focus on the time during and after the earthquake. It is important, however, to recognize that the situation in Haiti is not just a product of the earthquake, but it has its roots way beyond that. It is grounded in historic patterns and social norms that have facilitated a reality of discrimination and inequality against the Haitian women. The earthquake only assisted the intensification of the situation for the women, and moreover the reconstruction process has been exactly a process to reconstruct the existing social patterns of discrimination and inequality (Horton 2012:298). Taking this into account, it is essential to look at the social norms and historic patterns to understand the reasons for the violations of the human rights of women in Haiti.

This analysis will focus on the right to life, the right not to experience GBV, the right to health and the right to general and political participation for women. First, the relevant international and national legal framework will be identified. Then it will be established, whether there is legal violations of these rights for the women in Haiti, next the reasons for these violations will be explored along with some considerations, when addressing and analysing the situation. However, before the rights will be addressed one by one, the general legal human right framework in Haiti and the right to no discrimination will be presented, as they are important as the basis of the analysis of the four other rights to be built on.

¹⁵³ Haiti Libre News, 3/4/2014: <http://www.haitilibre.com/en/news-10860-haiti-politic-reshuffle-fewer-women-ministers-more-women-secretaries-of-state.html> [accessed 17 June 2014].

5.1. General Legal Human Rights Framework in Haiti

First, the legal status of human rights in Haiti will be explored through the legal human rights framework in Haiti. This includes the connection between the earlier mentioned human rights instruments that Haiti has ratified and the national legislation and initiatives. These conventions and declarations are the UDHR, CEDAW, ICESCR, and ICPCR from the UN system and American Declaration of Rights and Duties of Man, American Convention of Human Rights, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women from the OAS system.

The commitment to these treaties and conventions are written into the Haitian constitution as well. In article 276(2) of the constitution of Haiti, it is stated; “*Once international treaties or agreements are approved and ratified in the manner stipulated by the Constitution, they become part of the legislation of the country and abrogate any laws in conflict with them*”¹⁵⁴. Though this is legally stated, it has not always been translated into practice. For example, the criminalization of rape is part of the national legal framework, but judges do not base rulings on it and if judged the perpetrators only get up to 3 years of the 10 years of forced labour, which is the minimum punishment¹⁵⁵. This of course results in low protection against this crime for the people of Haiti. In addition, most of the Haitian people have little or no access to the legal system because of lack of money and information¹⁵⁶. However, it must be said that the Haitian government is at least trying to improve the situation, as it initiated a programme in 2010 for victims of rape and in 2014 new national policies were passed to protect women further¹⁵⁷.

5.2 Non-Discrimination

Before the human rights that have been chosen to be focused on – the right to life, the right not to experience GBV, the right to health and the right to general and political

¹⁵⁴ The Constitution of Haiti, 1987, article 276(2).

¹⁵⁵ US Department of State, 2011.

¹⁵⁶ Amnesty International, 2013, p. 18.

¹⁵⁷ US Department of State, 2011 & CSW, 2014a.

participation – another important right has to be analysed. This is the right to non-discrimination. This is relevant, as the focus is on women's rights in relation to topics of life, GBV, health and participation, and it seems to be so that the human rights violations of these rights are more common for women. It is important to recognise though that the right to discrimination is more than just the equality of all human beings. It also recognises that all humans are not the same, and in order to treat them equally, they have to be treated differently¹⁵⁸. The following is therefore the most relevant articles in relation to discrimination; particularly regarding women. The articles talk of the importance of the equality of humans that should not be changed no matter whether one is of a different race, colour, speak a different language, has a different religion, a different political opinion or – what is particularly relevant for this analysis – sex. This is emphasised in the Universal Declaration of Human Rights, the International Covenant for Civil and Political Rights, the Convention to Elimination of all Discrimination of Women. In the UDHR article 1 it is stated that all human beings are born equal and should have the same rights. Article 2 continues to underline that everyone is entitled to all the rights in the declaration without any distinction. The ICCPR in its article 2 takes a step further and emphasizes the duty of the state party to fulfil the rights in the covenant for all of its citizens without any distinction. The CEDAW have the most comprehensive article on the right to no discrimination, and it has therefore been cited in its full length.

CEDAW (1979) Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(b) To adopt appropriate legislative and other measures, including sanctions where

¹⁵⁸ Wladasch, 2012, p.307.

appropriate, prohibiting all discrimination against women;

(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices, which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

It clarifies and highlights the need for equality between the genders, and the responsibility of the state parties to fulfil this. The state parties are required to ensure the equal enjoyment for women of their rights through appropriate laws, policies and to avoid and stop all forms of discrimination. Considering this it is relevant to keep in mind that equality also includes the right to diversity, to identify barriers for certain groups of people like women, when it comes to accessing their rights, and to ensure that certain groups are not structurally held back and for example kept in poverty¹⁵⁹. This is to some degree seen in Haiti, where poverty has a tendency to be feminine¹⁶⁰, because of different social structures, which will be discussed in the part about the right to participation.

All this is relevant for the following analysis of the human rights violations against the Haitian women, because they are tied up with discrimination. The question is whether they have less access than the Haitian men to for example health or participation. In the

¹⁵⁹ Wladasch, 2012, p. 309.

¹⁶⁰ CSW, 2014a.

analysis of the four following rights, it will be considered whether discrimination is taking place in Haiti, when it comes to these four rights. It is beyond the scope of this thesis to focus on discrimination in relation to all human rights, though it undoubtedly is of relevance for the situation in Haiti, but the focus on the four chosen rights will give a fair idea of the level of discrimination of women on the different levels – from the private sphere to the public.

5.3. Right to Life

As an introduction to the analysis of the human rights violations against women in Haiti, it will begin with the right to life, as it has been the starting point for much of the previous research done on the topic of women's rights and natural disasters. The previous research has proved that women tend to die in a disproportionately higher numbers during natural disasters¹⁶¹. As mentioned before, this is also the case in Haiti¹⁶².

5.3.1. Legal Framework

The following articles are important for an analysis of the violation of the right to life. They are from the Universal Declaration of Human Rights and the International Covenant on Political and Civil Rights. Both of which Haiti has ratified and is thereby legally binding to fulfil. The UDHR article 3 states, "*Everyone has the right to life, liberty and the security of person*", while the ICCPR article 6 says: "*Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life*". These articles are some of the first articles of both the declaration and the covenant. These articles express a clear right for all people to have their life protected to the degree that they are not, as it says, arbitrarily dying. In other words, the right to life should be protected to the extent it is possible. However, Haiti is not being blamed for the general loss of lives during the earthquake, as no one can control natural disasters. They can, however, be held responsible for the disproportionately higher number of women killed, if this happened because of

¹⁶¹ Akerkar, 2007, p. 358.

¹⁶² UNIFEM Fact sheet Haiti: http://www.unifem.org/materials/fact_sheetsb666.html [accessed 27 February 2014]

subordination or discrimination of women¹⁶³. In other words, it has to do with the indirect discrimination of women, which seems to be at play here.

5.3.2. Violations

In 2006, in a large-scale research study, which included data from 141 natural disasters, it was proven that there is a clear connection between the fulfilment of social and economic rights. In cases where the women did not enjoy the same social and economic rights as the men, more women tend to die, while in countries where there is an equal enjoyment, the same number of men and women die in the natural disasters¹⁶⁴. In Haiti, it is assumed that women make up for two third of the dead toll, because of the poor quality of their houses¹⁶⁵. This is therefore probably connected to the generally low enjoyment of the rights that the Haitian women experience, which will be discussed further on. Now however, the reasons for the higher number of dead women will be analysed and some considerations in this regard will be presented.

5.3.3. Reasons and Considerations

The reasons for the higher number of deaths among the women seem to be connected to religious and cultural practices after other large natural disasters like the tsunami in 2004 and the floods in Bangladesh, which have been analysed in regard to the reason why women seem to be harder hit¹⁶⁶. The question therefore arises whether religion has a role to play for the higher death toll among women in Haiti. However, it has to be mentioned though, that the people living in the countries hit by the tsunami and in the floods in Bangladesh were mostly Muslims and the religious and cultural practices, which were perceived to be the reasons for the higher number of deaths among women, were tied up with some practices particular to those countries and the religion of Islam.

¹⁶³ Enarson & Fordham, 2001, p. 133.

¹⁶⁴ UN Women Watch, 2009, p. 9.

¹⁶⁵ UNIFEM Fact sheet Haiti: http://www.unifem.org/materials/fact_sheetsb666.html [accessed 27 February 2014].

¹⁶⁶ Pittaway, Bartolomei & Rees, 2007, p. 308.

However, in Haiti, religion is a great part of the life lived as well. It goes through every aspect of life including politics, health and moral. The three main religions are Catholicism, various forms of Protestantism, and Vodou. Vodou is a mixture of West African traditions and Catholicism. All three religions have been in the country for a long time, and they have developed together to the extent where you can understand the one without the other. This is tied up by the fact that Louis XIV in 1685 declared that all slaves were forced to change their religion to Catholicism. The slaves therefore tried to hide their Vodou religion by tying it up to the Catholic religion and saints. Vodou is practiced all over the country and by most of the Haitian people, even if they identify with one of the other religions¹⁶⁷. In that sense, Vodou is more than a religion and actually more of a culture. However, there do not seem to be elements such as required heavy clothing or a culture for not allowing women any contact with any men outside the family, which has been proclaimed as one of the reasons for the higher number of deaths in the countries hit by the tsunami and in Bangladesh.

Another reason was mentioned for the deaths of women in the previous analyses after the tsunami and the Bangladesh floods, which was that the women were responsible for elders and children¹⁶⁸. Many women were found dead linked with either dead children or elders. On the other hand, this resonates with the family and gender structures in Haiti. The family is the turning point for the Haitian social culture. Family is not restricted by blood, but it includes your entire network. Especially in rural Haiti, this centred around the courtyard, which is called “*lakou*”. This courtyard is shared among various families, and not just one family. The families, which share a “*lakou*”, live like a community and share the workload. Fathers are the unquestionable authority of the family, but he is often absent¹⁶⁹. Women on the other hand are perceived as the main base and pillar of family life in Haiti, and they thereby carry the responsibility of the entire family, which means they are in charge of all the work within the household. They take care of the elders and the children, chores within the house and in many instances; they are also the main providers by their involvement in the informal

¹⁶⁷ World Health Organization, 2010, p. 6.

¹⁶⁸ Pittaway, Bartolomei & Reesway, 2007, p. 309 & Ikeda, 1995, p. 179.

¹⁶⁹ World Health Organization, 2010, p. 4.

sector¹⁷⁰. Work in the informal sector can include trading at home, in the streets and at the markets¹⁷¹. Despite this, the women possess no real power within the household, and they have no part in decision-making and similar¹⁷². While this explains the labour division between the genders for the women, men on the other hand are responsible for the work in the field, providing for the family and taking care of maintaining the house they live in¹⁷³. Women in Haiti therefore are responsible for children and elders in the same way as in Bangladesh and the countries hit by the tsunami in 2004, which might be part of the reason for the higher number of death among women.

