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Technical assistance and capacity-building

**Statement by the United Nations High Commissioner of the
Office for Human Rights**

**Support of the United Nations Office of the High
Commissioner for Human Rights for the recovery and
reconstruction process in Haiti following the earthquake:
a human rights paradigm**

Prepared by the Secretariat

I. Introduction

1. On 27 January 2010, in its resolution HRC/S/13-1, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR), to identify, in collaboration with the Government of Haiti, areas for cooperation and technical assistance, on the basis of the expertise and the presence of the United Nations system on the ground, and in collaboration with special procedures, with a view to prepare suggestions for the Council at its fourteenth session. In this regard, and following consultation with concerned stakeholders, particularly the Government of Haiti, the independent expert on the situation of Human Rights in Haiti and Special Procedures, this paper highlights recommendations addressed to the international community, based upon the Action Plan for National Recovery and Development of Haiti, and focus upon specific priority areas for cooperation and technical assistance, namely in the fields of enhancing protection for groups with special needs such as internally displaced, women, children and migrants and integration of an accountable and sustainable human rights approach in reconstruction efforts and in the provision of essential services, which guarantee the fulfilment of all rights for all Haitians.

2. The Office of the High Commissioner would like to commend the Council's continued attention to Haiti following the devastating earthquake on 12 January 2010. As outlined by the High Commissioner in her introductory remarks of this session, the challenges faced by Haitians following the earthquake, are on a massive scale and multifaceted, and compound the enormous challenges faced by the country before the tragedy. The international response at the donor conference in March 2010 and the World Summit for the Future of Haiti in June 2010 are clear positive examples of international cooperation and solidarity. The challenge now is to turn the pledges into reconstruction efforts with the goal of assisting the Haitian Government to provide a better future for all Haitians.

3. The recommendations outlined throughout this paper envisage cooperation and technical assistance and are intended to be broad in scope. OHCHR stands ready to develop and discuss the recommendations in detail with the Government of Haiti and the international community.

II. Statement by the High Commissioner for Human Rights

Strengthening the Haitian State

4. In its Action Plan for National Recovery and Development, the Haitian Government outlines that new ways of cooperation are needed "particularly by making the strengthening of the State central to our action"¹. Similar sentiments were expressed by the Secretary-General in January 2010². A strong State is essential for the realisation of human rights, as the promotion and protection of all human rights is first and foremost a State's responsibility, but it is also increasingly a cooperative global effort in the face of today's daunting challenges, such as poverty, impunity, democratic deficits, exclusion, violence, and discrimination.

¹ Government of the Republic of Haiti, "Action plan for national recovery and development of Haiti: Immediate Key Initiatives for the future", March 2010 pg. 3.

² SG/T/2710 of 25 January 2010 <http://www.un.org/News/Press/docs/2010/sgt2710.doc.htm>

5. The High Commissioner for Human Rights, in her oral statement, urges working within the framework of the Action Plan for National Recovery and Development for Haiti and urges the international community to ensure that the continued strengthening of the Haitian State remains the central aim of their action and that they work in collaboration with all relevant parties, to ensure respect for international human rights standards in the four areas outlined in the reconstruction strategy: territorial rebuilding, economic rebuilding, social rebuilding, and institution rebuilding.³ In this regard, the High Commissioner highlights, the importance of an effective and independent judiciary and a law enforcement apparatus respectful of human rights, together with a reliable national human rights institution, as the pre-conditions for a State to develop in full respect for the rule of law. The Office of the High Commissioner further emphasises that reconstruction efforts in Haiti must be based on the respect and promotion of all human rights. The authorities in Haiti with the support of the international community must therefore ensure that the necessary international cooperation and assistance for Haiti is consistent with human rights standards.

6. Above all, non-discrimination should be ensured; through mechanisms that adequately prioritise fulfilling at least minimum essential levels of food, water, sanitation, education, health and housing for all; and that focus on those most in need. In addition, the Haitian authorities, the United Nations and donor states should proceed to ensure that relief and development assistance provides for effective mechanisms for the meaningful participation of the Haitian people, including the most marginalised. Transparency and accountability in the provision and administration of aid are two other basic human rights principles that cannot be overlooked.

