



RNDDH



ALLARD K. LOWENSTEIN
INTERNATIONAL HUMAN RIGHTS CLINIC
YALE LAW SCHOOL

Via email

December 16, 2016

Re: Human Rights-Based Approach to Post-Hurricane Matthew Assistance in Haiti

Dear Mr. Gustavo Gallón, Independent Expert on the Situation of Human Rights in Haiti,

We congratulate you for your press statement issued on October 24, 2016, in particular, your recommendation that efforts to address the needs of Haitians affected by Hurricane Matthew be redoubled.¹ We also commend your commitment in prior reports to addressing human rights violations in Haiti that result from natural disasters.²

We would like to provide more information on the economic and social rights situation in Haiti following Hurricane Matthew and the human rights implications of international assistance. The destruction of homes, livelihood, livestock and crops is on a scale similar to the damage from the January 12, 2010, earthquake. Haitians call Matthew “ti 12 janvye” or “little 12 January”. But unfortunately the international community has not stepped up to help Haitian communities impacted by the hurricane. We ask for your help in alerting the international community to the dire situation in post-Matthew Haiti and the need for humanitarian and reconstruction assistance.

We also seek to address the human rights obligations of the international community – including UN member states and humanitarian aid organizations – when intervening in a country to provide assistance. Through your guidance, we hope that the Haitian government, UN member states and humanitarian aid organizations can concretely contribute to the realization of Haitians’ economic and social rights by providing much-needed funds to communities affected by Hurricane Matthew, particularly by using a rights-based approach guided by human rights norms in their assistance.

A rights-based approach to Hurricane Matthew assistance (1) prioritizes capacity-building of the Haitian government and civil society; (2) ensures participation of communities affected by Matthew in the design and execution of assistance programs, with an emphasis on civil society

¹ Press Release, The UN Independent Expert on Haiti presents its findings at the end of its sixth mission (Oct. 26, 2016).

² U.N. Independent Expert on the Situation of Human Rights in Haiti, *Rep. of the Independent Expert on the Situation of Human Rights in Haiti*, U.N. Doc. A/HRC/31/77 (Feb. 12, 2016) (by Gustavo Gallón), para. 77 - 81.

organizations; (3) practices transparency by making information about the intervention accessible to the community; (4) ensures accountability to the target communities and Haitian government by providing monitoring, evaluation and complaint procedures; and, (5) insists on ensuring that the assistance does not discriminate against marginalized groups, with particular attention to women, children and elderly, disabled and LGBTI individuals.³

This approach to Matthew assistance places human rights protection at the center, ensuring that the humanitarian and development plans, policies and processes are anchored in a system of rights and corresponding obligations established by international law.⁴ Ultimately, we hope that Hurricane Matthew relief will encourage the Haitian government and the international community to make long-term investments in Haiti's infrastructure and structural reforms to ameliorate the country's vulnerability to natural disasters.

Current situation in Haiti since Hurricane Matthew

As you witnessed during your visit in October, Hurricane Matthew's impact on Haiti's Southern Peninsula was catastrophic. The Category 4 hurricane's 230 MPH winds and over ten inches of rainfall caused widespread destruction of buildings, agriculture, infrastructure and human lives, including:

- 546 lives lost, 438 injured;⁵
- up to 90% of houses destroyed in some areas, with more than 175,500 displaced people living in temporary shelters;⁶
- 80%-100% of agricultural crops lost, including trees, and 50% of livestock killed;
- 806,000 people extremely food insecure;⁷
- 1,250,000 Haitians—including a half-million children—without safe water;⁸
- 5,802 suspected cholera cases reported from October 4 to November 7, with 52% percent of those cases in the Sud and Grand Anse Departments;⁹ and
- 1,663 schools in the affected areas damaged or destroyed, affecting 490,000 children.¹⁰

Food and medical help did not reach the main cities for several days after the hurricane, due to flooded roads and damaged bridges. Some aid has since reached cities such as Les Cayes and Jérémie, but the remote rural areas which were already difficult to access have received very little outside help. Many families in these areas are sleeping without any shelter and are desperate for food, safe water and materials to rebuild their homes. Destroyed crops and livestock will likely result in food shortages in the coming months and even years throughout the country. The Grand

³ Brian Concannon & Karen Keating Ansara, *Applying human rights principles to disaster response*, Alliance Magazine (Nov. 3, 2016), available at <http://www.alliancemagazine.org/blog/applying-human-rights-principles-disaster-response/>.

