**RAD File / Dossier de la SAR : MB926401**

**MB926402**

***Private Proceeding / Huis clos***

**Reasons and decision** - **Motifs et décision**

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| **Persons who are the subject of the appeal** | **Elisabeth Rouzier and Olivier Duclair** | **Personnes en cause** |
|  |  |  |
| **Appeal considered / heard at** | Montreal, QC | **Appel instruit / entendu à** |
|  |  |  |
| **Date of decision** | March 3, 2021 | **Date de la décision** |
|  |  |  |
| **Panel** | Me Reisa Khalifa | **Tribunal** |
|  |  |  |
| **Counsel for the persons who are the subject of the appeal** | Murhula Jugauce Mweze | **Conseil des personnes en cause** |
|  |  |  |
| **Designated representative** | N/A | **Représentant(e) désigné(e)** |
|  |  |  |
| **Counsel for the Minister** | N/A | **Conseil du ministre** |
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**REASONS FOR DECISION**

**OVERVIEW**

1. **Elisabeth Rouzier** (Principal Appellant) and her husband, **Olivier Duclair** (Associate Appellant), both citizens of Haiti, are appealing the negative decision rendered in their case by the Refugee Protection Division (RPD) on October 3, 2019.
2. The determinative issues for the RPD with respect to the Principal Appellant were credibility, regarding her allegations of persecution for imputed political opinion in Haiti, and failure to prove forward-facing harm in her fear of return to Haiti, regarding her allegations of sexual assault. With respect to the Associate Appellant, the determinative issue was exclusion under sections 1E of the *Convention* and 98 of the *Immigration and Refugee Protection Act* (IRPA).
3. The Appellants argue that the RPD erred in its findings regarding the Principal Appellant’s allegations of persecution for treating the injured at political protests, because its credibility concerns were of minor issues that were adequately explained during her testimony. The Appellants argue that the RPD erred in its findings regarding the Principal Appellant’s allegations of prospective risk resulting from her sexual assault, because it had failed to assess the objective documentary evidence regarding the situation for women who fear gender-based violence in Haiti. The Appellants argue that the RPD erred in finding that the Associate Appellant was excluded, as it had erred regarding his access to permanent resident status in Brazil, that he had rebutted the presumption of adequate state protection in Brazil and had no viable internal flight alternative (IFA) there, and that his allegations of prospective risk in Haiti are credible.
4. I find that the RPD did not err in its negative credibility findings regarding the Principal Appellant’s allegations of persecution for imputed political opinion in Haiti.
5. I find that the RPD did err in its findings regarding the Principal Appellant’s prospective risk as a woman who was the victim of a sexual assault in Haiti, based on the objective documentary evidence when applied to her personal situation. I find that the Principal Appellant has produced credible evidence that she faces a serious possibility of persecution in Haiti based on her membership in a particular social group, namely women who fear gender-related persecution; that the presumption of adequate state protection has been rebutted; and that there is no IFA in Haiti that would be safe and reasonable for her as a victim of sexual assault who has been threatened by her attackers and the police, based on her credible personal evidence and the objective documentary evidence.
6. I find that the RPD did not err in its finding that the Associate Appellant is excluded under sections 1E of the *Convention* and 98 of IRPA.

**DECISION**

1. The appeal is allowed for the Principal Appellant. I substitute my own decision that the Principal Appellant is a *Convention* refugee.
2. The appeal is dismissed for the Associate Appellant. I confirm the determination of the RPD that the Associate Appellant is neither a *Convention* refugee nor a person in need of protection.

**NEW EVIDENCE**

1. No new evidence has been provided to the Refugee Appeal Division (RAD) and there has been no request for an oral hearing.

**ROLE OF THE RAD**

1. When reviewing the RPD decision, I independently assessed the evidence, including listening to the audio recording of the RPD hearings of September 5th and 20th, 2019, and reviewing the transcripts of the hearings, to determine whether or not the RPD was correct in relation to each alleged error of law, of fact, or of mixed law and fact.

**ANALYSIS**

1. I will first assess the RPD’s finding that the Principal Appellant is not excluded under sections 1E of the *Convention* and 98 of IRPA, before conducting an analysis of the Principal Appellant’s credibility regarding her allegations of persecution in Haiti due to her imputed political opinion; then consider the Principal Appellant’s prospective risk in Haiti due to her credible sexual assault allegations; and, finally, assess the 1E exclusion of the Associate Appellant.

**RPD’s finding that the Principal Appellant is not excluded under 1E of Convention**

1. The RPD found that the Principal Appellant was not excluded for her right of permanent residence in Brazil, as indicated in the Brazilian visa in her passport, because the rights and conditions attached to that visa meant that her status was not substantially similar to that of its nationals.
2. The Appellants did not contest this finding.
3. When assessing the evidence, I am in agreement with the finding of the RPD in this regard. The RPD had determined that the Principal Appellant’s status in Brazil was precarious, rather than permanent, due to the requirement that she be employed in order to maintain her status. This requirement is indicated in the objective documentary evidence regarding the conditions attached to her Brazilian visa.[[1]](#endnote-1) In considering the interpretation of “the rights and obligations which are attached to the possession of the nationality” of the country of residence as set out in *Shamlou[[2]](#endnote-2),* the requirement to work as a condition of maintaining one’s status has been found to constitute a precarious status, rather than a permanent one, as discussed in *Alsha’bi*[[3]](#endnote-3) .In applying the test in *Zeng[[4]](#endnote-4)*, I find that the Principal Appellant therefore did not have status that was substantially similar to that of nationals on the date of the hearing, nor did she previously have such status and lose it, nor did she have access to it and fail to acquire it, because of the nature of the status that was attached to her visa. When considering the particular situation of the Principal Appellant, whose status was dependent on having a job in Brazil, the RPD finding is therefore correct.
4. I conclude that the Principal Appellant is not excluded under sections 1E of the *Convention* and 98 of IRPA.

**Credibility of Principal Appellant regarding fear of return to Haiti because of imputed political opinion**

1. The RPD found that the Principal Appellant was not credible regarding her allegations of being targeted for her voluntary work as a nurse who treated the injured at protests in Haiti, due to important contradictions, inconsistencies and omissions between her Basis of Claim (BOC) form and testimony, as well as contradictions within her testimony, that were not adequately explained.
2. The Appellants argue that any problems with the Principal Appellant’s testimony or BOC were minor and that the RPD failed to consider Haitian culture and widespread problems with documents in Haiti, which meant that the RPD should not have used any contradictions or omissions between a document and her testimony or BOC against her in determining her credibility.
3. I find that, as discussed below, the credibility problems that had been raised by the RPD were not minor, in fact, they were at the core of the Principal Appellant’s allegations, and that the explanations provided were themselves incoherent and contradictory, therefore far from satisfactory. I agree that this undermined her credibility regarding her allegations of persecution for treating the injured at political protests. I find that the documentary evidence provided by the Principal Appellant, including her BOC form,[[5]](#endnote-5) her birth certificate[[6]](#endnote-6) and marriage certificate[[7]](#endnote-7) do not address these credibility concerns or outweigh them as corroborative evidence.