Lastly, it is relevant to reiterate the earlier mentioned research that the right to life is tied up to the general equal enjoyment of human rights between the genders. Therefore, the right to life is dependent on the enjoyment of the other rights that will be analysed subsequently.

5.4. Gender Based Violence

Next on the micro level, the reasons for the high level of GBV in the aftermath of earthquake will be explored. There seems to be a general tendency in the aftermath of natural disasters to have such a high level, as it also happened after the tsunami over a large array of different countries. This quote from Beijing Declaration and Platform for Action shows the importance on focusing on GBV, “Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms¹⁷⁴”. GBV is therefore utterly important to address, as it holds women down along with the social norms that allow it to happen. This will also be discussed again later on in relation to female participation.

¹⁷⁰ Amnesty International, 2013, p. 6.

¹⁷¹ Amnesty International, 2013, p. 25.

¹⁷² Amnesty International, 2013, p.6.

¹⁷³ World Health Organization, 2010, p. 5.

¹⁷⁴ Beijing Declaration and Platform for Action, 1995, article 113.

5.4.1. Legal Framework

First, the international legal framework for GBV is particularly strong in the OAS convention on violence called the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (“Convention of Belem Do Para”), which Haiti has ratified. The convention defines violence against women to include physical, sexual and psychological violence¹⁷⁵. It underlines the right for women to be free from violence – both in public and private¹⁷⁶. Lastly, the member parties are obligated to create a legal framework that works towards the eradication of violence towards women¹⁷⁷.

Secondly, the national legal framework and policies for GBV in Haiti will be presented as a basis to continue the analysis. Haitian national law considers rape a crime, and it is punished with a minimum of 10 years of forced labour and up to 15 if the victim was under 16 years and up to lifetime for gang rape, but it only includes rape that occurs outside the marriage. However, this is only the law, in reality most cases have not been followed up on, and those, which have been, the penalties have been way less severe – down to only 3 years. The law also differentiates between husbands and wives, as husbands are allowed to kill their wives if they are found to be engaging in sexual activities outside their marriage, but the opposite is not allowed for women¹⁷⁸. National law in Haiti prohibits only domestic violence against minors, not adults, which subsequently renders women without any protection. In addition, very few cases have actually been reported, investigated or tried under this law. The government have, however, launched a programme with the help of international donors to support victims of violence both legally and medically and a campaign¹⁷⁹. However, the women tend to have their reports met with indifference and harassment, when they actually dare report

¹⁷⁵ The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, article 2.

¹⁷⁶ The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, article 3.

¹⁷⁷ The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, article 7.

¹⁷⁸ US Department of State, 2011.

¹⁷⁹ US Department of State, 2011.

the violence¹⁸⁰. However, this year further reforms to protect women and children from violence should have been passed in the national parliament¹⁸¹. It still remains to be seen what their impact will be. Lastly, even though there is no national law forbidding sexual harassment, it is included in the labour code. Nevertheless, there are next to no reports of such incidents, but it is still perceived commonplace¹⁸².

5.4.2. Violations

There was a high increase in cases of sexual violence in the aftermath of the earthquake – particularly in the camps¹⁸³. Rape and other GBV incidents are as mentioned earlier well documented by various NGOs and other agencies. In addition, the women have troubles with entering and succeeding to follow a case through in the Haitian justice system, as the victims tend to be double victimized, as the procedures can be very hostile towards the women. The courts also use language that is far from what the women tend to use and know¹⁸⁴. This only became exaggerated in the aftermath of the earthquake, as many of the police stations and the courthouses and their various staff were destroyed or killed. This created a sense of impunity among the perpetrators, as the state could not protect its women nor could they prevent the attacks or catch and punish the perpetrators¹⁸⁵.

Women have been forced into sexual exploitation schemes by the men, who are in control of the food, as the agencies chose to align themselves with male dominated community organizations, when it came to food distribution. In general, the earthquake has also led to a rise in the number of girls and women forced into prostitution¹⁸⁶.

One research project mentioned earlier done by an organization in the country, showed

¹⁸⁰ Immigration and Refugee Board of Canada, 2013.

¹⁸¹ CSW, 2014a.

¹⁸² US Department of State, 2011.

¹⁸³ United States Department of State, 2011.

¹⁸⁴ Horton, 2012, p. 301.

¹⁸⁵ Canada Immigration and Refugee Board, 2013.

¹⁸⁶ Horton, 2012, p. 301.

that out of 2300 women about 86 percent had experienced domestic violence¹⁸⁷. Lastly, women were also routinely attacked and robbed for their food coupons¹⁸⁸. This is a clear lack of the protection that the Haitian women needed. It is a violence that was aimed at them as women, which should have been prevented.

5.4.3. Reasons and Considerations

One consideration for the high level of GBV in Haiti is that Haitian women have always to some extent been financially dependent on the Haitian men, however this was not considered to be a problem before the earthquake. The earthquake made the living costs rise, particularly the housing costs, which have made the women even further dependent on men, which is now believed connected to the raising level of GBV in the country¹⁸⁹. Another practical reason for the high number of incidents of GBV was the poor housing conditions in the camps. Amnesty International talked to the women in the camps, who highlighted different conditions such as the insecure housing and inadequate sanitation, the population density, lack of economic opportunity, no light in the camps at night times, and no security measures in the camps at all¹⁹⁰. This resembles the previous research and analyses of the GBV in the aftermath of the tsunami, which mentioned the same missing features as some of the reasons for the high level of GBV¹⁹¹.

An important reason for the heightened level of GBV is the stigmatization of mental illnesses, as many of the men – as well as many of the women – were and are hit by posttraumatic disorder¹⁹². Research shows that men are likely to react on this by becoming violent¹⁹³. This is further complicated by the fact that the concept of talking about one's mental illness in public or to a professional is considered taboo in Haiti¹⁹⁴. Another stigmatization to take into consideration is that women who were raped in the aftermath of the earthquake also had to deal with social stigma from their family and

¹⁸⁷ Immigration and Refugee Board of Canada, 2013.

¹⁸⁸ Warnecke & Padgett, 2011, p. 19.

¹⁸⁹ Immigration and Refugee Board of Canada, 2013.

¹⁹⁰ Amnesty International, 2013, p. 13.

¹⁹¹ Pittaway, Bartolomei & Rees, 2007, p. 309.

¹⁹² Cénat & Derivois, 2014.

¹⁹³ Vess, Barker, Naraghi-Anderlini & Hassink, 2013, p. 7.

¹⁹⁴ World Health Organization, 2010, p. 21.

close community¹⁹⁵. This is probably connected to the fact that Human Rights Watch also found that some women were too ashamed to get help in time after being raped¹⁹⁶.

Lastly, there have been established a clear link between violence towards women and the right to health. WHO has found that violence is a good determinant of the right to health. Violence against women is often connected to poor access to and poor help from the health care system. The violence often also brought with it other health issues. Violence against women also affects their reproductive health, which is clearly included in the right to health. It is also connected to spreading of HIV/AIDS, as the women have a hard time convincing their partners to use contraception, when the partner is violent towards them¹⁹⁷. This now leads nicely to the next right to be analysed, which is the right to health.

5.5. Right to Physical and Mental Health

This part of the analysis will focus on the meso level in the form of the right to health in Haiti. It will explore whether the right has been violated particularly with the focus on women, and it will analyse the reasons for these violations of this right in the aftermath of the earthquake and the general health level of the Haitian people.

5.5.1. Legal Framework

The following articles from the Universal Declaration of Human Rights and the International Covenant of Economic, Social and Cultural Rights – both of which are ratified by Haiti – emphasise the right to physical and mental health. The right to health is not precisely the right to be healthy, but it is more the right to control ones health and physic, which includes the control of ones sexual and reproductive rights, and having equal access to adequate health care¹⁹⁸. In UDHR Article 25 is stated that everyone has the right to an adequate standard of living, which includes health and wellbeing.

Motherhood and childhood are particularly protected, which is relevant for Haiti, as the

¹⁹⁵ Horton, 2012, p. 301.

¹⁹⁶ Human Rights Watch, 2011, p. 55.

¹⁹⁷ UN Human Rights Council, 2009, pp. 44-45.

¹⁹⁸ Wenzel, Ecevit, Wenzel & Zitterl, 2012, p. 324.

following violations will show. In the ICESCR Article 12(1), it is stated: “*The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*”. The article underlines the duty of the states to fulfil the right to health; however, the ICESCR only obligates them to attain the highest possible level of health for its people, which is measured against the capability of the state. In other words, the states are only required to do their best with the means they have available on a progressive scale. However, there are some minimum core obligations, which for one are exactly non-discrimination¹⁹⁹.

The right to health is also manifested in the Constitution of Haiti (1987). In article 19, the right is generally stated along with the right to life and dignity, and it is all to be in accordance with the Universal Declaration of the Rights of Man from OAS²⁰⁰. Later in article 23 the right to health is specified further, as the Haitian state states its obligation to provide access to health care for all its citizens in all territories by ensuring that there are hospitals, clinics and similar physical frameworks to create the access²⁰¹. In other words, the state of Haiti recognizes the right to health, but what it actually obligates itself to do is to create the physical frames for a health care system, which is fine, but it is not all there is to a health care system. Therefore, on a legal basis what the state of Haiti can be held responsible for is not to create these facilities. This is on the national level though, and Haiti can of course be held responsible on an international level for not fulfilling its before mentioned obligations to UDHR and ICESCR.

When it comes to the national policies and national legal framework for health, there have been some initiatives. One is when the Ministry of Public Health and Population included maternal health in their 2007 national plan. It was identified that the costs of medical care related to maternal health were too costly, and the ministry began collaborating with the Pan-American Health Organization, WHO and the Canadian International Development Agency to provide free obstetric care. It raised the number of births in medical facilities in the first month alone with between 51 and 224 percent

¹⁹⁹ Wenzel, Ecevit, Wenzel & Zitterl, 2012, p. 323.

²⁰⁰ Constitution of Haiti, 1987, article 19.

²⁰¹ Constitution of Haiti, 1987, article 23.

at the participating institutions and later on, the deaths in those institutions were five times lower than in other facilities²⁰². Unfortunately, even though the health care is free, many women complain that the transportation costs to get there are too high, so they cannot go²⁰³.