⁴ Brian Concannon Jr. & Beatrice Lindstrom, *Cheaper, Better, Longer-Lasting: A Rights-Based Approach to Disaster Response*, 25 Emory Int'l L. Rev 1145, 1146 (2011).

⁵ OCHA, Haiti: Hurricane Matthew – Situation Report No. 16 (Oct. 26, 2016), available at <http://reliefweb.int/report/haiti/haiti-hurricane-matthew-situation-report-no-16-26-october-2016>.

⁶ OCHA Haiti: Hurricane Matthew – Situation Report No. 22 (Nov. 16, 2016), available at <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Situation%20Report%20%2322%20Hurricane%20Matthew%20Haiti%2016%20Nov%202016.pdf>.

⁷ Hurricane Matthew Report No 16, *supra* note 5.

⁸ Partners in Health email (Oct. 26, 2016).

⁹ Hurricane Matthew Report No. 22, *supra* note 6.

¹⁰ *Id.*

Anse and the South departments are considered the 'breadbasket' of Haiti. The quantity of locally produced food has already declined throughout markets in the country, causing a spike in food prices. Health practitioners report a spike in cases of severe acute malnutrition in hard-to-reach areas.¹¹

The immediate fatalities following Matthew are relatively low compared to prior storms of lesser severity in Haiti. The Haitian government, along with some civil society groups and individuals reduced fatalities through prior evacuations and warnings, but these efforts were neither systemic nor adequate.¹² In one commune in the South, a school was identified as a safe shelter, but the school's roof blew off as people arrived. In Les Anglais, a representative from the Office of Civil Protection was killed by the storm while he visited homes to urge his community to evacuate. Many who survived Matthew are left with inconceivable trauma as they struggle to rebuild their lives.

Similar to after the January 12, 2010, earthquake, families, neighbors, communities and grassroots organizations throughout the affected areas provide life-saving support while they hope for additional humanitarian support. In regions all over the South, neighbors took in neighbors whose houses were compromised by the hurricane and provided shelter, sharing food and water. Family members living in less-affected areas brought badly needed food and assisted in building temporary shelters pieced together with wood, aluminum sheets and other accessible materials. These efforts have continued as people rebuild, but these communities, which were already in poor socio-economic situations, are in dire need of long-term, sustainable and rights-respecting development that only a well-coordinated and well-funded disaster relief plan can bring.

In the months following Hurricane Matthew, fatalities have continued due to the increased vulnerability that the hurricane caused. The rain continued to fall relentlessly in the Grand Anse, North West and North departments, among other areas. Local clinics and hospitals reported an increase in stress-induced diseases, such as hypertension and infectious diseases that are easily contracted due to compromised immune systems. These are all in addition to the spike in cholera. Although adversity may build resilience and strength, there is a limit to the endurance of the human spirit before it breaks. The psychological impacts have been incomprehensible, and these limits have been reached for some of the victims of Matthew.

The Office of Coordination of Humanitarian Affairs (OCHA) Emergency Response Team, in collaboration with humanitarian partners such as UNICEF and the World Food Program, has helped coordinate humanitarian assistance to affected areas, including food assistance to 520,000 people, drinking water to 216,000 people, and repairs to existing water systems. Future plans include resettling displaced families from 86 schools that have been turned into temporary shelters, rebuilding 30 schools, and administering 1 million cholera vaccinations.¹³ Foreign non-governmental organizations working outside of the Emergency Response Team have also provided medical assistance and other forms of aid to affected areas.

¹¹ Id.

¹² Bureau des Avocats Internationaux, *Post Hurricane-Matthew: Bureau des Avocats Internationaux Visits Southern Department* (Oct 20, 2016), available at <http://www.ijdh.org/2016/10/hurricane-matthew/haiti-post-matthew-visite-dobservation-du-bureau-des-avocats-internationaux-bai-dans-le-departement-du-sud/>.