*Omissions and contradictions regarding alleged agent of persecution*

1. The RPD found that the Principal Appellant’s credibility was undermined because she had not indicated in her BOC or testified at her first opportunity that she feared Jean-Baptiste Laforest and that he had threatened her with death, only mentioning this later during the hearing.
2. The RPD also found that the allegations of the Principal Appellant during her testimony regarding Jean-Baptiste Laforest contradicted allegations in her BOC.
3. While the Appellants did not contest the initial omission in her testimony, or that there were contradictions between the testimony and the BOC, they argue that these were not important.
4. During the hearing, the Principal Appellant was asked who she fears if she were to return to Haiti and she answered that she feared the bandits who had sexually assaulted her and Paulette Bouchereau. Specifically, she referred to the three bandits who had broken into her home and said that they would kill her if she were to return to Haiti. When asked if she feared anyone else in Haiti, she answered, “Pierre Vastey”.[[8]](#endnote-8) About fifteen minutes later, the Principal Appellant testified that Jean-Baptiste Laforest and Pierre Vastey had threatened her for treating people who were injured at the protests, that they had “risen up” against her.[[9]](#endnote-9)
5. In her BOC, the Principal Appellant had not identified Jean-Baptiste Laforest as an agent of persecution. To the contrary, she had written that he was her cousin, that he was a member of the opposition, and that she had attended closed-door meetings with him, during which he had encouraged her to fight against the regime in place, which was described as corrupt and responsible for causing the suffering of Haitians.[[10]](#endnote-10)
6. The Principal Appellant had also written that Jean-Baptiste Laforest was an enemy of Pierre Vastey, who was an advisor to the government in power at the time, and that a member of Pierre Vastey’s entourage had threatened her with death.[[11]](#endnote-11) There was no mention in her BOC of any threats from Jean-Baptiste Laforest or that he had joined Pierre Vastey in threatening her.
7. When given the opportunity at the beginning of the hearing to add information that had been omitted from the BOC, she did not do so.[[12]](#endnote-12)
8. One version is thus provided in the Principal Appellant’s BOC of Jean-Baptiste Laforest as someone who was a family member that had encouraged her to rise up against the government in power, with whom she had attended closed-door meetings during which political activism was discussed, who was a member of the opposition, and who was specifically an enemy of Pierre Vastey.
9. This is a complete contradiction to the version provided by the Principal Appellant during the hearing, when she testified that Jean-Baptiste Laforest and Pierre Vastey had both threatened her and both did not want her to help the injured at protests.
10. When given the opportunity to explain this contradiction, she answered that when she prepared her BOC, she had been under stress and therefore had not written everything in her BOC.[[13]](#endnote-13)
11. The Principal Appellant was also asked to explain why, during the hearing, she had testified that Jean-Baptiste Laforest and Pierre Vastey had held a meeting together during which they had threatened her, which was not in her BOC, and which seemed inconsistent with the information she had given in her BOC, that the two men were enemies and that it would seem unusual for them to hold a meeting together where she was asked to attend. She answered that in Haiti, if it was “this type of meeting”, then both men would have attended, without explaining the type of meeting to which she had been referring.[[14]](#endnote-14)
12. When I consider the contradictions and omission regarding the people who she alleges had targeted her for treating people at the protests, I find that they are important and that the RPD did not err in its negative credibility finding. The notion of who the Principal Appellant fears is at the heart of her claim, and I consider that she did not provide satisfactory explanations as to why there were contradictions between the allegations about the agents of persecution in the BOC and her testimony. I find these two versions to be irreconcilable, and the Principal Appellant’s explanation of being stressed does not address the existence of two completely different versions. It is one thing to say that you have omitted a specific detail due to stress and quite another to say that you have created two completely different versions of the same story due to stress, which I consider is a situation that calls into question the credibility of the allegations.

*Contradictions regarding treatment of injured at protests*

1. The RPD found that the Principal Appellant was not credible due to the contradictions and evolution of her allegations that she had been targeted due to her providing treatment to people who had been injured at the protests.
2. The Appellants do not contest that the Principal Appellant’s testimony contained contradictions but argue that she provided reasonable explanations and that the contradictions were not so significant as to undermine her credibility.
3. The Principal Appellant wrote in her BOC that during the 2013 political protests, there had been lots of injured people who did not want to go to the doctor and that she had provided them with nursing care outside a hospital in St. Marc.[[15]](#endnote-15) She added in her written narrative that she volunteered “so as to avoid the death of the protesters who had been injured and were afraid to go to the hospital so as to avoid being arrested.”[[16]](#endnote-16) Furthermore, she wrote that she “treated them with staff of the opposition, because her cousin had been a member of the opposition” and had told her to always fight the regime in power.[[17]](#endnote-17) The fact that the people she allegedly treated were protesters was thus clearly indicated in her BOC narrative.
4. During the hearing, the Principal Appellant at first testified that she had treated protesters, which led to her being targeted for death.[[18]](#endnote-18) When she was asked why Jean-Baptiste Laforest would have threatened her for helping protesters, when he was allegedly the one who had told her to rise up against the government, she answered that the people that she had treated were in fact not protesters.[[19]](#endnote-19) She said that she was treating people who were passersby or merchants who owned shops in the area of the protests. When she was asked to explain this contradiction, the Principal Appellant replied that in Haiti, when a person is injured during a protest, that person will be referred to as a protester.
5. I find that the explanation of the Principal Appellant is not satisfactory. Once again, she is presenting two completely different versions of the same story: the one, in which she is allied with the protesters and helping them because they do not want to go to a hospital to seek medical treatment; the other, that she is treating passersby who were not involved in the protest. However, her answer as to why Jean-Baptiste Laforest would have objected to her treating protesters, when she said that she was not treating protesters but people who just happened to be in the vicinity of the protest, does not explain the contradiction regarding Jean-Baptiste Laforest and also creates a further contradiction to the specific allegations in her written BOC, that she had to help the protesters because they were afraid that they would be arrested if they sought treatment after the protests at the hospital.
6. I therefore find that the RPD did not err and that this represents significant problems at the core of the Principal Appellant’s allegations that undermine her credibility.