5.5.2. Violations

As mentioned Haiti had in 2005-6 the highest maternal mortality rate outside Sub-Saharan Africa, which has been classified as discrimination by the Inter-American Commission on Human Rights²⁰⁴. The initiative in 2007 to include maternal health must be a response to this. Before the initiative, only less than 25% of births in Haiti took place at an actual health facility, but as just mentioned this increased greatly at the institutions, which was part of the initiative. It would therefore seem that the state of Haiti responded to the critic to some extent, and Haiti's capabilities as a poor state relying on aid has to be considered. As mentioned earlier, the right to health is a progressive right in the sense that the state is only required to keep doing better within its capability, so this step forward should be viewed positively in that context. However, this does not apply, when it comes to discrimination, as the maternal health care situation in Haiti was been judged to be²⁰⁵. In addition, when the earthquake happened as mentioned before about 60% of all the medical facilities in the country were destroyed. In the immediate aftermath, the health care access for the people living in the camps was all right, but nine months after about 20% of the camps had no access at all²⁰⁶. Another health problem for women is lack of access to contraception and therefore by extension their reproductive rights²⁰⁷. This has cost many unwanted and unplanned pregnancies, which have lead to many unsafe abortions²⁰⁸.

²⁰² Human Rights Watch, 2011, p. 20.

²⁰³ Human Rights Watch, 2011, pp. 37-38.

²⁰⁴ Human Rights Watch, 2011, pp. 12-13.

²⁰⁵ Wenzel, Ecevit, Wenzel & Zitterl, 2012, p. 323.

²⁰⁶ Human Rights Watch, 2011, p. 21.

²⁰⁷ Human Rights Watch, 2011, p. 23.

²⁰⁸ Human Rights Watch, 2011, p. 32.

5.5.3. Reasons and Considerations

However, one condition has been taken into consideration, when it is discussed how the state of Haiti is not fulfilling its obligation towards its people concerning health. This is the cultural and religious system of Vodou. The scope of Vodou goes even beyond, as it is also an alternative and parallel health care system. There are practices to heal, prevent illnesses, promotion of health and general wellbeing²⁰⁹. Vodou has in other words been and is an alternative and parallel health care system in a country, where the primary health care system is and at least has been basically non-existent²¹⁰. Health and illnesses are connected to the spirit world, in which the ancestors, who are composed of African ancestors, late family members and biblical figures live, and a harmonious relation with them is essential. They watch over the family, and they help them, when needed and called upon. In order to express themselves though, they possess the body of a living person; most often a woman. Another possibility for illness is sorcery²¹¹. Generally, Vodou is a protective system made of relationships with nature and all that it includes, family and the ancestors, which when disrupted needs to be mended. It is the way to keep healthy, strong and safe. It must be said though that the priest and priestess have extensive knowledge of herbs and their medical uses, which is applied simultaneously, but if they feel the case is beyond them, they usually refer the case to the regular health system²¹². This alternative and parallel system of health care that the Haitian people have through vodou might said to cover some of the health care needed by the people, but as it recognises itself, it is ‘only’ a parallel system. There has to be a regular health care system parallel to it to facilitate the possibility for the priest and priestess to refer the cases, which are beyond them.

Lastly, another consideration is that the women in Haiti have for a long time been seen as second rank citizens²¹³. This social pattern might sustain the idea that women are less entitled to their right to health, and might explain why particularly maternal health

²⁰⁹ World Health Organization, 2010, p. 7.

²¹⁰ World Health Organization, 2010, p. 8.

²¹¹ World Health Organization, 2010, p. 7.

²¹² World Health Organization, 2010, p. 8.

²¹³ Warnecke & Padgett, 2011, p. 16.

seems to have been forgotten to the degree that the Inter-American Commission on Human Rights considered it discrimination back in 2006. It might also explain the lack of focus on contraception and the consequentially unsafe abortion and other health issues related to this.

5.6. Political Participation in Politics and the General Reconstruction

After having analysed the implementation and violations of the human rights for women on the micro level GBV and on the meso level health, the next part will focus on the macro level and female participation in politics and the reconstruction phase in general. Disasters have proven to be utterly disempowering for women, but they can also be used as a chance to change some patterns and constructions²¹⁴.

5.6.1. Legal Framework

The following articles are of interest in relation to this, and are from human rights instruments, which the Haitian state has ratified. The articles are taken from the International Covenant on Civil and Political Rights and the Convention for the Elimination Against Women. Both articles refer to no discrimination as to who can vote. ICCPR emphasises this in general, while CEDAW of course has a special focus on discrimination of women. The ICCPR Article 25 states that all citizens should have the right and opportunity without discrimination of any kind to be part of the public affairs of the state, have the right to vote and be voted for and have equal access to the public serviced of the country. The CEDAW Article 7 underlines this right for women and emphasizes further that women should be part of the construction of the government, be able to hold offices and take part in non-governmental political organizations and the general political life of the country.

Besides these international obligations, the Haitian State actually has requirements for female participation on a national plan as well. The electoral code requires that there are

²¹⁴ Horton, 2012, p. 302.

at least 30% female candidates from each party. The electoral code even has financial backing, so if followed there is a financial bonus²¹⁵.

5.6.2. Violations

Research shows that the Haitian women are chronically underrepresented in relation to the access to political power²¹⁶. This is also seen in the response and development process after the earthquake where the Haitian women have clearly been overlooked and excluded. Women have per routine not been able to express their opinions, perspectives and views, which only added to the reproduction of the traditional power structures and gender roles. They have in other words been excluded from participation on a political and an administrable level²¹⁷. For example, only male dominated community organizations were asked, when the camps were established after the earthquake²¹⁸. In addition, on the ground level, as mentioned there has been a high rate of sexual violence, and the cash-for-work and food-for-work programmes benefited directly primarily only men – only 35% of the beneficiaries were women²¹⁹. This stands in opposition to what is called for in the security resolution 1325, as the women's initiatives are considered essential for achieving development in the resolution. The resolution is not legally binding, but it was accepted by UN Security Council in 2000 and as a member of UN Haiti should pay attention to this²²⁰. However, Haiti is not the only UN country that is not fulfilling the security resolution 1325 and its adjoining resolutions²²¹.

The Haiti Post-Disaster Needs Assessment also barely mentions gender. One of the reasons for this might be the low representation of women in politics²²². As mentioned before, this was 4.1% of the seats of the national parliament, and only 11% of the minister posts. Another reason is the exclusion of the women's groups from the civil

²¹⁵ Human Rights Watch, 2011, p. 13.

²¹⁶ Bloem and Miller, 2013, p. 15.

²¹⁷ Horton, 2012, p. 299.

²¹⁸ Horton, 2012, p. 300.

²¹⁹ Warnecke & Padgett, 2011, p. 20.

²²⁰ Rosenberg, 2011, p. 6.

²²¹ Mandl, 2012, p. 508.

²²² Warnecke & Padgett, 2011, p. 20.

society – for example, when the UN donor meeting took place in March 2010. In addition, the Ministry of Women’s Affairs in Haiti was destroyed completely during the earthquake, and even before the earthquake, it struggled to get funding²²³. It must be said that today they are up and running again and have been pushing for new reforms for protection of women against violence and criminalization of rape, which have both been passed, and for a new gender-equality policy from 2014-2034²²⁴.

5.6.3. Reasons and Considerations

In order to find the reasons why so few women are participating in politics in Haiti, it is relevant to look at the socio-economic structures in the country, as socio-economic structures are tied to how the access to the resources in the country is distributed among the citizens and in general. For the purposes of this thesis, it is also interesting to look at the differences between the genders and by extension the potential discrimination of women.

This general exclusion of the Haitian women is tied up to the continuously undermining of the Haitian state through the bypass of the state, when it came and comes to funds from international donors. The NGOs got the funds instead and created parallel duplicated structures to ones of the Haitian state to care for the Haitian people. This was the situation after the earthquake as well, and the commission – mainly made up of foreigners – have managed to completely bypass the local NGOs and the needs of the Haitian women. As the state has been undermined, it has also minimized the chances for the state to reach and include the Haitian women. Another problem with the transfer and the parallel handling of the state responsibilities by the NGOs is that the needs of the women are long term, which the NGOs not necessarily are²²⁵. Lastly, there are clear ways for the women to hold states accountable, but the same is not true for the NGOs. NGOs can only barely be held accountable for real violations, while they cannot be accountable for failures to do their job well enough. For example, the Haitian people can only hope that the NGO assume their rights or actually ask them, but no one can

²²³ Warnecke & Padgett, 2011, p. 21.

²²⁴ CSW, 2014a.

²²⁵ Horton, 2012, p. 299.

hold them accountable for trying to help a need, which is not there²²⁶.

There is a historical pattern that donors tend to shift priorities in the wake of a natural disaster from the long term projects that focus on women's involvement for example to basic needs, which stops and sometimes scatters the projects completely, because of the uneven funding²²⁷. The responsibility for ensuring the inclusion of gender is not just with the NGOs and UN to make projects and programmes, which fulfil this; it also lies with the Haitian government. They are to take gender into consideration, when making national policies, and they have to be in line with the commitments the Haitian state has made via the UN and OAS²²⁸.

In addition, there is a tendency to undermine the importance of gender for economic development. The focus has been the other way around as to how economic development can help women for example by creating a higher a standard of living, but the approach is disregarding the fact that economic development does not always have an impact on the entire society. It does not always 'trickle down' so to speak²²⁹. Often the institutions are built in such a way that economic development only ends up sustaining the existing power structures in the country²³⁰. In addition, the influences of gender and gender inequality on development processes are often overlooked²³¹.

It is interesting that the violations happened despite the fact that it was the women, who created ad hoc community initiatives in the post earthquake period to clear debris and contact international organizations to help with basic needs – or maybe it happened as a reaction to the exclusion of women on the formal level. The focus for the women was not women's rights per se, but more a general coverage of basic needs, which is typical of women's organization to start out this way in Latin America and the Caribbean

²²⁶ Horton, 2012, p. 300.

²²⁷ Horton, 2012, p. 300.

²²⁸ Blomstrom, Cunningham, Johnson & Owren, 2009b, p. 5.

²²⁹ Warnecke & Padgett, 2011, p. 14.

²³⁰ Warnecke & Padgett, 2011, p. 3.

²³¹ Warnecke & Padgett, 2011, p. 14.

region²³². The women were fundamental in utilizing social capital in the sense that they helped each other through their networks and families, which helped to prevent further social deterioration in the country²³³. This fits nicely with the community collaboration within the lakou, which has been discussed earlier. In other words, the Haitian society is used to surviving on the help from each other, as the state has not always been there to protect them, and the women were quick to revitalize that. In addition, women must be part of the reconstruction process in order to prevent that subordination of women is created or recreated²³⁴.

Despite this, the women in Haiti have long been considered second rank citizens, even though they have quite a large role in the economy, as they make up about 41,4% of the Haitian workforce. The percentage is still lower than men's, but the gap is one of the smallest of the development countries²³⁵. In addition, women make up about 75% of the workers in the informal sector. The informal sector was hit hard by the earthquake and thereby the women. After the earthquake these women, who were working in the informal sector, have had trouble earning money without any starting capital, which in turn affects their living and housing standard²³⁶. With their however meagre income they could only barely feed their families, without that little money it is close to impossible²³⁷. This is a general tendency that the natural disasters tend to hit the informal and the agricultural sector hardest, and these sectors are usually overrepresented by women – as in Haiti²³⁸.