Strengthening Human Rights Protection, especially of groups with special needs

7. On 12 January 2010, a devastating 7.0 earthquake on the Richter scale hit Haiti. The earthquake caused over 220,000 deaths and the displacement of over 2 million people – 1.5 million are now living in camps and spontaneous settlements in Port-au-Prince, while some 500,000 to 600,000⁴ have taken refuge with families and friends in the interior. Over 300,000 people are reported to have been injured.

8. Protection of those affected by the earthquake - a particular focus on internally displaced persons, women, children, people with disabilities and the elderly - is a fundamental responsibility of the Government of Haiti, but international solidarity has a role to play given the dimension of the tragedy. Protection means not only protection from physical harm; it also means the assurance of minimum living conditions, including food, water and shelter and the provision of durable solutions in keeping with international human rights standards.

9. Immediately following the earthquake, OHCHR – with the invaluable support of Office of the United Nations High Commissioner for Refugees (UNHCR) – took on the lead of the Protection Cluster as part of the international humanitarian response while the United Nations Population Fund (UNFPA) has been leading the Sub-Cluster on Gender-Based Violence and the United Nations Children’s Fund (UNICEF) the one on Child Protection. To date, the Protection Cluster has conducted field visits, monitoring of protection issues, needs assessments, advocacy, capacity-building, targeted protection

³ Government of the Republic of Haiti, “Action plan for national recovery and development of Haiti: Immediate Key Initiatives for the future”, March 2010 pg. 3

⁴ OCHA Haiti - Humanitarian Bulletin No. 4, 4 June 2010, in <http://www.reliefweb.int>

interventions and awareness-raising activities to ensure an overall protection-sensitive humanitarian response, particularly with regard to internally displaced people.

10. In collaboration with the United Nations Stabilization Mission in Haiti (MINUSTAH)'s United Nations Police (UNPOL) and military, as well as other United Nations and Non Governmental Organizations (NGOs) in the Protection Cluster, a joint security assessment was conducted in several camps. The recommendations of the assessment have resulted in joint United Nations/ Haitian Police patrols, as well as in modifications in the physical structures of camps and work with displaced communities in order to improve their security situation. Recently, forced evictions from temporary internal displacement camps have increasingly been brought to the attention of the Protection Cluster.

11. OHCHR strongly recommends that all protection initiatives should adhere to the Guiding Principles on Internal Displacement,⁵ the Operational Guidelines on Human Rights Protection in Situations of National Disasters⁶ and the Framework on Durable Solutions⁷ in addressing the needs of the displaced. OHCHR also stresses the need to protect the rights of internally displaced persons both within and outside camps and that displaced people must be supported to make voluntary and informed decisions about their future.

12. Furthermore, in line with the international standards set out in International human rights treaties and norms, any relocation of internally displaced persons from camps or disaster areas must be voluntary, unless the safety and health of those affected requires evacuation. Durable solutions to the situation of internally displaced people must be mindful of their safety and dignity.

13. Haitian Women have been predominantly responsible for meeting the needs of the most vulnerable, including children, the elderly and the disabled. And this, despite the fact that their displacement has compounded their situation of vulnerability, exposing them to increased security and safety issues, including sexual violence. In this challenging context, the Office of the High Commissioner pays tribute to women's' organisations, who have continued their essential work to support local communities, despite having lost valuable members, offices and equipment.

14. Children are among the most vulnerable members of society and during emergencies their vulnerability increases significantly due to violence, abuse, separation from family, trafficking, irregular adoption and at times disability. The separation of families and destruction of schools and communities have left thousands of children in Haiti without a protective environment.