*Threats by police because of treatment of injured at protests*

1. The RPD found that the Principal Appellant was not credible in her allegations that she had been threatened by police due to contradictions between her testimony and BOC, and omissions in her BOC of allegations that were in her testimony.
2. The Appellants do not contest the contradictions and omissions referred to in the RPD’s decision but argue that they were reasonably explained by the Principal Appellant and that they were not significant.
3. At the RPD hearing, the Principal Appellant initially testified that she had not been threatened by the Haitian police, which contradicted the written narrative in her BOC wherein she had alleged that she had been threatened by police for her involvement in helping people who had been beaten by police at protests.[[20]](#endnote-20) When asked to explain this contradiction, the Principal Appellant at first replied that when she went to police to file a complaint against the bandits for the sexual assault, the police had told her to leave the police station or they would call the bandits. The RPD then asked a second time if she had been threatened by the police, and she said that she had. When asked to explain the contradiction, she said that it was the way she had been asked the question at the hearing.[[21]](#endnote-21)
4. When then asked to explain this omission from her BOC, her answer was that she had been stressed and that she had thought that she had written it. The RPD found that this explanation was unsatisfactory and that it pertained to an important omission.
5. The Principal Appellant’s description in her BOC of her visit to the police station after the sexual assault includes a reference to some rude remarks that the police had made and alleges that they had said that it would be impossible to follow up because the bandits had been masked.[[22]](#endnote-22) There was no mention of them threatening to call the bandits if she did not leave.
6. When I consider the nature of this omission, I do not think that it is a material omission, but rather an omission of a detail. The Principal Appellant had included in her BOC specific, rude statements that the officers had made to her, after telling her that they could not follow up on the investigation. Such remarks included that the Principal Appellant thought that she was the Queen of St. Marc, as well as an expression stating that water that might appear to be clear could be dirty, which appears to be a derogatory comment against her integrity.[[23]](#endnote-23)
7. This allegation is corroborated by the objective documentary evidence, as discussed below, that police officers are often dismissive of women’s attempts to file a complaint about sexual assault and that they tend to refuse to investigate sexual assaults committed by masked or unidentified individuals, even though they are supposed to investigate such complaints. Rather than undermining her credibility, I think that her testimony about what the officers told her at the police station is consistent with the allegation that they treated her rudely and refused to hear her complaint.
8. I find that the omission from the BOC narrative of the threat by police when she visited the station to report the sexual assault and they wanted her to leave, does not undermine her credibility regarding her allegation of a lack of state protection by the Haitian police.
9. In that context, I find that she has put forward credible evidence that the police refused to help her, were rude to her in her attempt to file a complaint about a sexual assault, and threatened to contact her aggressors if she did not leave.
10. I do think that the Principal Appellant has established, on the balance of probabilities, that the police threatened to call the bandits if she did not leave the police station when she attempted to file a complaint about the sexual assault. I therefore find that the RPD erred in its conclusion that the Principal Appellant was not threatened by police. The RPD made no negative credibility findings regarding the allegation of police refusal to help the Principal Appellant in her complaint for sexual assault, and after reviewing the evidence, I find her credible in this regard as well.
11. I do not think that the Principal Appellant has established, on the balance of probabilities, that this threat by the police was linked to her alleged treatment of the injured at political protests. I consider that on the balance of probabilities, this threat was linked to her trying to file a police complaint for sexual assault.

*Conclusion regarding credibility of Principal Appellant regarding fear of return to Haiti because of imputed political opinion*

1. I find that the RPD was correct in its negative credibility findings regarding the omissions and contradictions about one of the agents of persecution; the contradictions regarding the treatment of injured at protests; and the omissions and contradictions regarding the threats by police connected to her treatment of the injured at protests. I find that the RPD erred in its negative credibility finding that the Principal Appellant was not threatened by police.

**Principal Appellant’s fear of return to Haiti as a woman who fears gender-based violence**

1. I have applied the *Chairperson’s Guideline 4* – *Women Refugee Claimants Fearing Gender-Related Persecution* (the Guideline)in my analysis.
2. The RPD raised no negative credibility findings regarding the Principal Appellant’s allegations that she had been sexually assaulted in Haiti in August 2013, but found that she had not put forth enough elements of proof to establish the objective basis of her claim of a fear of return to Haiti.
3. The Appellants argue that the RPD erred in finding that she had not proven the objective basis of her claim, because it had failed to take into account the relevant objective documentary evidence, particularly the absence of adequate state protection for victims of gender-based violence in Haiti[[24]](#endnote-24), that it had not properly applied Guideline 4 regarding women who fear gender-based violence and that it had erred in concluding that she did not have the profile of a vulnerable woman.
4. I find that the RPD erred in its application of Guideline 4, specifically in failing to consider the objective documentary evidence regarding women who fear gender-based violence in Haiti, when assessing the personal situation of the Principal Appellant. As a result, the RPD erred in its conclusion that the Principal Appellant does not meet the profile of a vulnerable woman and that she does not face a prospective risk in Haiti. Consequently, the RPD also erred in not assessing state protection for the Principal Appellant.
5. According to the “Framework of Analysis” set out in the Guideline, the determination as to whether or not the Principal Appellant’s fear of persecution is well-founded “includes an assessment of the evidence related to the ability or willingness of the state to protect the claimant and, more generally, the objective basis of the claim”.[[25]](#endnote-25) The analysis of state protection is triggered only once it is established that there is forward-facing harm, therefore it must first be established if the Principal Appellant faces forward-facing harm if she were to return to Haiti.
6. I agree that the RPD erred in not including an analysis of the objective documentary evidence regarding women who fear gender-based violence in Haiti before reaching its conclusions. I consider that in order to assess if the Principal Appellant has an objective basis for her fear of return to Haiti, her particular situation must be examined against the backdrop of the country conditions.
7. The Appellants specifically made reference in their memorandum to country conditions that include widespread violence against women, the difficulties for women who try to bring charges against those who commit sexual assault, including public reproach and threats, and a lack of justice for women who have been victims of sexual assault, despite some progress.[[26]](#endnote-26)
8. In addition, I carefully examined the objective documentary evidence regarding the situation of women who fear gender-based violence in Haiti.[[27]](#endnote-27) It indicates that sexual violence against women is a widespread problem in Haiti;[[28]](#endnote-28) there is no legislation in Haiti that prohibits violence against women, although there has been a proposal;[[29]](#endnote-29) rape was criminalized in Haiti in 2005 but is not defined in the legislation;[[30]](#endnote-30) 24% of women who have been subjected to violence in Haiti sought help from people in their milieu, while only 11% went to police;[[31]](#endnote-31) sexual violence is often not reported in Haiti and leads to the stigmatization of its victims in society;[[32]](#endnote-32) there is an absence of legal aid services for women in financial need, combined with the complexity of procedures and exclusive use of the French language in the legal system, when most of the population speaks only Creole, which contributes to the difficulties that women face in accessing the legal system;[[33]](#endnote-33) it is also often requested that sexual assault victims present a medical certificate declaring the assault to a judge, which must be co-signed by several doctors, who have different requirements and provide differing levels of information in the certificates, which are complicated to obtain;[[34]](#endnote-34) there is a documented lack of sensitivity towards victims of sexual assault by the mostly male police force, which is 91% male;[[35]](#endnote-35) it is also reported that most police officers are not adequately trained and face a lack of resources to deal with sexual assault victims;[[36]](#endnote-36) while two organizations were created to handle gender-based issues within the Haitian National Police, their actions are limited by a lack of coordination, and training of police regarding sexual violence was limited by a lack of resources that would allow for an improvement in the way victims are treated and reports made;[[37]](#endnote-37) there is no national database in Haiti on reports of sexual harassment or violence against women;[[38]](#endnote-38) victims of sexual assault also have trouble accessing the legal system because of the corruption and dysfunction of the Haitian legal system in general;[[39]](#endnote-39) also, the widespread impunity of the aggressors is documented;[[40]](#endnote-40) impunity for violence against women is said to cross all social classes, such that even women who ostensibly occupy positions of power in Haiti are subjected to gender-based violence that is not adequately addressed by the legal system;[[41]](#endnote-41) women who have been the victims of gender-based violence are more likely to be revictimized;[[42]](#endnote-42) although the number of prosecutions for sexual assault has risen since 2010, there is an overall low rate of prosecution based on a lack of court and police resources;[[43]](#endnote-43) and police often refuse to register a complaint of sexual assault against unidentified aggressors, even though under Haitian law a complaint can be registered against an unidentified individual.[[44]](#endnote-44)
9. The RPD found that the Principal Appellant’s testimony regarding the sexual assault revealed no contradictions, omissions or inconsistencies and I did not either. Therefore, the analysis is being made with the sexual assault as being credible. Furthermore, the RPD did not raise any negative credibility concerns regarding the allegations of the Principal Appellant that she had been threatened with death by the bandits who had sexually assaulted her, or that the Haitian police had refused to take her complaint of sexual assault. After reviewing the evidence, I find the Principal Appellant credible regarding these allegations.
10. I find that the personal profile of the Principal Appellant with respect to whether or not she is vulnerable as a woman in Haiti must be assessed in light of the actual situation as described in the documentary evidence and her personal situation. I consider that it is an oversimplification to find that just because a woman is married, has male relatives in Haiti and has some education and work training, that they are somehow not vulnerable and do not face a prospective risk in Haiti. While perhaps she is not as vulnerable as would be a homeless woman who is single without a family or educational background, I find nonetheless that the evidence establishes that she faces a prospective risk. The fact remains, as indicated in the national documentation package (NDP), that women of all backgrounds, regardless of family situation or social status, are vulnerable to gender-based violence and are met with the same stigma in the community, disdain from state authorities and risk of revictimization.
11. As indicated in the Guideline, an assessment of a gender-related claim must include whether or not the evidence demonstrates that:

…what the claimant genuinely fears is persecution for a Convention reason as distinguished from random violence or random criminal activity perpetrated against her as an individual. The central factor in such an assessment is, of course, the claimant’s particular circumstances in relation to both the general human rights record of her country of origin and the experiences of other similarly situated women.[[45]](#endnote-45)

1. In the case of the Principal Appellant, she in fact was living with male relatives when the sexual assault occurred, they happened to be out of the house at the time. So to say that if she is married, then she is not vulnerable, I find is an error in her particular situation, as she provided credible evidence that she was sexually assaulted, that she was threatened by her attackers, that they told her not to file a complaint or they would kill her, that the police refused to help her and also threatened to call her attackers. When this is considered against the backdrop of the country conditions as described above, I find that the RPD erred and the Principal Appellant faces a prospective risk if she were to return to Haiti.

*Conclusion regarding Principal Appellant’s prospective risk in Haiti due to gender-based violence*

1. I conclude that the RPD erred in finding that she failed to prove the objective basis of her subjective fear of return to Haiti, regarding her credible allegations of sexual assault.

**Principal Appellant — Nexus to the *Convention***

1. As the allegations of the Principal Appellant give rise to the serious possibility of persecution based on her membership in a particular social group, namely women who fear gender-based violence, there is a nexus to the *Convention*. I shall therefore examine the allegations in light of section 96 of IRPA.
2. I find that the Principal Appellant has provided credible evidence that on the balance of probabilities, she is a victim of sexual assault; that she was threatened with death by those who participated in the sexual assault; that she went to the police to file a sexual assault complaint but they refused to help her and threatened to contact her assailants if she did not leave the police station; that as a victim of sexual assault who has been threatened by her attackers and the police, she faces prospective harm if she were to return to Haiti. The personal and objective documentary evidence of the Principal Appellant demonstrates that she faces the serious possibility of persecution if she were to return to Haiti, based on her membership in a particular social group, namely women who fear gender-based violence.
3. For all the reasons outlined above, I find that the Principal Appellant is credible. She has established that she is subjectively fearful and that her fear is objectively well-founded and forward-facing.

**Principal Appellant — State protection**

1. After assessing the personal and objective documentary evidence of the Principal Appellant, I find that she has rebutted the presumption of adequate state protection with clear and convincing evidence, that if she were to seek state protection, the authorities of Haiti would be unwilling or unable to provide it.
2. The Principal Appellant has provided credible allegations that she was sexually assaulted in 2013 and threatened, that she tried to file a police complaint but that the police refused to do so and threatened to communicate with her attackers if she did not leave.
3. Guideline 4 indicates that the main factor when assessing the evidence of women who fear gender-based violence is that woman’s particular situation “in relation to both the general human rights record of her country of origin and the experiences of other similarly situated women”.[[46]](#endnote-46) Included in this consideration should be the availability of adequate state protection.[[47]](#endnote-47)
4. The updated objective documentary evidence for Haiti[[48]](#endnote-48) demonstrates the ongoing problems for women who have been victims of sexual assault in Haiti when they try to seek state protection: the lack of adequate protection and the social stigma.
5. The Principal Appellant’s allegations are corroborated extensively by the NDP that documents widespread police corruption and a lack of training and resources, in addition to the fact that revictimization of women is commonplace[[49]](#endnote-49) and that the Ministry responsible for the prevention of violence against women is consistently underfunded and is threatened that its mandate will be terminated with each change of government.[[50]](#endnote-50)

**Principal Appellant — IFA**

1. I find that, on the balance of probabilities, given the credible testimony by the Principal Appellant regarding the sexual assault in 2013; the threats of death against the Principal Appellant by the attackers; the fact that the police threatened her and refused to file a report against her attackers; the situation for women in Haiti who have been the victims of sexual assault, that they are more likely to be revictimized and are stigmatized; as well as the lack of adequate state protection in Haiti for the Principal Appellant; that the agents of persecution who committed the sexual assault, who are unknown to the Principal Appellant and unidentified to her, threatened to kill her if she went to police; combined with the police who threatened to tell her attackers if she did not leave the station, puts the Principal Appellant in a situation that is more than a mere possibility of persecution; I find that due to the credible threats by the attackers and the police to inform her attackers, combined with the lack of adequate state protection, would provide the agents of harm, which includes the police, with the means and motivation to find and harm the Principal Appellant throughout Haiti and that, as a result, there is nowhere in Haiti that would be safe for her to relocate.
2. The problems outlined in the updated country conditions for Haiti demonstrate that the lack of adequate state protection, combined with the situation of women in Haiti who have been victims of sexual assault, lead me to conclude that the Principal Appellant would face the serious possibility of persecution throughout Haiti.
3. As the first prong of the IFA test of safety has not been met, there is no need to assess the second prong of reasonableness.