Another consideration is the feminization of poverty, which is a reality in Haiti as well. There is a tendency for women particularly in developing countries to often feel more responsible to support their families. Therefore, when the economic opportunity and mobility are restricted for these women, the gender inequity is adding to such trends as

²³² Horton, 2012, p. 304.

²³³ Warnecke & Padgett, 2011, p. 20.

²³⁴ Enarson & Fordham, 2001, p. 135.

²³⁵ Warnecke & Padgett, 2011, p. 16.

²³⁶ Amnesty International, 2013, p. 25.

²³⁷ Amnesty International, 2013, p. 26.

²³⁸ Warnecke & Padgett, 2011, p. 19.

feminization of poverty²³⁹. In Haiti, women are the main provider in 63% of poor households, which is quite a number. This is probably tied up with the fact that most women are working in the informal sector. Only 16 % of women actually work in the formal sector, and about 40% of female main providers are unemployed compared to only 23% of the male providers²⁴⁰. In addition, when the women are working they are often forced into sexual exploitation in order to keep their jobs²⁴¹. The representative for the Ministry of Women's Affairs stated at a meeting at the Committee on the Status of Women in March this year that still "poverty is feminine" by which she emphasized that any change in women's lives in Haiti would have to include both social and economic development²⁴².

Labour division is not generated by actual economic factors, but are grounded in social, biological and other non-economic factors, which is seen in Haiti as well²⁴³. The labour division between gender in countries, where women are in charge of the household chores – in other words the unpaid work – they can restrict them in obtaining their possibilities, even prevent them from opportunities like training and paid employment outside the home do exist²⁴⁴. This could be the case in Haiti, where the labour division between the genders as mentioned earlier is placing the responsibility of the daily life of family and the lakou – the courtyard community – on the women, while the men are the providers. The labour division between the genders in Haiti could therefore be one of the reasons why women are so chronically underrepresented in politics and generally have low participation in any decision processes. This is further emphasized by the fact that in rural areas, women are not allowed to legally own land²⁴⁵, which places them in an inferior and dependent role compared to men. In addition, even though monogamous marriages blessed by the church are the most respected union of man and woman, it is in many instances so that men have more than one wife, which they are joined with

²³⁹ Warnecke & Padgett, 2011, p. 14.

²⁴⁰ Amnesty International, 2013, p. 12.

²⁴¹ Bloem and Miller, 2013, p. 150.

²⁴² CSW, 2014a.

²⁴³ Warnecke & Padgett, 2011, p. 16.

²⁴⁴ Warnecke & Padgett, 2011, p. 16.

²⁴⁵ Bloem and Miller, 2013, p.150.

through a common law union²⁴⁶. This further undermines the woman's status in society.

Another reason is that the women are held by their illiteracy, as the rates are particularly high among women²⁴⁷. However, the literacy rate is generally very low in Haiti; standing at 80% in the rural areas and 47% in the urban areas in 2010²⁴⁸. The reason for the high illiteracy among the women is partly because of less access, social norms and a high fertility rate among Haitian women²⁴⁹. The fertility rate among the Haitian women is 3,5 birth per women, which is the highest rate in the region. The reasons for this are not only cultural or religious, but are very much based on the fact that contraception is not common. Another factor was that until 2005 abortion was illegal²⁵⁰. Therefore, the lack of reproductive rights for women is also holding them back, as the labour division between the genders places the responsibility for the care of the children with the women at home²⁵¹. The lack of contraception is tied up by another factor that is holding back the women, because they are more likely to contract HIV, as the prevalence for women are 2.3%, while for men is only 2%. This is tied to fact that women are in a bad position to discuss the use of contraception, but at least their knowledge of the possibility for protection has been rising in the 2000s. This lack of knowledge and authority to discuss the use of contraception was highlighted in the aftermath of the earthquake. As mentioned earlier, some women were forced to transactional sex, where they did not have a chance to discuss protection. There were many instances of rape, which heightened the risk of sexual infections. Rape has also been used by both gangs and the government to control the population²⁵². In addition, there were generally as already mentioned many unwanted pregnancies and by extension many dangerous abortions, because of the lack of contraception²⁵³. In addition, it has to be mentioned that women's social position in society is also characterized by the fact that domestic violence is considered normal and part of the private sphere and thereby not

²⁴⁶ World Health Organization, 2010, p. 5.

²⁴⁷ Bloem and Miller, 2013, p. 150.

²⁴⁸ World Health Organization, 2010, p. 3.

²⁴⁹ Warnecke & Padgett, 2011, pp. 17-18.

²⁵⁰ Warnecke & Padgett, 2011, p. 17.

²⁵¹ Amnesty International, 2013, p. 6.

²⁵² Warnecke & Padgett, 2011, p. 18.

²⁵³ Human Rights Watch, 2011, p. 32.

punishable²⁵⁴. Only violence against minors is considered a crime. This is the same for rape, which is only considered so, if not happening inside the marriage²⁵⁵.

Lastly, it is hard to find a solution to the lack of participation – not only because of the explained gender norms, the weak institutions and instability of the government – but also because the lack of data in Haiti is huge. There is no calculation of the gender related development index nor any measurement of the agency of women in Haiti, because there is simply missing numbers and data on women's involvement. The missing data are an example of the general lack of focus on women's issues in Haiti²⁵⁶.

5.7. Social and Cultural Structures and Norms and Human Rights Implementation

The analysis showed that there have been a lot of violations of women's rights in Haiti. In addition, many violations are also happening on a scale, which is considerable higher than the men, and they therefore meet the criteria of discrimination. This is for example seen clearly with the right to life, as there was a clear overweight of women among the dead after the earthquake.

Keeping this in mind, many of the violations discussed in the analysis, could have been avoided by inclusion, consultation and participation of the women, as the violations in core are discrimination of the women. The right to life for the women would not be so disproportioned to men, if the women in general enjoy more equal rights compared to men. Women could have been safer in the camps, if they had been consulted on their needs, instead of the NGOs and agencies just assuming these. The women would have been safer, if they were included and had participated in the camp management, instead of placing the men alone in this position of power. The women would have enjoyed their right to health better, if their need for independent control of their reproductive rights, which kept them from participating in the political life and the general reconstruction process. The same is true of the impunity of rape and domestic violence, which is only holding the women back. By not addressing the huge problem of GBV,

²⁵⁴ Warnecke & Padgett, 2011, p. 18.

²⁵⁵ US Department of State, 2011.

²⁵⁶ Warnecke & Padgett, 2011, p. 21.

the women are being hindered on their way to participation. All the violations of the four rights analysed here are thereby tied together. The missing enjoyment of the first three rights – life, GBV and health – are hindering the women’s participation, while at the same time the missing participation, inclusion and consultation of the women exacerbate the lack of the three first rights. This shows the importance of realising the interconnection of the different rights, and the need for a holistic approach, which will be expanded on further on.

Lastly, the analysis shows the importance of knowing the social and cultural structures and norms, if you want to understand and perhaps avoid human rights violations in the future for the Haitian women. This is not an attempt to blame the social and cultural structures and norms for the human rights violations, it is more relevant to use the knowledge to work with these social and cultural structures and norms, when working with human rights implementation. You cannot change cultural and social norms overnight, many are not even supposed to be changed. They can be worked with and around, as long as they do not directly keep women in a secondary position. To sum up social and cultural structures are essential to change the human rights situation in Haiti and in any other place in the world, when such is needed.

6. Responsibility to Avoid these Violations and Ensure the Rights in the Future

A question, which presents itself after this analysis of the human rights violations in Haiti is who is responsible for avoiding similar violations in the future and ensuring the protection of the rights of the Haitian people in particular of the Haitian women. It is in other words a question of who is to implement the human rights instruments in Haiti, who is responsible and even more relevant in Haiti who is capable of shouldering this obligation.

This is normally a relatively straightforward question with a relatively straightforward answer, but the situation in Haiti makes it a fairly complicated question, and there are many different opinions on the matter. In a given relatively normal situation, the responsibility would without question lie with the current government, because they are

the representation of the state, which at some point have ratified the given conventions and thereby rendered themselves accountable to their people²⁵⁷. They have also pledged their commitment to fulfil their human rights obligations to the UN and whichever other regional organization – be it EU, OAS or similar – and they can be prosecuted under these organizations, when they do not fulfil their obligations, if they accepted the articles proclaiming this in the different instruments²⁵⁸. Yet, it is extremely rare that the UN actually actively meddle with the situation inside the countries, as there is a strong belief in state sovereignty. This concept of sovereignty is emphasized in article 2(1) of the UN Charter, and the right not to have UN intervening in domestic affairs is pointed out in article 2(7) of the UN Charter²⁵⁹. It happens though, but is a rather new thing of which a good example is the concept of R2P “Responsibility to Protect” originating in 2005 at the UN World Summit. It is only possible to enforce this in relation to genocide, war crimes, ethnic cleansing and crimes against humanity²⁶⁰. This does not, however, apply to Haiti, which may be in a difficult position, but it is not in any kind of an actual war or conflict situation. Therefore, for these different reasons the UN could not take over the implementation of the human rights instruments in Haiti. However, there are many different actors in play in Haiti, and the next part will discuss these different actors, their importance and lastly which of these have the capability and to some degree the responsibility – or think they have the responsibility – to protect the rights of the Haitian people and in particular of the Haitian women.

6.1 Who are responsible?

There are as mentioned several actors trying to assert their presence and legitimacy in the country. The primary ones are the current Haitian government in their status as the representative of the Haitian state and the NGOs present in the country. Other actors to be reckoned with are the international community – in particular, the US –, the UN, and OAS. They all play a role or believe they have a role to play in the rebuilding/building of Haiti as a state. The different actors will now be discussed.

²⁵⁷ Nowak, 2012c, p. 273.

²⁵⁸ Binder, 2012, p. 243 & Tretter, 2012, pp. 172-3.

²⁵⁹ Marboe, 2012, p. 500.

²⁶⁰ Marboe, 2012, p. 503.

6.1.1. The Haitian Government and the NGOs

There has been a clear historic tendency to bypass the Haitian Government both in the theoretic discussion of who can bear the responsibility of protecting the Haitian people and in practice. The presence of the NGOs in the country has meant that the government is often bypassed by donors, and almost all money goes to the NGOs. Their individual projects often have more money than the government has for activities like health care or other basic needs²⁶¹. This shows a general mistrust and disrespect of the government, which may or may not be well founded, but it is not improving the situation. It rather seems to have built up a vicious circle over the years. No one – not even the Haitian people – expects anything from the government²⁶². The government therefore has no means or reason to perform anything significant. It has even been argued that the focus on the NGOs rather than on the government has caused the weakness of the Haitian state. The research on the situation in Haiti has centred on the NGOs on their normative role and their political importance, but not much attention has been paid to the consequences of the take-over by the NGOs for the state²⁶³. In other words, the state has thereby continually been bypassed in a discussion, which actually should have been about it. Yet, in a perfect world it is without doubt the state, which are to take responsibility for its people. They have as mentioned ratified many of the large human rights instruments, which makes them the duty holders for the rights of their people.

