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ROBERT F. KENNEDY
CENTER FOR JUSTICE & HUMAN RIGHTS

January 22, 2010

Dr. Santiago A. Canton
Executive Secretary
Inter-American Commission on Human Rights
1889 F Street, N.W.
Washington, D.C. 20006
Via Facsimile and Email

Dear Secretary Canton,

In accordance with Article 66 of the Rules of Procedure of the Inter-American Commission on Human Rights, we, the representatives of the undersigned human rights organizations working for justice in Haiti, request a general interest hearing before the Commission. The Commission has undertaken to ensure the protection of the human rights of individuals within the OAS system. Recognizing this, we respectfully request a hearing to focus the Commission's attention on the economic and social rights situation in Haiti following the earthquake of January 12 and the human rights implications of international assistance. More specifically, we seek to address the human rights obligations of the international community—including OAS Member States—when intervening in a country to provide assistance. We also hope to explore ways in which the Member States can concretely contribute to the realization of Haitians' economic and social rights through a human rights-based approach guided by Inter-American human rights norms.

Our organizations have worked for several years, together with Zanmi Lasante (Partners In Health), to investigate challenges to the ability of the Haitian people to enjoy their rights.¹ We

¹ Our organizations have a long-standing commitment to the human rights-based approach to international assistance in Haiti. *See Aid Haiti Can Believe In: A Human Rights-Based Approach to Foreign Development* (Apr. 15, 2008), available at <http://www.chrgj.org/events/2009.html#haitiaid>; CENTER FOR HUMAN RIGHTS & GLOBAL JUSTICE, PARTNERS IN HEALTH, RFK CENTER FOR JUSTICE & HUMAN RIGHTS & ZAMNI LASANTE, WÓCH NAN SOLEY: THE DENIAL OF THE RIGHT TO WATER IN HAITI (2008), available at <http://www.chrgj.org/projects/docs/wochnansoley.pdf>. Several of the signatories to this letter presented before the

have found that in countries like Haiti, where the State has inadequate resources to fulfill the rights of its own people, members of the international community often wield significantly more power than the State and, at times, have worsened the human rights situation through their programs and policies. Therefore, as it mobilizes assistance and resources to Haiti in response to the devastating earthquake, the international community should ensure efforts do not further undermine the basic human rights of the Haitian people.

Even prior to the earthquake, the vast majority of Haitians experienced constant violations of their economic and social rights. Over three quarters of the population lived in poverty, with more than half of the population surviving on less than \$US 1 per day.² Haiti had the highest infant and maternal mortality rates in the hemisphere.³ Almost half of the population lived without access to basic healthcare.⁴ An estimated 1.9 million Haitians, out of a population of 9.6 million, were food insecure.⁵ In Port-au-Prince, a 2008 survey in the city's densely populated neighborhoods found seven out of ten households reported having no food or money to buy food at least once in the previous month.⁶ Only 54% of residents of the city had adequate drinking water coverage.⁷ Many urban residents suffered serious violations of their rights to adequate housing, living in poorly constructed housing perched on steep slopes.

People in Haiti, who already faced terrible challenges to achieving their basic human rights, now suffer deprivations of epic proportions. An estimated 200,000 people are dead, the majority of them from the dense communities with unsafe housing. Three million people are reported to be in desperate need, without the food, water, medical care, and housing necessary for survival and well-being.

This inability of many Haitians to satisfy even basic survival rights entails violations of the right to life, the right to personal liberty and security, the right to health, the right to adequate housing, and the rights of the child, protected by the Charter of the Organization of American States as reflected in key Inter-American human rights instruments, most notably the American Convention on Human Rights, the American Declaration of the Rights and Duties of Man, and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights. As this Commission has recognized, the rights to life and personal liberty and security include a right not to be deprived of or denied access to basic subsistence rights.⁸ The Inter-American Court on Human Rights has similarly understood the right to life as

Commission on related issues on March 3, 2006 and submitted a brief concerning human rights norms governing international assistance to Haiti.

² UNITED NATIONS DEVELOPMENT PROGRAM, *BILAN ÉCONOMIQUE ET SOCIAL D'HAÏTI* (2005).

³ PAN AMERICAN HEALTH ORGANIZATION, *HEALTH SITUATION IN THE AMERICAS: BASIC INDICATORS* (2007).

⁴ *Id.*

⁵ Coordination Nationale de la Sécurité Alimentaire, *Haïti Perspectives sur la Sécurité Alimentaire*, Bulletin de Conjoncture No. 23, Oct.-Mar. 2010 (Oct. 2009).

⁶ COORDINATION NATIONALE DE LA SÉCURITÉ ALIMENTAIRE, *HAÏTI IMPACT DE LA CRISE ALIMENTAIRE SUR LES POPULATIONS URBAINES DE PORT-AU-PRINCE* 45 (Nov. 2008).

⁷ Haiti: Poverty Reduction Strategy Paper 2008-2010 para. 47 (Nov. 2008).