¹³ Hurricane Matthew No. 22, *supra* note 6.

Residents and human rights organizations have reported that some of the aid distribution has not respected people's dignity. There have been reports of chaotic and disorganized aid distribution, marginalization of people in remote regions, politicization of aid by party candidates, and a lack of coordination with local government authorities.¹⁴ On October 25, an 18-year-old girl was shot and killed by the Haitian National Police and five people were injured by rubber bullets shot by UN peacekeeping troops at a hungry crowd during an aid distribution by barge in the coastal town of Dame Marie.¹⁵ Another adolescent was killed by gunfire during aid distribution in Les Cayes on November 1.¹⁶ On November 12, the blade of a helicopter killed two people in the Grand Anse during an aid delivery to people who were hungry and impatient.¹⁷

In addition, political candidates took advantage of the vulnerability of those affected by the hurricane by distributing aid as a campaign strategy. Many people told RNDDH election monitors that they would vote for the candidate who was the first to bring them aid. The absence of well-coordinated aid swayed those people to vote for a candidate who momentarily seemed to represent their interests, rather than one who would continue to do so when in office.

Building the capacity of local government and consultation with affected communities to establish a plan to coordinate and distribute aid may help prevent these types of tragedies and political influence. Moreover, timely and highly coordinated aid does not require militarization and avoids incidents like those described above from happening. Militarization does not correspond with delivering aid with dignity, as it treats disaster-affected populations as criminals requiring securitization.

Needs Going Forward

The international community's response to Hurricane Matthew is an opportunity to help Haiti break free of its cycle of extreme vulnerability to natural disasters and to move away from aid dependency. In the short term, there is a continued urgent need for life-saving, emergency response, such as providing food, water, emergency housing and medical treatment. In the medium term, the destruction will need to be cleaned up, and houses, hospitals, roads and schools rebuilt. Haiti also urgently needs support to control and respond to the surging cholera crisis. The UN's new two-track cholera response announced December 1, 2016, promises to reduce cholera transmission and improve access to care and treatment, which, if funded, should control the outbreak in Matthew-affected areas.¹⁸

¹⁴ Réseau National de Défense des Droits Humains, *Passage de l'Ouragan Matthew sur Haïti: le RNDDH exige le respect de la dignité humaine par le gouvernement haïtien, les Partis Politiques et les agences humanitaires* 11-13 (Oct. 21, 2016), available at <http://rnddh.org/passage-de-louragan-matthew-sur-ha%C3%AFti/>.

¹⁵ *Haïti-Matthew: Un Mort et 5 blessés a Dame-Marie lors d'une distribution d'aide*, AlterPresse (Oct. 26, 2016), available at <http://www.alterpresse.org/spip.php?article20808#.WBEIGi0r16Q>.

¹⁶ *Haïti: un adolescent tué par balle*, Lefigaro (Nov. 1, 2016), available at <http://www.lefigaro.fr/flash-actu/2016/11/01/97001-20161101FILWWW00210-haiti-un-adolescent-tue-par-balles.php>.

¹⁷ Elan Head, *Bell Helicopter confirms fatal accident during Haiti relief operations*, Vertical (Dec. 12, 2016), available at <https://www.verticalmag.com/news/bell-helicopter-confirms-fatal-accident-haiti-relief-operations/>.

¹⁸ *UN's Ban apologizes to people of Haiti, outlines new plan to fight cholera epidemic and help communities*, UN News Centre (Dec. 1, 2016), available at <http://www.un.org/apps/news/story.asp?NewsID=55694#.WFMEzVMrJ0E>.

In the long term, Haiti will need support to build the water and sanitation infrastructure necessary to eliminate cholera from the country, which the UN's new cholera response also proposes to do over the course of 10-15 years. Haiti will also need reforestation and crop support to ensure long-term food security and address environmental degradation and climate change. Furthermore, there needs to be support for disaster mitigation and preparedness, which is ultimately the best form of disaster response.