**Conclusion regarding Principal Appellant**

1. I find that the Principal Appellant faces the serious possibility of persecution if she were to return to Haiti, based on her membership in a particular social group, namely women who fear gender-based violence. I therefore conclude that the Principal Appellant is a *Convention* refugee.

**1E Exclusion of the Associate Appellant**

1. The RPD found that the Associate Appellant was excluded because he had access to status equivalent to that of a national of Brazil but had failed to acquire it, that his loss of status was voluntary; that he had not rebutted the presumption of adequate state protection in Brazil because he had failed to seek any police assistance and that he had a viable IFA in Brazil; that he was not credible with respect to his allegations of prospective risk in Haiti; such that Canada’s international obligations with respect to refugee protection would not be violated if the Associate Appellant were excluded under 1E of the *Convention*.
2. The Appellants argue that the Associate Appellant was unaware of his access to permanent resident status in Brazil, therefore could not be faulted for failing to acquire status there; that his loss of status was involuntary, as he was forced to leave due to attacks and threats in Brazil; that he has rebutted the presumption of adequate state protection for his prospective risk in Brazil; that he has no viable IFA in Brazil; that the RPD erred in not properly assessing his prospective risk in Brazil; that he could not return to Brazil; that his allegations of prospective risk in Haiti are credible; and that the RPD erred in its analysis such that Canada’s international obligations would require that he not be excluded under sections 1E of the *Convention* and 98 of IRPA.
3. When weighing the factors outlined in *Zeng* v. *Canada*[[51]](#endnote-51), I find that the RPD did not err in its findings that the Associate Appellant is excluded under sections 1E of the *Convention* and 98 of IRPA, for the reasons listed below.

*Associate Appellant’s access to status in Brazil and failure to acquire it*

1. The RPD found that the Associate Appellant had access to status equivalent to that of a national of Brazil, but had failed to acquire it, as his name was on the list of Haitians with access to permanent resident status, which it found was a status that was substantially similar to that of nationals.
2. The Appellants argue that the Associate Appellant was not aware of his access to status as a Haitian resident of Brazil, as he had last checked the list of such individuals in 2015, at which time his name had not yet been added to the list. As he had not checked his status since that date, he was unaware that his name had later been added to the list, and could therefore not be faulted for having failed to acquire the status available to him.
3. I consider that if the Associate Appellant had known to check once in order to verify if his name was on the list, then he was aware of his possible access to a stable status in Brazil and his explanation as to why he did not, that he was too busy working, is inadequate when one considers that, if he were truly facing a risk to his life in Haiti, he would want to stabilize his status in Brazil and this would have been a priority for him.

*Whether loss of status in Brazil was voluntary or involuntary*

1. The RPD found that his loss of status was voluntary because he did not take the necessary steps to obtain status, and chose to leave rather than seeking state protection and relocating within Brazil.
2. The Appellants argue that his loss of status was involuntary, as he was forced to leave due to attacks and threats in Brazil and that the RPD erred in not properly assessing his prospective risk in Brazil.
3. I find that his loss of status was voluntary, in that he chose to leave after having checked one time while knowing that there existed the possibility for his name to be added to the list of those eligible for permanent resident status in Brazil, and that even though, as discussed below, he provided credible evidence that he had been attacked and threatened in Brazil, the fact that he did not even attempt to relocate within the country and simply left, does not establish that he was forced to leave such that it could be considered an involuntary departure.

*Credibility of allegations regarding threats and attacks in Brazil*

1. The RPD did not make any negative credibility findings regarding the allegations of the Associate Appellant with respect to the threats and attacks that he suffered from three men who had targeted him in Sao Paolo. After reviewing the evidence, I have no reason to impugn his credibility for these allegations. That being said, I also find that the evidence put forward was somewhat limited, in that it consists of his testimony that three armed individuals, who had worked and lived in his neighbourhood in Sao Paolo, had attacked him on several occasions in February 2016, including an incident during which they stole his belongings, telling him that they do not want people of colour in that neighbourhood[[52]](#endnote-52), and that he had reason to believe that they had killed others. In his BOC, there was a brief mention that Brazilians had started to make life hard without any further elaboration[[53]](#endnote-53). There was no other evidence put forward regarding these allegations.

*Adequate state protection*

1. The RPD found that the Associate Appellant had failed to rebut the presumption of adequate state protection in Brazil, because he had not sought the help of police, despite his allegations that three men in his neighbourhood had attacked and threatened him multiple times.
2. During the hearing, the Associate Appellant had testified that he had not gone to police because he believed that the men would know that he had done so and he feared that they would kill him in retaliation. The Appellants argued that the Associate Appellant’s failure to seek state protection was not something that should have been used to impugn his allegations of lack of state protection, because of the objective documentary proof that demonstrates the systemic discrimination by Brazilian authorities against Haitians who file complaints, as well as the corruption of state authorities.[[54]](#endnote-54)
3. After considering the objective documentary evidence, while I find that the discrimination against people of Afro-Caribbean descent by Brazilian authorities is well-documented, the Associate Appellant did not make proof of how this applies to his particular situation and prevents him personally from receiving adequate state protection. I therefore find that the RPD has not erred in this regard. While the Associate Appellant explained during the hearing that his reason for not seeking help was because he was afraid that his attackers would find out and kill him, he did not provide evidence of a lack of state protection in his set of circumstances and therefore did not rebut the presumption.

*Viable IFA in Brazil*

1. The RPD found that the Associate Appellant had a viable IFA in Brazil in Santa Catalina, as he had failed to show, on a balance of probabilities, that his alleged attackers would have the means and motivation to find him there.
2. The Appellants argue that the Associate Appellant would not be able to relocate anywhere in Brazil because of the serious possibility of persecution that he would face based on his race and Haitian nationality, due to the country conditions involving systemic discrimination by Brazilian authorities.
3. While I find that there is evidence of problems with state protection for those of Haitian nationality in general, I do not find that this necessarily equates with the lack of a viable IFA in the particular situation of the Associate Appellant, which requires proof of the means and motivation of the agents of harm to find and harm the Associate Appellant. Here, the Associate Appellant had testified that he believed that his attackers would be able to find him if he were to try to relocate in Brazil, because they had killed others in the zone in which they lived.[[55]](#endnote-55) When asked how they would be able to find him in a different zone, his answer was that, if they wanted to kill him, they would find him, as it was their country and they could find him anywhere.[[56]](#endnote-56) I consider these answers to be very general and not adequate to establish, on a balance of probabilities, that the agents of harm would have the interest or capacity to find him, if he were to relocate to Santa Catalina. Absent any other proof regarding the interest or ability of the agents of harm, I find that the Associate Appellant has not met his burden in this regard.
4. I find that the RPD did not err in its conclusion that the Associate Appellant has a viable IFA in Santa Catalina.

*Prospective risk in Brazil*

1. When I consider the evidence put forward regarding the threats and attacks that the Associate Appellant suffered in Brazil, in terms of assessing the risk that he would face in the country of residence, I find that they are not adequate to establish an objective basis of forward-facing harm. If I consider that his credible allegations are such that three armed individuals attacked him on three occasions in the same neighbourhood in Sao Paolo in February 2016, I do not consider that this establishes either a serious possibility of persecution or a risk to his life that is personal and one that is not generally faced by others, in Brazil.