⁸ Inter-Am. C.H.R., Annual Report 1993, OEA/Ser.L/V.85, doc. 9 rev. (1993), 522-23; Inter-Am. C.H.R., Annual Report 1989-90, OEA/Ser.L/V/II.77 doc. 7 rev. 1, (1990) ch. V at 195; Inter-Am. C.H.R., Annual Report 1991, OEA/Ser.L/V/III.25 doc.7 (1992), ch. IV, *Situation of Human Rights in Several States: Nicaragua*.

ensuring access to conditions necessary for a dignified existence,⁹ including adequate housing, food, clean water, and health care.

Although the Haitian government has the primary obligation to fulfill its citizens' human rights under international human rights law, even under normal circumstances it was significantly dependent on international assistance to provide basic services. Now, government buildings lie in ruins, many government workers have perished, and the gap between government resources and the needs of the Haitian people has widened. Without international assistance and cooperation, the government of Haiti will be hard pressed to fulfill these obligations.

Under article 37 of the Charter of the Organization of American States, Member States have agreed to “join together in seeking a solution . . . whenever the economic development or stability of any Member State is seriously affected by conditions that cannot be remedied through the efforts of that State.” Both the Charter and the Inter-American Democratic Charter indicate that Member States have obligations with respect to economic and social rights that extend beyond their borders. Article 26 of the American Convention on Human Rights similarly declares that

The States Parties undertake to adopt measures, both internally and through international cooperation . . . with a view to achieving progressively . . . the full realization of the rights implicit in the economic, social, educational, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.

When they act internationally within the hemisphere, including in providing assistance to Haiti, OAS Member states have obligations with respect to the rights set out in Inter-American human rights instruments.

The recent disaster in Haiti and the subsequent outpouring of international assistance calls for attention to Member State obligations when providing assistance to another country in the hemisphere. The willingness of the international community—including many OAS Member States—to provide assistance to the Haitian people in their time of need is to be applauded. However, care should be taken that assistance not come at the cost of the human dignity and human rights of the individuals in Haiti.

Humanitarian and development aid to Haiti, as well as other countries in the hemisphere, has often failed to improve the human rights situation. Too often, the international community has failed to use funds to Haiti in a way that promoted the rights of all Haitians or built the capacity of the Haitian government to protect society's most vulnerable members. Historically, Haitians have rarely had the opportunity to meaningfully participate in decision-making concerning aid. Transparency and accountability of donors and implementing organizations have been absent at all stages of distribution. In response to past emergencies, Haiti also has

⁹ See Villagrán Morales et al., Inter-Am. Ct. H.R., Judgment of Nov. 19, 1999, Ser. C No. 63 (1998), ¶ 144 (finding that the right to life requires States not only to ensure it is not arbitrarily denied, but also that States do not prevent access to conditions that guarantee a dignified existence); Indigenous Community Yakye Axa Case (Paraguay), Inter-Am. Ct. H.R. (ser.C) No. 125, at ¶¶ 162-4, 221 (June 17, 2005); Sawhoyamaya Indigenous Community v. Paraguay, 2006 Inter-Am. Ct. H.R. (ser. C) No. 146, ¶ 170 (Mar. 29, 2006).

experienced uncoordinated and unpredictable aid and broken promises, leading to even greater suffering.

This Commission's attention to the human rights implications of international assistance and the obligations of States delivering such assistance is urgently needed, especially given the significant role OAS Member States are playing in aiding their neighbor. OAS Member States need guidance on how assistance projects should be designed, planned, and implemented in a way that respects the human rights of the people who need it.

The Commission's attention would encourage the international community to ensure their assistance respects the human rights of persons needing assistance and is done in transparent, non-discriminatory way that builds the capacity of the recipient government. A wide cross-section of society should be involved in every step of decision-making processes. The international community has pledged nearly \$1 billion in assistance to Haiti; it must be carefully monitored if it is to improve basic rights. Already, relief organizations have reported unnecessary delays in assistance, poor coordination between international actors, and marginalization of persons outside of the capital (such as those who have fled the city or are in other affected areas).

The recovery process in Haiti will take many years, which makes it all the more critical that clear human rights principles guide the process. Efforts should be coordinated with and focus on rebuilding the capacity of the government of Haiti. Care should be taken to ensure that assistance efforts do not exacerbate or reinforce marginalization or human rights abuses that predated the earthquake.

During the hearing, we will invite the Commission to conduct a visit to Haiti to examine the economic and social rights effects of the humanitarian assistance effort with a view toward making recommendations to Member States on ways to fulfill their human rights obligations. Finally, we will request that the Commission include recommendations which will serve to strengthen the Haitian government's capacity to fulfill its economic and social rights obligations.

We request 60 minutes for our presentation, which would consist of an overview of the economic and social rights situation in Haiti and the human rights implications of current assistance efforts, with testimony from our partners on the ground, a discussion of the legal standards setting out the obligations of OAS Member States, and recommendations for fulfilling those obligations.

We would like to thank you for considering our request. We extend our appreciation, in advance, for the potential opportunity to present before the Commission.

Sincerely,

Handwritten signature of Mario Joseph in cursive script.

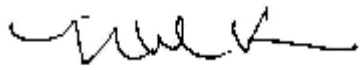
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