The government is attempting to coordinate the hurricane response and, in collaboration with OCHA, issued a Flash Appeal on October 10 for \$120 million to provide life-saving protection and assistance to 750,000 people over the next three months. The Flash Appeal has received 48 percent of the funding required.¹⁹

A Human Rights-Based Response Will Ensure That Aid Is Distributed More Efficiently and Will Make Haiti Less Vulnerable to Natural Disasters

If Haiti is to see a different future, the Haitian government and international community must implement a rights-based approach to its relief and reconstruction programming in Haiti. The widespread loss of life and costly damage from Hurricane Matthew and other hurricanes, as well as the 2010 earthquake, are not a result of mother-nature *per se*.²⁰ Rather, they are a result of human-made rights violations that render Haiti disproportionately vulnerable to flooding and the resulting damage.

By contrast, Hurricane Matthew's winds devastated Baraona, Cuba, but no human lives were lost. The Cuban government's response was more robust; residents were warned of the hurricane and evacuated into nearby schools that were turned into shelters.²¹ Deforestation has, over time, eroded the soil and reduced Haiti's ability to withstand heavy rains, making it vulnerable to flooding. Deforestation is the result of the inability to enforce basic economic and social rights such as the rights to food, water and shelter. Haiti's rural poor are limited in their options and respond to the market by cutting down trees to make charcoal, largely for the cities, in order to pay for schooling and other expenses. Without state focus on and investment in the rural areas, they will continue to be vulnerable to tropical storms and food insecurity.²²

The inability of many Haitians to satisfy even basic survival rights after Hurricane Matthew entails violations of the right to life, the right to personal liberty and security, the right to health, the right to an adequate standard of living, including housing, food and water, and the rights of the child, all

¹⁹ OCHA, Haiti: Hurricane Matthew – Situation Report No. 28 (Dec. 10, 2016), *available at* https://www.humanitarianresponse.info/system/files/documents/files/ocha_situation_report_28_hurricane_matthew_haiti_10_dec_2016.pdf.

²⁰ Concannon, *supra* note 4, at 1160.

²¹ *The misery of Hurricane Matthew is deepened by human failure*, The Economist (Oct. 15, 2016), *available at* <http://www.economist.com/news/americas/21708664-why-haiti-did-worse-cuba-protecting-its-people-misery-hurricane-matthew>.

²² OXFAM America, *Why is Haiti so poor?* (2010), *available at* <http://firstperson.oxfamamerica.org/2010/02/why-is-haiti-poor/>; *see also* Church World Service and Christian Aid, *Climate Change and the Right to Food* (Mar. 2016), *available at* <http://cwsglobal.org/wp-content/uploads/2016/03/CLIMATE-CHANGE-AND-THE-RIGHT-TO-FOOD-.pdf>.

of which are protected under international human rights law.²³ The Haitian government has the primary obligation to protect and fulfill its citizens' human rights. Haitian civil society organizations, including the *Bureau des Avocats Internationaux* (BAI) and the *Réseau National de Défense des Droits Humains* (RNDDH), are advocating to hold the Haitian government accountable for its failure to systematically warn, inform and relocate persons vulnerable to the hurricane and for its failure to provide basic life-saving relief such as food, water, medical care, and shelter after the hurricane.²⁴

International actors share the responsibility under international law to protect and fulfill Haitians' human rights when their actions affect those rights and where these actors fulfill roles usually filled by national governments. The international community plays an unusually comprehensive role in Haiti, through funding, service delivery, policymaking and peacekeeping, all tasks that should be provided by the Haitian government.²⁵ States (and their state-sponsored aid agencies) are bound by human rights treaties and other documents that contemplate that human rights obligations extend beyond a state's immediate borders and carry over to their extraterritorial acts.²⁶ Non-state actors such as international non-governmental organizations (NGOs), although not parties to binding human rights treaties, are increasingly recognized as subjects of international law with the requisite legal personality to be obliged to comply with international legal requirements, including human rights norms (especially those that rise to the level of customary international law).²⁷

Historically, the international community has failed to use funds in Haiti in a way that promoted the human rights of all Haitians or built the capacity of the Haitian government to protect society's most vulnerable members.²⁸ After Haiti's 2010 earthquake, the Inter-American Commission on Human Rights reminded "the Haitian government, the international community, the non-governmental organizations and the many volunteers on the ground of the importance of respecting international human rights obligations in all circumstances."²⁹ Despite the warning, the response to the January 12, 2010, earthquake largely treated Haiti as a charity case rather than as a space where legal obligations exist and guide intervention.³⁰ As a result, Haiti experienced uncoordinated and unpredictable aid and broken promises, leading to even greater suffering,