*Whether Associate Appellant could return to Brazil*

1. The RPD found that the Associate Appellant could not return to Brazil, as he only had a temporary resident status there on his date of departure of Thursday, March 25, 2016, which did not allow him to return.
2. The Appellants did not contest this finding.
3. After reviewing the evidence, I find this conclusion to be correct.

*Not credible for prospective risk in Haiti*

1. The RPD found that the Associate Appellant was not credible regarding his allegations of prospective risk in Haiti, specifically with respect to death threats from an agent of harm there, an alleged assassination attempt against him, research for him by the Haitian police, a connection between an attack on his uncle and the threat to the Associate Appellant, and a connection between the assassination of his brother and the threat to the Associate Appellant.

(i)Death threats from agent of harm in Haiti on Tuesday, April 8, 2013

1. The RPD found that the Associate Appellant was not credible in his allegations that he had received death threats in Haiti, further to a musical performance during which he sang politically motivated songs in June 2013, due to omissions in his BOC.
2. The Appellants do not argue that these omissions took place but submit that the Associate Appellant’s explanations for the omissions are satisfactory.
3. During his testimony, the Associate Appellant had alleged that Pierre Valey had threatened him publicly with death immediately after his performance at the Tuesday, April 8, 2013, carnival, by threatening to follow him home and kill his family in front of him and burn their house. This allegation was not in his BOC. When asked to explain the omission, the Associate Appellant had answered that even though the full allegation had not been in the BOC, that the name of Pierre Valey had been included, in the context of an allegation that Alyans Party aides had made threats against him the day after the carnival.
4. When I consider the nature of the omission, I find that it is significant. The fact that an agent of harm publicly threatened him with death, immediately after his musical performance, seems like a major allegation to omit, especially when taking into account that the Associate Appellant had produced additional information in a narrative prior to the hearing, which also omits this allegation.[[57]](#endnote-57) I think that an explanation should adequately address this omission in order to be satisfactory, with a more stringent requirement than if it were a small detail, for example. I therefore consider that the explanation of the Associate Appellant, that the name appeared in the BOC, is not satisfactory as to address this significant omission.
5. I find that the RPD did not err in its finding that the Associate Appellant’s credibility was undermined regarding this allegation.

(ii) Assassination attempt on Wednesday, April 9, 2013

1. The RPD found that the Associate Appellant was not credible in his allegation that there was an assassination attempt made against him in April 2013 in Haiti, because of omissions in his BOC, contradictions between his testimony and his BOC, and contradictions between his testimony and documentary evidence.
2. The Appellants do not argue that these omissions and contradictions took place, but argue that the Associate Appellant’s explanations were satisfactory and that the RPD erred in using the contents of the Haitian documents to impugn the Associate Appellant’s credibility.
3. During his testimony on the first day of the hearing, September 5, 2019, the Associate Appellant had stated that the bandits had tried to kill him on Wednesday, April 9, 2013, and then again on April 11, 2013. The second attempt had not been mentioned in his BOC. When asked to explain the omission, the Associate Appellant had answered that it had been a mistake.
4. On the second day of the hearing, September 20, 2019, the Associate Appellant was asked why he had written in his BOC that he had gone into hiding after the attack of April 9, 2013, but that during his testimony on the first day of the hearing, he had testified that he had been in his house on April 11, 2013, during the second attempt on his life. His answer was that he had stayed in his house because he had not thought that the bandits would return to attack him. When asked again to explain why the Friday, April 11, 2013, attack had been omitted from the BOC, he answered that he had included it in the BOC, then answered that it was indicated in his documentary evidence, specifically Exhibit P6.[[58]](#endnote-58)
5. Exhibit P6 actually refers to one incident that took place overnight between the 9th and 10th of April 2013. When asked during the hearing to then explain why this document did not mention two different attacks, the Associate Appellant answered that it was possibly a mistake.
6. I consider the nature of the omission and contradictions to be quite substantial, it is one thing to allege one attempt on his life, but the Associate Appellant then alleged that there had been two attempts on his life during his testimony. This significant difference requires a satisfactory explanation, but in this case, the Associate Appellant further contradicted himself, and then pointed to his documentary evidence to say that the second attempt was indicated, when in fact it was not.
7. Exhibit P6 is a report of allegations that the Associate Appellant had himself made to the authorities. When looked at closely, it mentions that on the night of Wednesday, April 9 to Thursday, April 10, unidentified individuals had come to his house to kill him, but that he had managed to escape. Nowhere does it indicate that there were two different incidents, in fact, it seems to clearly indicate that one incident happened overnight. When considering the Appellants’ argument that the information in the document should not be used against the Associate Appellant, because of the sometimes unreliable nature of Haitian documents, I must also consider that the Associate Appellant himself had referred to this document as containing the information. Furthermore, his allegation during testimony that there had been two different attempts on his life at his home was contradicted by his written allegation that he had gone into hiding immediately after the first attempt, a contradiction that was not satisfactorily explained. I therefore find that rather than providing an adequate explanation, his answers evolved to create further contradictions within the evidence and his credibility was undermined.
8. I find that the RPD did not err in its findings in this regard.

(iii) Research for Associate Appellant by police

1. The RPD found that the Associate Appellant was not credible in his allegation that the Haitian police were looking for him “everywhere” as written in his BOC, after he testified as to only one occasion when the police seemed to be looking for him and could not provide further evidence in this regard.
2. The Appellants argue that his testimony was satisfactory in establishing this allegation.
3. When I consider the testimony that the Associate Appellant provided regarding this allegation, it consists of one incident, about two days after his singing performance at the carnival, when police had spoken to his downstairs neighbour and asked if she knew him. When asked if he had other examples of the police looking for him, he said that he did not, but that it was possible that they had gone elsewhere to look for him. I do not find that this constitutes adequate evidence, on the balance of probabilities, that the police are engaging in an exhaustive search for him, as alleged in his BOC.
4. I find that the RPD did not err in this finding.

(iv) Attack on Associate Appellant’s uncle in 2017

1. The RPD found that the Associate Appellant had not established that an attack on his uncle in Haiti in 2017 was because the bandits were looking for the Associate Appellant, considering that his testimony was purely speculative in this regard.
2. The Appellants did not provide any arguments regarding this finding.
3. After reviewing the testimony, I do not consider that the Associate Appellant established on the balance of probabilities, that an alleged 2017 attack on his uncle was connected to bandits looking for him in Haiti. He testified that he had continued to make songs about the political situation in Haiti after he had arrived in Canada, and that it was why he believed the bandits were continuing to look for him and his family. I find that, absent any other evidence put forward, this allegation has not been established by the Associate Appellant.
4. I therefore find that the RPD did not err in this regard.