However, it is important to mention that the government is very dependent on foreign help, as about 70% of their budget is financed through this, and only very little is covered by taxation of the Haitian people. They are also relying heavily on customs from particularly the main harbour, but that was destroyed by the earthquake as well²⁶⁴. The Haitian government is also hindered by the fact that even though the international community tends to pledge a lot of money that never reaches Haiti. For example, when

²⁶¹ Kristoff & Panarelli, 2010, p. 1.

²⁶² Kristoff & Panarelli, 2010, p. 2.

²⁶³ Zanotti, 2010, p. 756.

²⁶⁴ Zanotti, 2010, p. 758.

the food crisis hit in 2008, the international community pledged 100 million in aid, but only 10% of these ever reached Haiti²⁶⁵.

6.1.2. The Problems of Haiti being a “Nation of NGOs”

Another problem is that more than 70% of the health care provided to the Haitian people is provided by the NGOs, and still about 72% of the population did not have any access at all²⁶⁶. 80% of all public services are provided by non-governmental actors²⁶⁷. 85% of the schools are private, and most are run by NGOs as well. Before the earthquake, general security was still heavily dependent on the UN despite the long presence of the UN in the country, which in particular has focused on the police force through training. The police force was as mentioned hit hard by the earthquake, so the security situation has not improved. The national Haitian police force generally had great difficulties with getting funding – the government did not have the funds and the international community seemed less inclined to support such measures. This increased the fragility of the institution, and they were barely present in the aftermath of the earthquake²⁶⁸. The NGOs have thereby slowly taken over important tasks from the government which is partly because the NGOs have managed to ‘brain drain’ the government by offering higher salaries and general better conditions²⁶⁹. The higher level of funds in the NGOs also makes them very powerful on the local governmental level – perhaps even more powerful than the actually elected local members²⁷⁰.

As the situation is today, there are between 3,000 and 10,000 NGOs in Haiti, which is said to be the second highest number in the world per capita²⁷¹. Only about 300 of these were officially recognized in 2007²⁷². This is in itself a problem, as the general control, regulation and accountability of the NGO is weak²⁷³. Internationally funded NGOs have

²⁶⁵ Warnecke & Padgett, 2011, p. 13.

²⁶⁶ Zanotti, 2010, p. 758.

²⁶⁷ Warnecke & Padgett, 2011, p. 10.

²⁶⁸ Zanotti, 2010, p. 758.

²⁶⁹ Kristoff & Panarelli, 2010, p. 2.

²⁷⁰ Zanotti, 2010, p. 759.

²⁷¹ Kristoff & Panarelli, 2010, p. 1.

²⁷² Schuller, 2007, p. 96.

²⁷³ de Feyter, 2009, p. 84.

also been criticized for being uncoordinated, having a political agenda and being unable to reach the Haitian people²⁷⁴. In addition, in the worst cases, the NGOs have also damaged local economy. This happened when CARE was trying to sell donated food on the local markets in Haiti, as this is, how it is sometimes work with NGOs and donors. The donors donate the food and goods, which the NGOs are to sell locally to create cash, and sometimes in order for this to happen the NGOs do this, where it is easiest and not where it is needed the most. The NGOs can therefore sometimes end up competing and underbidding the local farmers and producers and thus damaging the local markets. In addition, the constant shift for Haiti from being in emergency to general development cause trouble, as many relief operations go in and do a good job in the emergency phase, but then they do not have functioning exit strategies. Their achievements are under the danger of becoming lost, as the state is often unable to take over the project. An example of this was when the *Médecins sans Frontières* entered the country to help after the hurricanes in 2008, and when they left, there was no one was able to take over their work and facilities²⁷⁵.

Another issue with the NGOs are that they have been used as a way to channel funds meant to cover the basic needs for the Haitian people away from the Haitian government as a way to regulate them, particularly in regard to corruption and accountability. The international community has withdrawn its financial support to the government before, when someone in the international community disagreed with a decision, the Haitian government had made. This has turned out to be a failure – both in regard to reaching its goal and also because it only worsened the institution building as they cover such a large part of the Haitian state budget. The UN has admitted this as well²⁷⁶. In addition, as mentioned earlier the US among others have used the tactic in the nineties to support the opposition of the government, which of course weakened the state in general, and not only the sitting government at the time with Aristide in the front, which would seem to have been the aim of the US. The US among others are reported to have contributed US\$ 70 million to the opposition to president Aristide in

²⁷⁴ Zanotti, 2010, p. 760.

²⁷⁵ Zanotti, 2010, p. 761.

²⁷⁶ Zanotti, 2010, p. 758.

the 90s²⁷⁷. Another important point for the continued support from the US and other parts of the international community to the NGOs over the Haitian state is that the US have – as many other wealthy countries have in other less wealthy countries – a clear economic advantage from sending aid through USAID to Haiti. About 84% of the aid is returned to the US through salaries to US experts²⁷⁸. In addition, Haiti was the fourth largest rice export market for the US in 2008, which took the incentive for the US to help Haiti with agricultural reforms or being self-sufficient away, when it comes to food (Gauthier 2008:2). Lastly, when discussing the disadvantages of bypassing the Haitian government in relation to funds, it has to be mentioned that the international donor organizations are not much better than the government, when it comes to inclusion of women. Two of the largest and most important donors to Haiti are the World Bank and the Inter-American Development Bank, and it has been found that either of them has implemented policies that are gender-inclusive or gender-targeted. Despite the fact that both have extensive policies on gender, it just has not been implemented in the case of Haiti²⁷⁹.

6.1.3. The Need for Cooperation between the Government and the NGOs

This discussion shows that there are troubles related both to trusting funds to the government and the NGOs. It is clear from the analysis that the placement of de facto responsibility to the NGOs through the funding has hindered the building and rebuilding of the Haitian state. The NGOs are limited by their mandates, which sometimes ends up having a negative effect on the country rather than the positive one they set out for²⁸⁰. The Haitian government, however, is on the other hand not quite capable of taking full responsibility, as they face several challenges as well. These includes government corruption and inefficiency, lack of economic diversification, poor infrastructure and bad health and insufficient level of education within the Haitian people, and these challenges have only be intensified by the 2008 crisis and the earthquake²⁸¹. As

²⁷⁷ Zanotti, 2010, p. 759.

²⁷⁸ Zanotti, 2010, p. 760.

²⁷⁹ Rosenberg, 2011, p. 4.

²⁸⁰ Zanotti, 2010, p. 768.

²⁸¹ Warnecke & Padgett, 2011, p. 13.

mentioned earlier Haiti is ranked number 8 in Failed States Index from 2013 by the Fund for Peace, and in 2014 number 9 on the Fragile States Index, which Fund for Peace have recently changed the name to for a more precise description of the states on their list. The reasons, however, why Haiti has gone down a spot on the list are partly because of the outbreak of the situation in South Sudan, but Haiti has also gone down from 105,8 to 104,3 points on the scale, which depicts some improvement of the state of Haiti. In particular, the state of Haiti has decreased the demographic pressure from 9,6 to 8,7 on a scale from 1-10, the economic decline has fallen from 9,7 to 9,4, and the security situation has improved from 7,9 to 7,5²⁸². Haiti is therefore in other words improving, but they are still facing a lot of challenges. The UN has therefore named the situation a catch-22 situation, as the funds were and are directed to the NGOs, because of a lack of capacity on several levels within the government. However, sending the funds to the NGOs undermines the institution and capacity building of the government. This is illustrated clearly by the fact that the NGOs have funds to provide better salaries than the government, and skilled workers are therefore being tapped from the government, leaving it with even less capacity than before²⁸³. It is in other words a vicious circle. The UN is now trying to make up for this by including and having the government on different levels as their focal point, but their approach and the effect of this is countered by bilateral donors, who fund NGOs, who created parallel systems and institution to the ones the state is trying to make²⁸⁴.

This shows that there is a need for the funding to go to those NGOs, who intended to stay on a longer term in the country and/or are willing to cooperate with the government²⁸⁵. Otherwise, too much knowledge and energy are wasted, when projects open and close all the time, and it messes with the continuity of the coverage of the basic needs of the Haitian people. The NGOs could benefit from looking to the UN, which is already doing many projects with the government in contradiction with most

²⁸² Failed State Index 2013: <http://ffp.statesindex.org/rankings-2013-sortable> [accessed 3 April 2014] and Fragile State Index 2014: <http://ffp.statesindex.org/rankings-2014> [accessed 27 June 2014].

²⁸³ Zanotti, 2010, p. 759.

²⁸⁴ Zanotti, 2010, p. 760.

²⁸⁵ Zanotti, 2010, p. 761.

NGOs both in their response after the earthquake²⁸⁶ and in the development phase²⁸⁷. Though the presence of UN in Haiti is not completely unproblematic because of the cholera epidemic that cost them some credibility and trust in the country, they are doing some things right.

The tentative conclusion is then that the Haitian government should be trusted to fulfil their job as the legally responsible entity to cover the Haitian people's needs. Yet, the NGOs definitely have a role to play, because the shift from the NGOs as the de facto duty-bearer to the Haitian state will take time, and the state probably will not have the funds to fully carry the responsibility in the near future.

7. How to Fulfil this Responsibility?

Another question is how to fulfil this responsibility. How are the actors to complement each other to rise to the occasion and fulfil and implement the rights of the Haitian people? Where and why does the current approach fail?

7.1. Corporation between NGOs and the Haitian State

The earlier discussion about who is best suited to carry the responsibility of avoiding the human rights violations of the Haitian women in particular and the Haitian people in general and ensure their rights are protected in the future showed that there is a need for a greater corporation between the NGOs and the government. Next, two very different but good examples of how this can be done, will be presented. The two chosen organizations are Partners in Health and Fonkoze, though it should be mentioned that they are not the only organizations, which are doing good, long-term work and cooperate with the state in Haiti²⁸⁸. Partners in Health – also known as Zanme Lasante – is an organization, which works to provide free and good health care for all, who need it, while Fonkoze works to alleviate poverty in the country through micro-credit and literacy services connected to this. They both have local roots, a great connection with

²⁸⁶ Office of Coordination of Humanitarian Action, 2010, p. 63.