15. Prior to the earthquake, there had been some positive developments in Haiti. The Government ratified key international standards. A National Protection Plan for Vulnerable Children was adopted for the period 2006-2011, and the 2007 Poverty Reduction Strategy Paper also reflected the Government's will to ensure the well-being of children, by addressing access to quality education, basic health care services and the economic viability of families. Still, children remain in a vulnerable situation, and hundreds of thousands subjected to domestic labour. In the face of the January 12 earthquake, the Government declared a moratorium on adoptions in line with international protocols, and activities have been increased, together with the Child Protection sub-Cluster, to diminish the risks of

⁵ <http://www.idpguidingprinciples.org/>

⁶ Brookings-Bern Project on Internal Displacement, *Human Rights and Natural Disasters, Operational Guidelines and Field Manual on Human Rights Protection in Situations of Natural Disaster*, March 2008

⁷ Framework on Durable Solutions for Internally Displaced Persons (A/HRC/13/21/Add.4)

trafficking, to care specifically for orphaned and separated children and to provide psychosocial support.

16. In this regard, the Office of the High Commissioner stresses the importance of immediately ensuring access to education for all children, and of immediately rebuilding the country's education system. Education is not only a right in itself; it is also a means to secure the enjoyment of other rights. In situations of emergency, it provides not only a sense of normalcy and help to cope with trauma, but also a vehicle to support whole communities. Education is an investment in a country's future, and an essential element of state building. The Action Plan for National Recovery and Development of Haiti highlights the importance of education, as well as the need to ensure a critical mass of qualified professionals to provide it⁸. The international community must support the Haitian Government in this aim as an integral part of a wider programme of improving Haiti's overall economic, social and cultural rights. Achieving free primary education for Haiti's children is a fundamental priority in the reconstruction efforts. Support to the education of older children and youths, including supporting university students, must also remain a priority.

17. Even before the earthquake struck, around 10% of the population was living with disabilities, including 200,000 children. An estimated 300,000 people⁹ were injured in the earthquake, many of whom will suffer long-term disabilities. Special measures need to be put in place to facilitate access of persons with disabilities to food, water, education, housing, employment and training. Persons with disabilities also need to be actively involved in the reconstruction efforts. Funding for rehabilitation programmes ultimately needs to respond to adults and children with a variety of disabilities.

18. The High Commissioner for Human Rights is concerned that despite her and the High Commissioner for Refugees' call to suspend the deportation of Haitian migrants until the situation in Haiti has normalised, deportations from some countries have continued. Deportations at the current time force those involved into a precarious situation and moreover deprive Haitians of remittances and may contribute to further social instability.

Human Rights and Reconstruction efforts: Accountability and Sustainability

19. In looking at the challenges faced in the reconstruction of Haiti - social and economic development, good governance, improvement of delivery and access to services – we cannot fail but remark that they are indeed human rights challenges: ending poverty and exclusion, ensuring accountability by all relevant actors and the rule of law and securing access to basic rights.

20. Thus, adopting a human rights framework in the reconstruction efforts centres attention on the key ultimate goal of improving the living conditions of Haitians and upon the accountability of the State to develop sustainable systems. Sustained and long term progress for poverty reduction requires large scale social investments that create social and economic opportunities and thereby strengthen citizens' rights¹⁰.

⁸ Government of the Republic of Haiti, "Action plan for national recovery and development of Haiti: Immediate Key Initiatives for the future", March 2010 p. 41

⁹ According to latest statistics provided by the Haitian government May 2010

¹⁰ Sakiko Fukada-Parr "Empowering people: Human Rights Review of Haiti's Poverty Reduction and Growth Strategies April 2009.p2

21. There is now evolving global consensus on the essential elements of a human rights based approach, namely: ensuring a link between development work and human rights, accountability, empowerment, participation and non-discrimination and attention to most affected groups. The fundamental core of human rights based development is thus to empower individuals to take charge of their own lives and to claim their rights –and in claiming their rights to demand accountability of the state to put in place the necessary conditions for sustainability¹¹.

22. Aid dependency can weaken the democratic accountability of the state to people, as governments become more accountable to donors while the donors are in turn accountable to their own public¹². This can be countered through the building of mechanisms of democratic accountability such as institutional participatory mechanisms where civil society become involved in decisions made by the state and monitor projects, such as reconstruction and de-centralisation projects. The creation of the Haitian Reconstruction and Development Agency will be a key agency in the process.

