

# TESTIMONY OF MARGARET SATTERTHWAITE

Delivered to the Inter-American Commission on Human Rights

During a Hearing on the  
Economic and Social Rights Situation in Haiti following the Earthquake  
and the Human Rights Obligations of OAS Member States

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Good morning. My name is Margaret Satterthwaite. I am a member of the faculty at New York University School of Law and a Faculty Director of the Center for Human Rights and Global Justice. I would like to thank the members of the Inter-American Commission on Human Rights for giving us the opportunity to address you today.

I will provide a very short overview of the legal framework supporting our intervention.

Under international human rights law, the Government of Haiti has the primary obligation to respect, protect, and fulfill the whole range of human rights—economic, social, cultural, civil and political—of all Haitians. But, in the aftermath of the earthquake, the government needs assistance to meet its obligations.

Even before the earthquake, OAS Member States have contributed the majority of troops to the United Nations Stabilization Mission in Haiti, donated financial resources and personnel for basic services, and sought to promote human rights in Haiti.

We applaud OAS Member States' efforts to assist the people of Haiti, and respectfully encourage the Commission to guide Member States in recognizing and clarifying their human rights obligations in this regard. Four such obligations are especially relevant.

**First, OAS Member States have obligations under the OAS Charter with regard to human rights, including economic, social, and cultural rights.** The Charter recognizes the fundamental rights of the individual. These are further clarified by the American Declaration, which binds all OAS Member States and recognizes a wide variety of economic and social rights including children's rights; the rights to food, clothing, housing and medical care; the right to education; the right to culture; the right to work; and the right to social security. Member States that have ratified the American Convention also have obligations under Article 26 to protect and promote economic, social, and cultural rights.

**Second, OAS Member States are called on to cooperate with one another to improve the human rights situation in Haiti.** Both the OAS Charter and the American Convention indicate that OAS Member States have a shared responsibility to cooperate for the fulfillment of economic and social rights in the region beyond their borders. Among the core purposes of the OAS is the promotion, through cooperation, of economic and social development; this includes action aimed at ensuring basic survival rights such as food and nutrition, and health and sanitation. Similarly, under

Article 26 of the Convention, Member States have agreed to take cooperative steps to realize economic and social rights within the hemisphere. OAS Member States should therefore conduct assistance in Haiti with the aim of fulfilling economic and social rights, as well as civil and political rights.

In addition to the general obligation to cooperate, Article 37 of the Charter reflects Member States' shared responsibility 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." Given the scale of the catastrophe in Haiti, OAS Member States have a duty to "join together" to support the Haitian state in fulfilling its role as the primary guarantor of its citizens' rights.

**Third, OAS Member States have concrete and specific obligations under international law to respect the economic and social rights of the Haitian people.** Following the earthquake, the Commission provided a helpful framework to understand the obligations of OAS Member States by reminding the Haitian government, the international community, and implementing organizations on the ground of "the importance of respecting international human rights obligations in all circumstances, in particular non-derogable rights and the rights of those most vulnerable."

When cooperating to provide assistance to another State in the region, either bilaterally or through international organizations, OAS Member States have a minimum duty to *respect* human rights. To meet this obligation, States must *do no harm* to the human rights of individuals who are directly affected by their actions.

In addition, under Inter-American law, certain rights are non-derogable, including the right to life, the rights of the child, and freedom from discrimination. Inter-American and international jurisprudence has established that the right to life and the rights of the child entail minimum survival rights such as food, clean water, warmth, shelter, and basic health care. OAS Member States acting in Haiti must therefore ensure that their assistance results in no negative effects on these rights. They also have a duty to ensure that their actions do not have discriminatory effects, or reinforce the society's entrenched inequalities and discrimination, regarding gender, creed, economic status, social condition, color, and language, among others.

As the Commission noted, OAS Member States have particular obligations to respect the economic, social, and cultural rights of the most vulnerable in Haitian society—such as women (with a focus on female heads of household and rural women), children, the elderly, the disabled, and those displaced by the earthquake. OAS Member States should prioritize assistance to these vulnerable populations.

**Fourth—in order to fulfill their obligation to respect the human rights of all Haitians—OAS Member States must bring human rights to the forefront of all assistance efforts.** To do this, OAS Member States should adopt and use a human rights-based approach to their assistance to Haiti, actively ensuring transparency, accountability, capacity development, participation, and non-discrimination. A rights-based approach reinforces principles of Inter-American law, such as the indivisibility and interdependence of rights and the obligation of non-discrimination. It requires paying particular attention to groups that have been historically denied a role in the political process

and access to basic services. It demands building the capacity of the Haitian government to guarantee the rights of all Haitians.

**Finally, we respectfully urge the Commission to use its position to draw attention to** massive ongoing violations of the economic, social, and cultural rights of the Haitian people **and to guide States regarding their obligations when delivering assistance.** We request that the Commission express how OAS Member States can fulfill their obligation to respect human rights, especially non-derogable rights and the rights of vulnerable populations, as they provide assistance to Haiti—in a statement in its press release regarding this session. We further request that the Commission conduct an on-site visit to Haiti to examine these issues on the ground.

Rebuilding Haiti without consideration for human rights is laying the groundwork for another disaster. This is a crucial opportunity to turn the tide and put Haitians, their needs and their rights, at the center of the agenda. This means transparency, attention to vulnerable and excluded groups, and building sustainable access to water and food.

Thank you.