²⁸⁷ United Nations in Haiti: <http://www.onu-haiti.org/joint-programmes/rehabilitation-of-neighborhoods-and-voluntary-return-from-camps/> [accessed 3 June 2014]

²⁸⁸ Zanotti, 2010, p. 762.

an international network of supporters, and their aim and goal is to focus on the poorest in the country. This gives them a local accountability and a needed international influx of money²⁸⁹.

7.1.1 Partners in Health

Partners in Health began their work to provide free health care to poor people in Haiti on the Plain Centrale in the 1980s²⁹⁰. They have now grown to be the primary health care provider in the area and are serving more than 1,2 million of the Haitian people. This is about a tenth of the Haitian population. They have a five-point approach, which is to provide access to primary health care, provide free health care and education, rely on community partnership, address social and economic needs, and to serve the poor through the public system²⁹¹. In other words, they have a holistic and including approach. It is not ‘just’ healthcare, but they believe in order to make the Haitian people healthier they should not only focus on the physical aspect. In addition, they importantly focus on collaboration with the local communities and the state. As part of their holistic approach, they extended their work with an agricultural branch called Partner in Agriculture (Zanmi Agrikol) in 2002 as a way to address such troubles as clean water and malnutrition, which have a great effect on the health of the Haitian people. They were also part of the response to mitigate the crisis that the reverse urbanisation after the earthquake has created²⁹². About 600,000 people took part in this mass movement to the countryside²⁹³.

One important point is that in contradiction to some other NGOs, Partners in Health do not charge for any of their help²⁹⁴. In addition, the NGO swears to employ local community health workers, which they again in opposition to most NGOs pay with money rather than food to support the local economy. Partners in Health also use mobile clinics rather than stationary ones to reach their patients better. Lastly, but importantly,

²⁸⁹ Zanotti, 2010, p. 761.

²⁹⁰ Zanotti, 2010, p. 762.

²⁹¹ Zanotti, 2010, p. 763.

²⁹² Zanotti, 2010, p. 764.

²⁹³ Dumany, 2011, p. 1195.

²⁹⁴ Zanotti, 2010, p. 764.

as mentioned earlier this is all done in some kind of corporation with the state, which the organization finds essential²⁹⁵.

7.1.2. Fonkoze

Fonkoze has a similar focus on the needs of the poorest Haitians, while still maintaining a tight relationship with the international donor community. They are long-term and apply a holistic approach as well. The organization was founded in 1994²⁹⁶, and by the end of 2013 they had about 222,016 saving clients, 64,355 loan clients and they have disbursed about \$30,100,000 in loans. In addition, 96% of their branches are based outside Port-au-Prince²⁹⁷. The loans are most of them less than US\$ 200. The idea is not only to help the individual, but also to strengthen the overall economy of Haiti. Their holistic approach is also seen in how they offer education in business, health, human rights, etc. along with their loaning business²⁹⁸. Lastly, they have a special programme for the ‘ultra-poor’ as Fonkoze calls them. This includes training so the participants, often women, can ‘graduate’ to receive a loan after 18 months. Fonkoze also adopted a creative approach to the post-hurricanes situation in 2008, when many of their loaners lost their crops or similar. Fonkoze managed to raise US\$ 4 million from international donors to give loans to these people, who had lost their income and thereby their means to repay the loans, and extended the repay period. This has paid off, as about 80% of these loans have now been repaid. After the earthquake Fonkoze was fast to reopen most of their branches, which ensured a flow of US\$ 2 million to enter the country²⁹⁹.

7.2. A Holistic Approach

When the importance of corporation between the NGOs and the government is emphasised, there are a few other general and important points to be mentioned about how the approach for Haiti should be constructed. One is that the approach has to be holistic. The two examples of Partners in Health and Fonkoze both show that in order to

²⁹⁵ Zanotti, 2010, p. 765,763.

²⁹⁶ Zanotti, 2010, p. 766.

²⁹⁷ Fonkoze homepage: <http://www.fonkoze.org/why-it-matters/key-statistics/> [accessed 6 June 2014].

²⁹⁸ Zanotti, 2010, p. 767.

²⁹⁹ Zanotti, 2010, p. 768.

address one issue in a society you have to approach it as part of a larger context. Nothing stands without a context, and this context has an impact on the lesser part of the whole that is the context. Primary health is much more effective, if it for example is followed by education and protection against malnutrition as the example with Partners in Health shows. One has to understand the complex interconnections that the Haitian – and any other societies – are made of in order to provide a functioning help. Therefore, all approaches have to be country and culture specific, which can be achieved by a participatory approach, both of which will be explored and expanded on further down.

An important aspect of the holistic approach is that in order to for example help the women, you have to help the men. It is all connected like health care, education and malnutrition. In order for a development project or an emergency response to be successful, it has to incorporate this into it. A good example of the interconnection of men, women and children is when focusing on protecting women from GBV and domestic violence in the aftermath of a natural disaster. The focus tends to be on the women and a reactive reproach, while research has shown that many men are traumatized by the event – the same as the women – but it is causing them to be violent³⁰⁰. GBV can thereby be proactively reduced by offering psychosocial support to the men. The approach has to address the source of the violence and not only treat the victim to stop it. It is important, when considering the emphasis on a holistic approach not to forget the men, when focusing on the women. As mentioned it is all connected. There has to be a balanced inclusion of all stakeholders in order for it to work³⁰¹. Therefore, it is important to include and improve the conditions for all involved, even if your focus is first and foremost on one group, as with the scope of this thesis focusing on the situation of the women in Haiti.

Another aspect of a holistic approach is to think of development not just as economic development. The human development approach was a response to the economic focus of the 80s. According to the approach, human development includes all aspects of

³⁰⁰ Vess, Barker, Naraghi-Anderlini & Hassink, 2013, p. 7.

³⁰¹ Blomstrom, Cunningham, Johnson & Owren, 2009b, p. 4.

development equality, productivity, sustainability and empowerment. It is thereby a bottom-up approach, rather than the typical economic development approach, which believes that the economic development and general development automatically will 'trickle down' through society³⁰². The index is the first to consider both social and economic issues³⁰³. Haiti had just reached the medium level country group on the index in 2006³⁰⁴. The earthquake changed this and they are now back in the low development country group with an index of 0,456. This ranks Haiti as 161st in the world³⁰⁵. It has actually not been so low since 1990³⁰⁶. This is an applicable approach, as it places much an emphasis on equality, which is relevant for Haiti, as gender equality is one of the largest obstacles to a general development of Haiti. In addition, it takes the focus from being merely economic and acknowledges that all aspects of development are interlinked and important. Lastly, the approach has given good results in other developing countries, even in the situation of the aftermath of an economic crises and a natural disaster. Examples are from Indonesia, India and Sri Lanka, and have all been suggested as an applicable approach in Haiti. They may all be Asian countries, but the comparison is valid, as all except India are islands prone to natural disaster and medium development countries on the human development index like Haiti was before the financial crisis and the earthquake. The three countries have all applied gender equality to their development strategy with success³⁰⁷. Some of the working strategies and policies they have implemented are empowerment of female-headed households, grassroots organization of health care for women and children, and consultations about development needs particularly for women³⁰⁸. These strategies and polices will be explained.

³⁰² Warnecke & Padgett, 2011, pp. 3, 14, 21-22.

³⁰³ Human Development Index: <http://hdr.undp.org/en/statistics/hdi> [accessed 14 June 2014]

³⁰⁴ Warnecke & Padgett, 2011, p. 23.

³⁰⁵ Human Development Index: <http://hdr.undp.org/en/countries/profiles/HTI> [accessed 14 June 2014]

³⁰⁶ Warnecke & Padgett, 2011, p. 23.

³⁰⁷ Warnecke & Padgett, 2011, p. 24.

³⁰⁸ Warnecke & Padgett, 2011, pp. 24, 27, 29.

7.2.1. Empowering Female-headed Households in Indonesia

First, the strategy of empowering female-headed household makes sense in the aftermath of a natural disaster, as many women might have lost their husbands to death, disease, migration or anything that might leave the woman as responsible for the day-to-day care. This was the case in Haiti as well, as in 2010 45% of all households in Haiti were female-lead. The programme focuses on creating empowerment through economic opportunities by offering microfinance, increase of savings and loan participation. It was set up like cooperatives, and it required and provided knowledge and understanding, before loans could happen. This accumulated US\$ 200,000 of collective savings in total within the project³⁰⁹. The success was tied up with extensive training, which followed the loans. The researchers also placed a tentative positive emphasis of the lack of governmental involvement financially in the project³¹⁰.

In Haiti, Fonkoze as explained earlier has been involved in doing similar projects without specific focus on female-headed households. However, they have been focusing on the poorest people in Haiti, and the figures show that these are often the female-headed households³¹¹. Fonkoze is working with the government though in opposition to the project form Indonesia, which seems only to make the project better.

7.2.2. Grassroots Organization of Health Care for Women and Children in India

Next is an example of grassroots organization of health care for women and children from India. Health care in Haiti was also already facing many troubles before the earthquake because of the unstable political situation, corruption and the insufficient infrastructure, which lead to lack of basic medicine³¹². The earthquake obviously exacerbated the situation and needs. Health has a clear impact on women's ability to perform and to participate in anything outside her traditional role in the home. The project in India focused on the women working in the informal sector, and as mentioned, many women do in Haiti as well. An association was created to secure full

³⁰⁹ Warnecke & Padgett, 2011, p. 25.

³¹⁰ Warnecke & Padgett, 2011, p. 26.

³¹¹ Amnesty International, 2013, p. 12.

³¹² Warnecke & Padgett, 2011, p.27.

employment, which meant everything from health care and housing to work and income security, and achievement of self-reliance. All was based on community-based and community-run initiatives. The government has a role in this project, but its role is mainly financial³¹³. The programme is sustainable, as it places local women in charge of the local projects³¹⁴.

The Haitian government is probably in no condition to provide much financial help, but it should definitely be involved on some level. Partner in Health's projects have some of the same traits, though they are not solely focusing on women, but they are focusing on all in need, which tends to work better, as excluding the men will not help the project. An example of this is the microfinance project in India, which only dealt with women and excluded the men, which placed women in a difficult and sometimes insecure position at home³¹⁵. In addition, the Partners in Health work closely with the government, and not on a financial basis, as the project from India, but more on a collaboration state.

7.3. A Participatory Approach and a Country and Culture Specific Approach

Next, the last example shows why it is relevant to apply a participatory approach and by extension an approach that is sensitive to the specific country and culture. The international community and the western world in particular have a tendency to apply their ideas and morals to the country in question. This was seen with the involvement of USA, when president Aristide was ousted from Haiti in 2004³¹⁶. The actual needs of the people are therefore sometimes missed, which will be discussed after the last programme example.

³¹³ Warnecke & Padgett, 2011, p. 28.

³¹⁴ Warnecke & Padgett, 2011, p.29.

³¹⁵ Leach & Sitaram, 2002.