23. Protecting human rights in the long-term therefore requires careful strategic action to ensure that financial pledges are spent through programmes which re-enforce access to human rights and that are participatory in nature. As mentioned above, this is of particular importance in the creation of the new Haitian Agency for Reconstruction and Development, which should be able to integrate Human Rights-based criteria in all aspects of its work including tenders for reconstruction efforts. The private sector has a key role in the development of Haiti – but it must exercise this role mindful of the basic human rights tenets if its investments are to be durable and secure.

24. One key area for immediate work could be the reissuing of key documentation. Many Haitians are currently without ID documents, education certificates and cadastral records, with the result that they are unable to access schools or universities, prove their identity and claim their property. In short, lacking documentation is a tangible area which impacts upon the ability of Haitian to realise their rights.

25. Economic development itself will not bring about the needed changes without having the solid foundation of respect for the rule of law. Amongst rule of law initiatives, the establishment of a strong justice system, accessible to all without distinction, is a pressing need in Haiti. Detail on what the main needs and shortcomings of rule of law institutions are have been documented well before the earthquake struck – these were thoroughly identified and analysed in the numerous reports the successive Independent Experts on the situation of human rights in Haiti and other Special Procedures of the Human Rights Council and its predecessor, the Commission on Human Rights. The international community and the Haitian authorities are invited to revisit their recommendations as the basis upon which to rebuild effective rule of law institutions. Underpinning the justice sector, the High Commissioner highlights that a strong national human rights institution is an essential element in ensuring the respect of human rights and the rule of law necessary for the country to ensure that it provides basic conditions to all its citizens. And civil society must be allowed to develop its capacity to monitor, demand and ultimately complement the State's efforts to ensure the enjoyment of all rights by the population.

26. Finally, it is of note that the 2010 Humanitarian Appeal for Haiti is only 58 percent funded. While the Office of High Commissioner for Human Rights thanks the international

¹¹ Sakiko Fukada-Parr "Empowering people: Human Rights Review of Haiti's Poverty Reduction and Growth Strategies April 2009.p3

¹² Sakiko Fukada-Parr "Empowering people: Human Rights Review of Haiti's Poverty Reduction and Growth Strategies April 2009.p3

community for their support to the protection sector, sectors highlighted as priority areas by the government of Haiti and in its Action Plan for National Recovery such as early recovery and agriculture are only 30 percent and 40 percent funded respectively. The High Commissioner therefore urges the international community's immediate support for these key areas.

III. Recommendations

A. Strengthening the Haitian State

27. **In all programmes funded or directly implemented by them, Member States of the United Nations should ensure that the rights of all Haitians, including groups with special needs such as women, children, persons with disabilities, the elderly and internally displaced persons are taken into consideration and respected.**

B. Strengthening Human Rights Protection, especially of groups with special needs

28. With regard to the protection of internally displaced persons, the Office of the High Commissioner addresses the following recommendations to the international community:

29. **The international community is urged work with the Haitian authorities to ensure durable solutions to the situation of widespread displacement. These may involve return to areas of residence or resettlement in other areas, in consultation with internally displaced persons themselves.**

30. **To date, aid and recovery programmes have mostly been concentrated around the area immediately affected by the earthquake. The Office of the High Commissioner requests the international community to extend its assistance and support to the over 500,000 displaced people in other areas of the country, as well as to the communities that have been hosting them.**

31. With regard to the protection of Women, the Office of the High Commissioner addresses the following recommendations to the international community:

32. **Assist the Government of Haiti to continue the implementation of the National Action Plan for Combating Violence Against Women (2006-2011) and to work on a stronger national plan of action to eliminate violence against women that includes legal measures, service programmes, redress and prevention strategies and encourages the participation of civil society.**

33. **Assist the Government to support local government and community based anti-violence strategies within a human rights framework.**

34. **Provide support to women's organisations in order to rebuild their capacity and continue with their important task of providing protection and assistance.**