(v) Assassination of Associate Appellant’s brother in Haiti in 2019

1. The RPD found that the Associate Appellant was not credible in his allegation that the reason for his brother’s death in 2019 was that his family had been targeted because of the Associate Appellant’s anti-government messages in his music, due to omissions in the documentary evidence and a lack of proof beyond his testimony.
2. The Appellants argue that the documents from Haiti should not be used to impugn the credibility of the Associate Appellant as they themselves are unreliable and that he had provided adequate proof that his family had been targeted due to the political messages in his songs.
3. The Associate Appellant had alleged in his BOC and testimony that his younger brother, Yves Duclair, had been killed in November 2019 as the family had been targeted due to the political messages in his songs. The Associate Appellant provided the act of death of his late brother,[[59]](#endnote-59) a certificate from the funeral home,[[60]](#endnote-60) and a document from 2019 wherein the Associate Appellant’s mother provided a statement to authorities that the Associate Appellant had left Haiti in 2013 under threat from government supporters after his musical performance during the Carnaval wherein he criticized the government, survived an assassination attempt the night of Tuesday to Wednesday April 2013, and that his attackers had come to kill his brother because they could not find him.[[61]](#endnote-61)
4. The RPD had considered that Exhibit P7 omitted a declaration from the cousin, who the Associate Appellant had alleged had been present and witnessed the death of his brother, regarding what had happened. The RPD also questioned why the cousin had not produced a letter to describe what he had heard. The Associate Appellant had testified that the cousin had heard the bandits say that they would persecute the whole family for his songs, during the killing of his brother. The Associate Appellant’s answer did not explain why this had not been included, but said that he had provided all the documents regarding this incident.
5. When I consider the testimony and the exhibits, I consider that the Associate Appellant has proven, on the balance of probabilities, that his brother was unfortunately killed in November 2019, and that his mother apparently believed that it was tied to the political messages in his music. I don’t find that his evidence establishes, on the balance of probabilities, that there was a connection between his brother’s death and the political messages in his music, or that his brother was targeted because of the Associate Appellant.
6. I therefore find that the RPD did not err in its findings in this regard.

Conclusion regarding prospective risk in Haiti

1. I find that the RPD did not err in finding that the Associate Appellant was not credible in his allegations of prospective risk in Haiti.

*Canada’s international obligations*

1. The RPD found that it would not be a violation of Canada’s international obligations regarding refugee protection if the Associate Appellant were excluded under 1E of the *Convention* and 98 of IRPA, particularly because the Associate Appellant had voluntarily left Brazil without availing himself of his access to permanent resident status and a lack of prospective risk in Haiti.
2. The Appellants argue that Canada’s international obligations would require that the Associate Appellant not be excluded, as it would be in keeping with those obligations due to his involuntary departure from Brazil, his prospective risk in Brazil, lack of state protection or IFA there, as well as his prospective risk in Haiti.
3. I find that it is in keeping with Canada’s international obligations, particularly under the *Convention*, that the Associate Appellant be excluded under 1E, in light of the appropriate considerations in his particular situation as detailed hereinbelow.

**Conclusion regarding Associate Appellant**

1. Given that: the Associate Appellant had access to status in Brazil and failed to acquire it; his departure from Brazil and loss of status was voluntary; the Associate Appellant has not rebutted the presumption of adequate state protection in Brazil; there is a viable IFA in Brazil for the Associate Appellant; the Associate Appellant did not establish forward-facing harm if he were to return to Brazil; ; the Associate Appellant is not credible regarding his allegations of prospective risk in Haiti: in weighing these factors that favour the exclusion of the Associate Appellant, vs. the credible allegations that the Associate Appellant was threatened and attacked by three individuals in Brazil in February 2016 on several occasions; and that the Associate Appellant could not return to Brazil, which are factors that weigh against the exclusion of the Associate Appellant, I find that the factors for exclusion outweigh those against exclusion. I put particular importance on the lack of prospective risk in Haiti and the lack of prospective risk in Brazil, combined with the Associate Appellant’s voluntary departure from Brazil and failure to verify his access to permanent resident status there.
2. I therefore find that the RPD did not err in its finding that the Associate Appellant is excluded under sections 1E of the *Convention* and 98 of IRPA.

**DETERMINATION**

1. The appeal is allowed for the Principal Appellant **Elisabeth Rouzier**. The RPD decision is set aside. I find that the Principal Appellant faces a serious possibility of persecution in Haiti based on her membership in a particular social group, namely women who fear gender-related persecution.
2. I substitute my own decision that the Principal Appellant **Elisabeth Rouzier** is a *Convention* refugee in accordance with section 96 of IRPA.
3. The appeal is dismissed for the Associate Appellant **Olivier Duclair**. I confirm the determination of the RPD that the Associate Appellant is neither a *Convention* refugee nor a person in need of protection.

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| (*signed*) | *Reisa Khalifa* |
|  | **Me Reisa Khalifa** |
|  | **March 3, 2021** |
|  | **Date** |