²³ See e.g., Brief to the Inter-American Commission on Human Rights, *available at* <http://www.chrgj.org/projects/docs/100309-IACHRHearingHaitiEng.pdf>. (submitted by the *Bureau des Avocats Internationaux*, Center for Human Rights & Global Justice at NYU Law School, Institute for Justice & Democracy in Haiti, Partners in Health, Robert F. Kennedy Center for Justice & Human Rights, and *Zanmi Lasante*. The Center for Human Rights and Global Justice took the lead in developing this analysis). See, the International Covenant of Economic, Social and Cultural Rights, *opened for signature* Dec. 19, 1966, 993 U.N.T.S. (entered into force Jan 3, 1976) [ICESCR]; International Covenant on Civil and Political Rights, *opened for signature* Dec. 19, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976) [hereinafter ICCPR]; and Convention on the Rights of the Child, *opened for signature* Nov. 20, 1989, 1577 U.N.T.S. (entered into force Sep. 2, 1990).

²⁴ See, letter from *Bureau des Avocats Internationaux* to the Inter-American Commission on Human Rights (Oct. 24, 2016) and RNDDH report, *supra* note 14.

²⁵ Concannon, *supra* note 4, at 1151-52; See also, Oxfam, From Relief to Recovery: Supporting good governance in post-earthquake Haiti 10-11 (Jan. 6, 2011).

²⁶ *Id.* at 1152-56.

²⁷ *Id.* at 1156-58.

²⁸ Concannon, *supra* note 4, at 1146-1147.

²⁹ Press Release No. 11/10, IACHR Stresses Duty to Respect Human Rights During the Emergency in Haiti (Feb. 2, 2010), *available at* <http://www.cidh.org/Comunicados/English/2010/11-10eng.htm>.

³⁰ *Id.*

impoverishment and dependency.³¹ Transparency and accountability of donors and implementing organizations were absent at all stages of distribution.

We urge you, in your capacity as the Independent Expert, to encourage the Haitian government and international community to use a rights-based approach³² that places human rights protection and realization at the center of international assistance, ensuring that the plans, policies, and processes of international assistance are “anchored in a system of rights and corresponding obligations established by international law.”³³ A rights-based approach is not only legally mandated for state and non-state actors; it enables more successful programming because it ensures project effectiveness and guides investment toward those actors that can ensure project sustainability.³⁴

(1) Coordination through Haitian government to reinforce capacity

The Haitian government’s leadership in coordinating aid, both locally and nationally, should be encouraged and supported to allow the government to develop the capacity to provide emergency response and other basic government services by itself.³⁵ Supporting improved infrastructure will help Haiti develop the resilience to hurricanes that its Caribbean neighbors—all of whom combined suffered a tiny fraction of Haiti’s deaths this hurricane season—have developed. The Haitian government took initiatives to warn its people of Hurricane Matthew’s potential damage and coordinate evacuations and relief assistance but did not do so comprehensively. The Haitian government needs a natural-disaster emergency response plan, financial resources and trained personnel to respond independently of international actors.

Communities affected by Hurricane Matthew complained that their local governments were not included in the distribution of humanitarian aid.³⁶ Nonetheless, we are encouraged by the report from OCHA that the Emergency Response Team and its humanitarian partners are working with government partners such as the National Directorate of Potable Water and Hygiene, the Ministry

³¹ Id.