35. **The Office of the High Commissioner further recommends that Haitian and donor governments should enable women's full participation in all phases of reconstruction of Haiti as mandated by United Nations Security Council Resolution 1325 and all other internationally recognised standards.**

36. With regard to the protection of Children, the Office of the High Commissioner addresses the following recommendations to the international community:

37. **To continue its support for the work of the national authorities and the Child Protection Sub-cluster.**
38. **To remain vigilant against trafficking and illegal adoptions of Haitian children.**
39. **To provides immediate support for the Haitian Ministry of Education in ongoing initiatives to rebuild its education system, and ensure free and quality education for all Haitian children, including provision of professional training of teachers.**
40. With regard to the protection of persons with disabilities, the Office of the High Commissioner addresses the following recommendations to the international community to assist the Government of Haiti to:
41. **Ensure that programmes enable adequate access of persons with disabilities to health, education, employment and housing.**
42. **Ensure active participation of persons with disabilities in needs assessments and policy planning.**
43. With regard to the protection of Migrants, the Office of the High Commissioner addresses the following recommendation to the international community:
44. **The High Commissioner reiterates her call to the international community to suspend the involuntary return of Haitian migrants until the situation has stabilised.**

C. Human Rights and Reconstruction efforts: Accountability and Sustainability

45. The following recommendations are proposed for consideration by the international community to support the government of Haiti in its reconstruction efforts:

(a) **All actors involved in the reconstruction efforts in Haiti, including Member States and private companies, should coordinate their assistance within the priorities determined by the Haitian authorities;**

(b) **All reconstruction programmes and projects, including bilaterally implemented and private ones, should adopt a human rights based approach, including during tender processes; in this respect the Office of the High Commissioner recommends using the business and human rights “Protect, Respect and Remedy Framework¹³”, proposed by SRSJ John Ruggie.**

(c) **Strengthening and empowering the national human rights institution, the Office de la Protection du Citoyen, and civil society to be active partners throughout reconstruction endeavours should be envisaged as a priority.**

(d) **Provide assistance to the Government of Haiti to ensure the rapid reconstitution of key documentation, as this directly affects Haitians ability achieve all human rights, civil and political and economic, social and cultural.**

(e) **Support the Haitian Government in ensuring access to primary healthcare for the Haitian population, with specific attention paid to groups with special needs; and ensure adequate coverage in both rural and urban areas, This**

¹³ See A/HRC/14/27 Report of the SRSJ John Ruggie on the issue of human rights and transnational corporations and other business enterprises

should be done in a manner such that international support strengthens and complements the existing health system,

(f) In reconstruction programmes, place priority on creating employment for Haitians in full respect for the dignity and rights of workers

(g) Ensure resources and capacity building to enable Haiti to build an independent and effective Judiciary and law enforcement apparatus respectful of human rights, along the recommendations of Independent Experts on the Situation of Haiti and other human rights mechanisms.

(h) Ensure close coordination between the international community, the Haitian Diaspora and regional organisations to provide concerted, sustained and credible support through provision of skills, knowledge and experience to the Government of Haiti throughout the reconstruction process

(i) Moves made bilaterally to forgive Haiti's foreign debt are welcomed and commitments made by the G7 countries at their summit in February 2010 to work with multilateral institutions, including the Inter-American Development Bank, the World Bank and International Monetary and International Development Association to forgive these multilateral debts commended. Continued action by the international community is urged in this regard.

IV. Conclusion

46. In conclusion, the fundamental core of human rights based development is to empower individuals to take charge of their own lives and to claim their rights- and in claiming their rights, to demand accountability of the state and of relevant other actors such as businesses in putting in place the necessary conditions for sustainability. The Office of the High Commissioner for Human Rights continues to work with the Government of Haiti in coordination with the independent expert on Haiti and all relevant stakeholders to achieve the aim of overcoming economic and social inequalities in Haiti. In this context, the Office of the High Commissioner calls upon the international community to carefully consider and take forward the recommendations highlighted in this paper.