RK/in

1. RPD-1, RPD Record, National Documentation Package for Haiti, June 28, 2019 : Tab 14.11. [↑](#endnote-ref-1)
2. *Shamlou* v. *Canada* (1995), 103 F.T.R. 241. [↑](#endnote-ref-2)
3. *Canada (Citizenship and Immigration)* v. *Alsha’bi*, 2015 CF 1381. [↑](#endnote-ref-3)
4. *Canada (Citizenship and Immigration)* v. *Zeng*, 2010 FCA 118. [↑](#endnote-ref-4)
5. RPD-1, RPD Record, Document 2.1 : Exhibit P-1 : BOC forms. [↑](#endnote-ref-5)
6. RPD-1, RPD Record, Document 6 : Exhibit P-5 : Birth certificate. [↑](#endnote-ref-6)
7. RPD-1, RPD Record, Document 8 : Exhibit P-10 : Marriage certificate. [↑](#endnote-ref-7)
8. Recording of RPD hearing of September 5, 2019, at 1:00:00. [↑](#endnote-ref-8)
9. Recording of RPD hearing of September 5, 2019, at 1:15:00. [↑](#endnote-ref-9)
10. RPD-1, RPD Record, BOC of Principal Appellant, paragraphs 1 and 2 of narrative. [↑](#endnote-ref-10)
11. RPD-1, RPD Record, BOC of Principal Appellant, paragraph 3 of narrative. [↑](#endnote-ref-11)
12. Recording of RPD hearing of September 5, 2019, at 12:38. [↑](#endnote-ref-12)
13. Recording of RPD hearing of September 5, 2019, at 1:20:00. [↑](#endnote-ref-13)
14. Recording of RPD hearing of September 5, 2019, at 1:25:00. [↑](#endnote-ref-14)
15. RPD-1, RPD Record, BOC of Principal Appellant, paragraph 2 of narrative. [↑](#endnote-ref-15)
16. *Ibid.* [↑](#endnote-ref-16)
17. *Ibid.* [↑](#endnote-ref-17)
18. Recording of September 5, 2019, RPD hearing, at 1:15:00. [↑](#endnote-ref-18)
19. Recording of September 20, 2019, RPD hearing at 00:20:00. [↑](#endnote-ref-19)
20. RPD-1, RPD Record, BOC of Principal Appellant, para. 2 of narrative. [↑](#endnote-ref-20)
21. Recording of RPD hearing of September 5, 2019, at 1:35:00. [↑](#endnote-ref-21)
22. RPD-1, RPD Record, BOC of Principal Appellant, para. 4 of narrative. [↑](#endnote-ref-22)
23. *Ibid*. [↑](#endnote-ref-23)
24. P-2, Appellants’ Record, Appellant’s Memorandum, paragraph 51. [↑](#endnote-ref-24)
25. Immigration and Refugee Board of Canada, *Guidelines 4- Women Refugee Claimants Fearing Gender-Related Persecution*; Framework of Analysis: section 3. [↑](#endnote-ref-25)
26. P-2, Appellants’ Record, Appellant’s Memorandum, paragraph 51, section 2.5. [↑](#endnote-ref-26)
27. RAD-1, National Documentation Package for Haiti, September 1, 2020 : Tab 5.3- *Violence, including sexual violence, against women: state protection and support services*; Tab 5.9- *Violence Against Women, Trafficking, Prostitution and Exploitation by UN Peacekeepers*; Tab 5.12- Haiti: *Les violences faites aux femmes*; Tab 5.15- *L’impunité des violences faites aux femmes et aux filles en Haïti*; Tab 5.16- *Situation and treatment of survivors of sexual violence and domestic violence, including stigmatization and revictimization*. [↑](#endnote-ref-27)
28. RAD-1, National Documentation Package for Haiti, September 1, 2020 : Tab 5.3- *Violence, including sexual violence, against women: state protection and support services*; Tab 5.9- *Violence Against Women, Trafficking, Prostitution and Exploitation by UN Peacekeepers.* [↑](#endnote-ref-28)
29. *Ibid*., NDP for Haiti, September 1, 2020 : Tab 5.3, Tab 5.9. [↑](#endnote-ref-29)
30. *Ibid*., NDP for Haiti, September 1, 2020 : Tab 5.3, Tab 5.9. [↑](#endnote-ref-30)
31. RAD-1, National Documentation Package for Haiti, September 1, 2020 : Tab 5.3- *Violence, including sexual violence, against women: state protection and support services.* [↑](#endnote-ref-31)
32. RAD-1, National Documentation Package for Haiti, September 1, 2020 : Tab 5.3- *Violence, including sexual violence, against women: state protection and support services*;Tab 5.12- *Haïti: Les violences faites aux femmes;* Tab 5.16- *Situation and treatment of survivors of sexual violence and domestic violence, including stigmatization and revictimization.* [↑](#endnote-ref-32)
33. *Supra*, note 24. NDP for Haiti, September 1, 2020 : Tab 5.3, Tab 5.9. [↑](#endnote-ref-33)
34. *Supra*, note 24. NDP for Haiti, September 1, 2020 : Tab 5.3, Tab 5.9. [↑](#endnote-ref-34)
35. *Supra*, note 24. NDP for Haiti, September 1, 2020 : Tab 5.3, Tab 5.9. [↑](#endnote-ref-35)
36. *Supra*, note 27. NDP for Haiti, September 1, 2020 : Tab 5.3. [↑](#endnote-ref-36)
37. *Supra*, note 27. NDP for Haiti, September 1, 2020 : Tab 5.3. [↑](#endnote-ref-37)
38. RAD-1, National Documentation Package for Haiti, September 1, 2020 :Tab 5.9- *Violence Against Women, Trafficking, Prostitution and Exploitation by UN Peacekeepers.* [↑](#endnote-ref-38)
39. *Supra*, note 24. NDP for Haiti, September 1, 2020 : Tab 5.3, Tab 5.9. [↑](#endnote-ref-39)
40. *Supra*, note 24. NDP for Haiti, September 1, 2020 : Tab 5.3, Tab 5.9. [↑](#endnote-ref-40)
41. RAD-1, National Documentation Package for Haiti, September 1, 2020: Tab 5.15*- L’impunité des violences faites aux femmes et aux filles en Haïti.* [↑](#endnote-ref-41)
42. RAD-1, National Documentation Package for Haiti, September 1, 2020 : Tab 5.16- *Situation and treatment of survivors of sexual violence and domestic violence, including stigmatization and revictimization*. [↑](#endnote-ref-42)
43. RAD-1, National Documentation Package for Haiti, September 1, 2020 : Tab 5.9- *Violence Against Women, Trafficking, Prostitution and Exploitation by UN Peacekeepers.* [↑](#endnote-ref-43)
44. RAD-1, National Documentation Package for Haiti, September 1, 2020: Tab 5.12- *Haïti: Les violences faites aux femmes.* [↑](#endnote-ref-44)
45. *Supra* note 21, Guidelines 4 : Section C- Evidentiary matters, introductory paragraph. [↑](#endnote-ref-45)
46. *Supra* note 21, Guidelines 4, section C.2. [↑](#endnote-ref-46)
47. *Supra* note 21, Guidelines 4, section C.2. [↑](#endnote-ref-47)
48. *Supra* note 23, NDP for Haiti, September 1, 2020. [↑](#endnote-ref-48)
49. *Supra* note 38, NDP for Haiti, September 1, 2020, tab 5.16. [↑](#endnote-ref-49)
50. RAD-1, National Documentation Package for Haiti, September 1, 2020: Tab 5.4- ​*The situation of women who live alone, including those who are not in precarious situations; whether they can access employment and housing; support services available to them (2017-June 2020).* [↑](#endnote-ref-50)
51. *Canada (Citizenship and Immigration)* v. *Zeng*, 2010 FCA 118. [↑](#endnote-ref-51)
52. Recording of RPD hearing of September 5, 2019, at 35:00 to 40:00. [↑](#endnote-ref-52)
53. RPD-1, RPD Record, Document 2- BOC of Associate Appellant, paragraph 4 of narrative. [↑](#endnote-ref-53)
54. RPD-1, RPD Record, Document 4- National Documentation Package for Brazil, June 28, 2019 : Tabs 2.1, 7.2, 13.2. [↑](#endnote-ref-54)
55. Recording of RPD hearing of September 5, 2019, at 50:00. [↑](#endnote-ref-55)
56. *Ibid.* [↑](#endnote-ref-56)
57. RPD-1, RPD Record, Document 7 : Exhibit P-8 : Additional information. [↑](#endnote-ref-57)
58. RPD-1, RPD Record, Document 6- Exhibit P-6 : Extract of minutes of Justice of the Peace for North section of Gonaives. [↑](#endnote-ref-58)
59. RPD-1, RPD Record, Document 6 : Exhibit P-2 : Act of death. [↑](#endnote-ref-59)
60. RPD-1, RPD Record, Document 6 : Exhibit P-3 : Certificate from funeral home. [↑](#endnote-ref-60)
61. RPD-1, RPD Record, Document 6 : Exhibit P-7 : Minutes of April 5, 2019. [↑](#endnote-ref-61)