³² The human rights-based approach to international assistance is “a conceptual framework that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.” OFFICE OF THE UNITED NATIONAL HIGH COMM’R FOR HUMAN RIGHTS, UNITED NATIONS, FREQUENTLY ASKED QUESTIONS ON A HUMAN RIGHTS-BASED APPROACH TO DEVELOPMENT COOPERATION 15 (2006), available at <http://www.ohcrh.org/Documents/Publications/FAQen.pdf>. It frames international assistance in the context of entitlements and obligations, and can be distinguished from a needs-based approach or a charitable approach to assistance. See, AUSTL. COUNCIL FOR INT’L DEV., MILLENNIUM DEVELOPMENT: RIGHTS 5 (2009), available at http://www.acfid.asn.au/what-we-do/docs_what-we-do/docs_hrproject/Millennium%20Development%25. The rights-based approach operationalizes foundational principles of human rights law, including universality and inalienability; indivisibility; inter-dependence and inter-relatedness; non-discrimination and equality; participation and inclusion; and accountability and the rule of law. The legal obligations to adopt a human rights-based approach in humanitarian assistance derive from internationally recognized duties that find their origin in human rights treaties and customary international law. Concannon, *supra* note 3, at 1149. See also, UNDP, Applying a Human Rights Based Approach to Development Cooperation and Programming, at 5 (noting that a human rights based approach is mandated by human rights treaties, constitutions, and national laws).

³³ OHCHR, FAQs, *supra* note 28.

³⁴ Concannon, *supra* note 4, at 1148.

³⁵ Oxfam, From Relief to Recovery: Supporting good governance in post-earthquake Haiti 10-11 (Jan. 6, 2011).

³⁶ RNDDH report, *supra* note 12.

of Public Health and Population, the Haitian National Police, the Departmental Emergency Coordination, the Office of Civil Protection and local directorates of education.

(2) Civil society participation in project design and execution

A wide cross-section of society should be involved in every step of the decision-making processes, from the initial needs assessment to planning, implementation, monitoring and evaluation. Including beneficiaries in planning and distribution is not only a protected human right, but could also ensure that the plan effectively responds to needs and actually leads to durable solutions. Haitians complained after the 2010 earthquake that they rarely had the opportunity to meaningfully participate in decision-making concerning aid priorities and how assistance was allocated or used.³⁷

Aid distributors offering assistance to Hurricane Matthew are encouraged to learn about the needs of the community and best practices for distribution and project implementation by contacting local officials, such as mayors' office and justices of the peace, and civil society organization leaders, such as church leaders, women's organizations and medical clinics. An exhaustive consultation may not always be possible for the provision of emergency aid, but the process should be followed to the extent possible. Aid distribution will be more effective if distributors engage aid beneficiaries throughout the assistance program, because the beneficiaries will offer valuable feedback about best practices and feel a sense of agency in the assistance. For example, after Hurricane Matthew, certain communities complained about eating food, provided through aid, to which they were not accustomed, but they had nothing else to eat.³⁸

The most successful reconstruction efforts following Hurricane Matthew have been by Haitian-led organizations that provide cash transfers and support to affected families. These organizations also have conducted needs-assessments with community leaders and have worked with local merchants to source construction and other materials that will be used for aid and reconstruction. The success is based on these organizations' long-standing relationships of trust and respect with the beneficiaries.

For projects initiated by international actors, affected communities have requested that aid organizations hire them to assist with aid distribution and reconstruction projects. International actors should focus on improving livelihoods of the affected communities, which has the added benefit of significantly reducing the high overhead that comes with hiring expatriates. For example, the Netherlands-based NGO Cordaid contracted and trained local tradesmen to repair and build houses after the earthquake; Cordaid also purchases local supplies.³⁹

³⁷ In a survey conducted in earthquake displacement camps by the University of San Francisco School of Law in 2011, 82% of residents had not been consulted on their opinion on closing their displacement camps and being relocated. Respondents reported that their limited encounters with relocation officials came in the form of asking residents to leave. See, University of San Francisco School of Law, *Haiti's Housing Crisis: Results of a Household Survey on the Progress of President Michel Martelly's 100-Day Plan to Close Six IDP Camps* (Oct. 3, 2011), available at http://ijdh.org/wordpress/wp-content/uploads/2011/10/Martelly-100-Day-Report-final_Oct-3.pdf.

³⁸ RNDDH report, *supra* note 14.

³⁹ Cynthia Kao, *Haiti's Multi-Billion Dollar Humanitarian Aid Problem*, Huffington Post (Sep. 28, 2015), available at http://www.huffingtonpost.com/young-professionals-in-foreign-policy/haitis-multi-billion-doll_b_8207494.html.