³¹⁶ The Guardian: <http://www.theguardian.com/commentisfree/cifamerica/2011/mar/23/jean-bertrand-aristide-haiti> [accessed 2 June 2014] & Horton, 2012, pp. 298-99.

7.3.1. Consultations with the Women on their Needs in Sri Lanka

The last programme example is from Sri Lanka, and focuses on consulting the people particularly women in the local communities about their needs. The participatory approach is a good way to ensure that cultural appropriate programmes are established. The participatory approach was used in this example to construct houses in the aftermath of the tsunami. Women in particular were consulted, which led to many changes from the original designs by the organization – particularly on the kitchens and bathrooms. The women also had some more disaster resilient solutions for the roof. Construction of houses is quite a specific example, but it has also been applied in other situations with success³¹⁷. Another example of a situation, when a participatory approach was employed with success, was when the Indonesian government employed it as part of the recovery and reconstruction process after the tsunami³¹⁸. The examples show how important it is to include the local community in order to ensure that the approach has to be country and culture specific to Haiti. In Haiti, it is particularly important to take into consideration the religious and cultural system of Vodou, which as mentioned is widely spread, and it has importance for most Haitian people – if not as a religious system, then at least as a cultural one. It has many specific traditions and practices to be taken into account, or a relief or development response in Haiti will to some extent fail. For example are there specific rites for funerals, which are important for the spirit to pass on³¹⁹. These should be taken into account when dealing with the dead bodies after e.g. the earthquake. Another example from the cultural and religious system of Vodou is the Vodou priest and priestess. It is important to include and recognize them in the reconstruction process – or in the relief response, which Haiti should be hit again by a natural disaster – as they are important figures of power within the local community because of their knowledge and skills³²⁰.

In addition, it is important though to ensure that the women are included in this process. If you do not listen to the people, and just assume what they need, you end up with

³¹⁷ Warnecke & Padgett, 2011, p. 30.

³¹⁸ Leitmann, 2007, p.145.

³¹⁹ World Health Organization, 2010, p. 20.

³²⁰ World Health Organization, 2010, p. 7.

solutions that are not actually fulfilling their real needs. As an example from the aftermath of the earthquake in Haiti was that, it was assumed that people needed a shelter, which was right to some extent. The problem was that people were provided with tarps, tents and such, while what they really need was a safe space for their children and the few of their belongings, which had survived³²¹. The tents and tarps were also poor protection for women, and some women were raped in their own tents, which the perpetrators had just cut open to get to them³²².

There is also a need to include the local NGOs, as the funding seems only go to the international NGOs. This is a bad strategy, as the local NGOs have a better idea of the situation in their local community. Much local knowledge and expertise are lost this way. The international NGOs tend to make mistakes, because of this exact lack of cultural and historical circumstances in Haiti³²³.

Lastly, to underscore and sum up the importance of the participatory approach, it is essential to realize that the only way to make safer and resilient communities is to include the people. Firstly, they have first hand knowledge of what is needed, and secondly in the long run it is them who must maintain this, and therefore they need to be part of it. In addition, it is important to make sure that both genders are included in order not to reconstruct subordination of women³²⁴.

7.4. A Human Rights Based Approach

To apply a human rights based approach in Haiti is essential, as human rights are at the heart of a reconstruction like the one, which is happening in Haiti – or at least they should be. Human rights are not something that is secondary to the development and reconstruction of a country. It is not something that can come later, when the situation is under control. Human rights are there from the start, and so are the human rights violations. For example, when a people lacking proper health care, their right to

³²¹ Warnecke & Padgett, 2011, p. 29.

³²² MADRE, 2010, p. 12.

³²³ Horton, 2012, p. 300.

³²⁴ Enarson & Fordham, 2001, p. 135.

physical and mental health is violated (UDHR art. 25 & ICESCR Article 12). Human rights are at the core of development and reconstruction, and they should be treated as such.

A human rights based approach also dictates that as mentioned earlier that approach is grounded in the human rights instruments, that there is a particular focus on avoiding discrimination of vulnerable groups, and there is emphasis on participation, empowerment, and good governance³²⁵. In Haiti, this is crucial, as the analysis of women's human rights in Haiti clearly showed that the women in Haiti are being discriminated against in relation to the rights analysed; right to life, violence against women, right to health, and the right to participation. A human rights approach calls for participation of all stakeholders, which includes the women, which have been quite excluded so far, though the situation is getting better. Empowerment of women in Haiti is also needed, as they have great potential, as their ad hoc-and-as-needed organizations in the aftermath of the earthquake show. Lastly, good governance is a key to make the development blossom in Haiti, as the government and the state on all levels need higher transparency and accountability.

7.5. A Strength-based Approach

Lastly, it is important to think in terms of strengths instead of weaknesses. This is the case for both women as well as weak states. Both have been classified as vulnerable, and the focus is thereby on their weaknesses as vulnerable, rather than looking at what they actually can do, on how they can be agents of change.

To begin with the women, while focusing on the present case study of Haiti, as mentioned in the analysis of the human right situation for the women have over and over been bypassed in the recovery process – both when it comes to needs and participation³²⁶. They have been seen as vulnerable, which they are, but there is a tendency only to focus on these weaknesses instead of seeing women as a whole with

³²⁵ Hamm, 2001, p. 1011.

³²⁶ Horton, 2012, p. 300 & Warnecke & Padgett, 2011, p. 20.

both weaknesses and strengths. Women are more than capable of participating in the process as well. They have insights, talents and capacities, which are relevant in a recovery process³²⁷. This was seen with the earlier mentioned example from Sri Lanka, where the women were consulted on how to rebuild the houses after the destruction by the tsunami in the country³²⁸. In Haiti, the women also proved themselves capable, when they spontaneously created women's groups to clear the debris and cover their basic needs³²⁹.

The Haitian women also had to face a loss of dignity, status and respect, as their trauma of the earthquake was met by the terrible conditions in the camps. On top of this the media portrayed a lot of stereotypes of the poor black majority as being violent, disordered and socially and culturally deficient. The men were shown as gang members and the women as prostitutes. These stereotypes are regenerating that Haitian women are only victims, while the men are only perpetrators³³⁰. These representations call for a certain bias to appear in the viewers affecting the aid distribution. It undermines the portrayed people so that they cannot be involved in the processes and raises questions of their right to help. The victimisation of the women is reproduced for the sake of funding causing the regeneration of women's roles as victims instead of empowering them³³¹. In reality though, the women should have been portrayed as the fierce leaders and participants they were fighting for the rights of their own and the orphaned children the earthquake had caused. It could have been something to take back their dignity and respect. It could have countered the portrait of them as prostitutes and rather as working agents that did not have to beg for anything³³². However, the medias and the international organizations chose only to see women as victims, not as fighters. In other words, it was decided to focus on their weaknesses rather than their strengths, as it was believed to receive more funding to the NGOs. Though maybe, if the women had been portrayed with a sole focus on their strengths, the local NGOs and women's community

³²⁷ Blomstrom, Cunningham, Johnson & Owren, 2009a, p. 1.

³²⁸ Warnecke & Padgett, 2011, p. 30.

³²⁹ Horton, 2012, p. 304.

³³⁰ Horton, 2012, p. 302.

³³¹ Horton, 2012, p. 303.

³³² Horton, 2012, pp. 304-5.

organization would not have been as overlooked and excluded. This has only be intensified by the fact that Aristide has a lot of support in poor urban areas, and some argue that the government has been making sure that the media associates the grass roots organizations in these areas with gang criminality in order to legitimate their harsh repression of these³³³.

It must be mentioned though that women's organizations in Haiti have been fighting for higher paternal responsibility³³⁴, which has actually happened this year, as a law has been agreed on in the national parliament³³⁵. This is an example that the women have been included somewhat in the processes and been taken into consideration, but much can still be done in order to protect the rights of the human rights of the women – particularly when it comes to participation. Even though the law has been improved, it still needs to be implemented. The women have to be given an equal inclusion and consideration.

This applies to the Haitian government too, as it has been discussed in the discussion of the responsibility and capability. Many of the points relevant for this discussion were mentioned and explained then, so they will mainly be quickly repeated, but in a way that is relevant for this discussion. Then the point was made that there was a general tendency to bypass the government in favour of the NGOs, because of a lack of trust in the capability of the government of Haiti. No one expects anything from the government any more³³⁶. The focus on and the reasons for favouring the NGOs are troubles and challenges that the government of Haiti is facing such as corruption, the bad infrastructure and the missing capability of the government to fulfil the basic needs of health and education of the Haitian people³³⁷. The emphasis is thereby placed on what they are not capable of, instead of what they are capable of. As mentioned before, the national parliament has managed to adopt new policies, which are benefiting for the

³³³ Horton, 2012, p. 303.

³³⁴ Horton, 2012, p. 306.

³³⁵ CSW, 2014a.

³³⁶ Kristoff & Panarelli, 2010, p. 2.

³³⁷ Warnecke & Padgett, 2011, p. 13.

women and children. Not only policies on higher paternal responsibility have been pushed through the national parliament, but also important reforms on eliminations of all violence against women and children. Rape has been further criminalised, and gender-equality policies have been submitted to the assembly of the Council of Ministers³³⁸. The state of Haiti is in other words trying to improve the situation for its women. To return some of the critics of Haiti, both the bad infrastructure and incapability to fulfil the basic needs of the people of Haiti could be attributed to lack of funds and trust placed in the government of Haiti. It is not the only reason, but they are problems, which are hard to fix without funds. The issue of corruption is completely on the shoulders of the Haitian government, but in opposition to the NGOs, it is actually possible to hold the government accountable for this³³⁹. The argument is to trust the government and include them further, as argued before they may not be able to carry the entire burden of responsibility, but the responsibility has to slowly be shifted to the government so that the situation can become sustainable in the future. As the NGOs have no responsibility to stay, and they might be gone one day or swapped for another NGO, while the government is expected to be stationary, and it should therefore be supported.

8. Recommendations

Next, some recommendations will be made, as a way to sum up the arguments and conclusions of the analysis and the discussion. All the recommendations are based on the idea that the human rights based approach in development and relief operations is the best way to effective results for the women in particular and in general all people in Haiti. As an opening line it has been mentioned that countries are different and people are different, and therefore they require different strategies and solutions. The recommendations are therefore specific to Haiti, as there are already many guidelines in place to protect women such as the topic-specific guidelines for humanitarian action, gender-based violence and gender sensitive approaches such as “*Humanitarian Charter and Minimum Standards in Humanitarian Response*”, the many GBV ones for example

³³⁸ CSW, 2014a.

³³⁹ de Feyter, 2009, p. 84.

“*Handbook for Coordinating GBV Interventions in Humanitarian Settings*” and similar. The difference of and the idea with this set of recommendations are that they are country specific to Haiti, which is important, as general guidelines are very useful, but social, socio-economic and gender structures differ from country to country, so country specific guidelines are needed to improve women’s rights in the country, so more aspects are taken into consideration. The recommendations are divided into four different categories. One for the government of Haiti, one for the actors in the country, one for the donors and lastly a general set of recommendations to improve women’s rights, which can all be deducted from the case study of Haiti.

8.1 Recommendations for the Government of Haiti

First, a set of recommendations for the government of Haiti will be presented, as they are technically and legally the ones carrying the responsibility for the fulfilment of the rights of the Haitian women.

I. On a legal plan, it is important that the government of Haiti makes a commitment to follow the seven UN resolutions for peace and security for women; in particular 1325 and 1880. The use of these resolutions can be justified, as it has been argued that the situation after a natural disaster tends to be somewhat similar to the one after an armed conflict. Particularly in Haiti, it can be argued that the general situation in Haiti, the number of died and displaced people during the earthquake, and the ever present threat of GBV in the camps among other reasons exceeds some of the situations after an conflict situation. They are very relevant for the situation in Haiti, as they call for protection, prevention and participation of women, which is still missing for the women in Haiti. In addition, the government should not only commit itself on a legal plan, but also try to incorporate them in practice, which seems to be the general issue for the resolutions³⁴⁰.

II. Still on the legal plan, Haiti should commit to the 56/2 resolution from CSW concerning ‘gender equality and the empowerment of women in natural disasters’.

³⁴⁰ Rosenberg, 2012, pp. 6-7.

This resolution calls for higher focus on and inclusion of women in all stages of the disaster cycle in the aftermath of natural disasters, as it acknowledges that women are often harder hit than men. Lastly, it also calls for the governments to review and adjust their national policies to be more sensitive to women³⁴¹. These are all initiatives that the women in Haiti could benefit from.

III. Lastly, the Haitian government have to ensure that the legal system is working and accessible for women as well. The legal system has a tendency to undermine crimes like rape, and domestic violence is not even considered a crime³⁴². As these are crimes, which often – but not always – affect women, women often have trouble getting help from the legal system. The women generally have trouble accessing the legal system³⁴³.

8.2. Recommendations for All Actors Working in Haiti

Next, a set of recommendation for all actors working in Haiti; including the government will be created, as there are some overlap with the recommendations of the different actors. First, there will be focus on the four rights analysed in the human rights analysis and then some more general recommendations for Haiti will be presented.

8.2.1. Rights Specific Recommendations for Haiti

I. The Right to Rife

It is important to ensure equal access to the services and enjoyment of all human rights for women, as it has been shown that the right to life is tied up with the general enjoyment of human rights for women³⁴⁴.

II. The Right not to Experience GBV

³⁴¹ CSW, 2014b, pp. 1,3.

³⁴² US Department of State, 2011 & Warnecke & Padgett, 2011, p. 18.

³⁴³ Horton, 2012, p. 301.

³⁴⁴ UN Women Watch, 2009, p. 9.

Women need to be included in the different reconstruction processes to avoid such situation, which was mentioned in the analysis, where the male dominated local society organization was chosen over the female ones, which placed the men in a strong position of power³⁴⁵. **Women have to be less dependent on men like before the earthquake**, which could avoid some of the GBV happening³⁴⁶. This can be done by helping the women to re-enter the working force and educating them better³⁴⁷. **Women have to have better conditions in the camps**; this includes better light, separate toilets, and better shelters than tents and tarps³⁴⁸. **Men have to get help, when they are experience post-traumatic disorder** in a way that is not stigmatizing for them, as it could decrease the level of violence against the women. The level of post-traumatic stress disorder is as mentioned high after the earthquake for both men and women³⁴⁹. It is a known fact that men who experience post-traumatic stress disorder have a tendency to violence³⁵⁰.

III. The Right to Health

The parallel health system of Vodou has to be taken into consideration, when creating a health system in Haiti in order not to duplicate the work done in this system. In addition, **it is essential to ensure that the system is not discriminating women**, as Haiti has been accused of before by the Inter-American Human Rights Committee, because its lack of health care for mothers and pregnant women³⁵¹. It is important that health for women is ensured, as it has implications for the enjoyment of other rights³⁵².

IV. The Right to Participation

Empowerment of women and consulting them on their needs is essential, as feminization of poverty as the analysis showed is a phenomenon, which is happening in

³⁴⁵ Horton, 2012, p. 300-1.

³⁴⁶ Immigration and Refugee Board of Canada, 2013.

³⁴⁷ Human Rights Watch, 2011, p. 50 & Bloem and Miller, 2013, p. 150.

³⁴⁸ Amnesty International, 2013, p. 13 & MADRE, 2010, p. 12.

³⁴⁹ Cénat & Derivois, 2014.

³⁵⁰ Vess, Barker, Naraghi-Anderlini & Hassink, 2013, p. 7.

³⁵¹ Human Rights Watch, 2011, pp. 12-13.

³⁵² UN Committee for Economic, Social and Cultural Rights, 2000, article 1.

Haiti³⁵³. Women have been quite overlooked and ignored in the reconstruction period after the earthquake, despite the fact they had the capacity and helpful insights, which could have been useful³⁵⁴. The inclusion of women is also important to prevent the reconstruction or construction of a social and cultural system, which undermines and subordinates women³⁵⁵. **Women need to become more literate**, at least to the same level as men, because if they do not have the same access as men it is discrimination. It is holding the women back to be illiterate on such a high level compared to men³⁵⁶. Women are less literate, because of less access than men and the lack of control over their own reproduction³⁵⁷. This is therefore the last recommendation for increasing the participation of women; **women need to be able to control their own reproduction**. The high fertility rate keeps the women occupied at home, because of the gendered division of labour³⁵⁸.

8.2.2. General Recommendations for Haiti

I. **The government and the NGOs need to corporate.** They need to work more closely together, and they need to do this better. This has been done with some projects e.g. with the NGO Partners in Health's collaboration with the government to make public health clinics³⁵⁹ or the flash appeal after the earthquake from the UN, in which every cluster had responsible governmental department and a responsible NGO or UN agency, which were to collaborate³⁶⁰.

II. **The approach to the reconstruction of Haiti needs to be centred on human rights.** Amnesty International has also called for the government of Haiti to place human rights in the centre of reconstruction efforts and integrate human rights into the national policies – not just a afterthought or forgotten completely. In other words,

³⁵³ CSW, 2014.

³⁵⁴ Horton, 2012, p. 304.

³⁵⁵ Enarson & Fordham, 2001, p. 135.

³⁵⁶ Bloem and Miller, 2013, p. 150.

³⁵⁷ Warnecke & Padgett, 2011, pp. 17-18.

³⁵⁸ Amnesty International, 2013, p. 6.

³⁵⁹ Kristoff & Panarelli, 2010, p. 3.

³⁶⁰ Office for Coordination of Humanitarian Action, 2010, p. 63.

Amnesty is calling for a human rights based approach³⁶¹. There is a need to avoid discrimination of vulnerable groups like women, to focus on participation, empowerment and good governance³⁶².

III. The approach to the reconstruction of Haiti has to be more holistic and has to include everyone through a participatory approach. The needs of all groups have to be considered and the connection between these. This means all groups, women, men, children, the ones hit by the earthquake, those not and so on. As discussed earlier you cannot help the women without helping the men, as they are interconnected. You have to go to the source, instead of constantly trying to fix the problem on a reactionary basis. In addition, you have to include everyone and consult him or her on his or her needs through a participatory approach³⁶³.

8.3. Recommendations for the International Donors

I. The international donors have to believe more in the strengths of the Haitian government. The donors will have to begin relying more on the capacity of the Haitian government instead of constantly bypassing them, which is only deteriorating the situation further for the Haitian government³⁶⁴. They have to place some trust in the government, so the government have something to live up to. They have to focus on their strength, not their weakness.

II. The donors have to be better at implementing gender in their policies in Haiti. As mentioned earlier in the discussion of responsibility and capability of the NGOs and the Haitian government, some of the largest donors to Haiti have failed to implement gender in their policies and projects in Haiti. This is despite that they generally have a clear gender element in their policies³⁶⁵.

³⁶¹ Amnesty International, 2013, p. 32.

³⁶² Hamm, 2001, p. 1011.

³⁶³ Blomstrom, Cunningham, Johnson & Owren, 2009b, p. 4.

³⁶⁴ Kristoff & Panarelli, 2010, p. 1.

³⁶⁵ Rosenberg, 2011, p. 4.

7.4. Recommendations for the UN to generally Improve Women's Rights

Lastly, a general recommendation for the UN in order to improve the basis for implementation for human rights for women will be mentioned.

I. The UN could underline the importance and may be expand the scope of the resolution 56/2 'gender equality and the empowerment of women in natural disasters'. Commission on the Status of Women has as mentioned adopted a resolution called 56/2 concerning 'gender equality and the empowerment of women in natural disasters' should be promoted and requested by all relevant UN agencies and departments and UN countries to follow. It would probably be a stronger impact, if the UN made a commitment to the resolution, so it was not only the CSW, who is behind it. In addition, the resolution would benefit from having some of the same focus that the seven UN resolutions for peace and security for women on protection, prevention and participation.

9. Conclusion

As the recommendations have summed up many of the arguments made in this thesis, this conclusion will mainly focus on the broader lines. However, it will still be on a country specific basis, as the particular situation in Haiti is of course to consider when trying to improve the situation. In addition, any attempt to change the situation has to be made in consideration of cultural and social circumstances. Here are some broader lines to consider that are still country specific to Haiti.

Firstly, there is a tendency to address and classify people, specific groups of people and countries as vulnerable. This indicates that these are in a special need and should be taken particularly into account. This is fine the problem arises when the further assumption is that these are not able to act or to have any real influence on things. They are only considered victims and not actors or agents of change. This thesis has focused on two such examples of classification. First, the group of women which are often thought of as a vulnerable group, which implies a certain degree of helplessness and no real agency. Second, the state of Haiti, which is considered by many a failed or weak

state that is incapable of any real action. They are therefore constantly bypassed and disregarded, which only creates a self-enforcing effect. Both women as a group and Haiti are addressed and viewed on the basis of their weaknesses and not their strengths. They are to be helped, because they are incapable of helping themselves. This is a vicious circle, which needs to be broken. Anything else is not respectful to the women and their abilities.

This resonates with the analysis of the violations of the human rights for women, as this showed that these were based on discrimination, and there was a clear need for participation of the women and faith in their capabilities as agents of change. The women were overlooked, despite their clear capabilities and their situation deteriorated as a consequence. Some of the violations could definitely have been avoided by inclusion, consultation and participation of the women.

The last argument to be made is that human rights are not an add-on when the situation has become 'better' or more 'stable'. Human rights are at the very heart of the issue. They are not higher up in the needs hierarchy; it is part of every step. It is important to realize this and incorporate it into the effort – be it development or relief work.

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<https://doi.org/20.500.11825/458>

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