(3) Transparency for international actors

The response to Hurricane Matthew is an opportunity to set an example of transparency for the international community. Normally, the state is responsible for ensuring that rights-holders receive essential information about disaster relief and reconstruction projects by international actors, but international actors must, at least, provide the necessary information to the local and national governmental officials involved in aid distribution so that they can disseminate it. Basic information should, at a minimum, include where and what type of assistance is available, who qualifies for the aid, the identity of the agencies distributing the assistance, and how and when aid beneficiaries can access the assistance.⁴⁰

(4) Accountability procedure for national, local and international actors

National, local and international actors must also provide monitoring, evaluation and accountability procedures that enable aid recipients to communicate with their agencies in Haitian Kreyol about services provided and to submit individual and community complaints. For international actors, these accountability procedures should involve the Haitian government, so that it can provide for continuous evaluation, improvement and remedy for wrongs associated with aid processes.

Accountability and transparency facilitate participation and collaboration in reconstruction decision-making. They also foster local ownership of the rebuilding process and break the cycle of dependency on non-governmental actors.

Holding the Haitian government to a high level of accountability for all disaster response money that it receives will strengthen its capacity and avoid abuse. Matthew victims complained that aid was distributed in a partisan matter.⁴¹ For example, in Les Irois, residents have complained to the *Bureau des Avocats Internationaux* that the local mayor has hoarded the four humanitarian aid deliveries that reached the town since Matthew and has distributed aid only to his political supporters. As a result, a large percentage of the town's 21,000 residents have not received any outside humanitarian assistance. This case and others like it must be investigated and punished as appropriate.

(5) Non-discrimination, with particular attention to marginalized communities

Government and international actors must ensure that aid distribution pays particular attention to communities that are often marginalized in Haiti, such as women, children and elderly, disabled, and LGBTI individuals. Men tend to have higher representation in government positions, civil society organization and church groups, while women and other marginalized groups are underrepresented in decision making-processes, including aid distribution. As a result, these groups often have difficulty accessing aid.⁴²

⁴⁰ Concannon, *supra* note 4, at 1180-84.

⁴¹ *Id.*

⁴² Ctr. For Human Rights and Global Justice, Yon Je Louvri : Reducing Vulnerability to Sexual Violence in Haiti's IDP camps 56 (2012), available at <http://chrhj.org/wp-content/uploads/2012/07/yonjelouvri.pdf>.

A survey in 2012 conducted in earthquake displacement camps by the Center for Human Rights and Global Justice at New York University School of Law revealed that participation of women residents in decisions affecting their lives had important implications not only for the efficacy of aid programs that target them as beneficiaries, but also for their security against sexual violence.⁴³ LGBTI individuals reported discrimination in accessing Matthew assistance, particularly when the assistance was distributed by church groups.⁴⁴ Disability groups complained of being excluded from national and local disaster-management processes, despite their increased vulnerability during natural disasters.⁴⁵

Rural communities complained that Matthew aid has been focused on the bigger towns, such as Jérémie in Grand Anse and Les Cayes in the Sud, at the expense of smaller rural towns.⁴⁶ Many of these smaller towns have the greatest need for aid, as flooding, a lack of roads and distance isolate them from services. With inflation in the prices of food, gas and building supplies, many of these communities are desperate for assistance.

The Les Irois residents in the case noted above complained of discriminatory aid distribution. Local and international actors must consult a range of civil society leaders to understand the political and socio-economic dynamics for effective, non-discriminatory aid distribution.

For more information to guide humanitarian assistance through a rights-based approach, we recommend that actors consult the Sphere Minimum Standards in Disaster Response⁴⁷ and the Handbook for the Protection of Internally Displaced Persons.⁴⁸

Conclusion

Hurricane Matthew's impact on Haiti's Southern Peninsula was catastrophic. We ask for your assistance in alerting UN member states of the dire needs of Haitian communities affected by the hurricane.

At the same time, there is no shortage of media stories, academic articles, UN statements and civil society reports condemning the international community's wasteful and ineffective aid response to Haiti's 2010 earthquake. It is time to improve policies and practices to avoid the same mistakes with Hurricane Matthew assistance. Haiti's disproportionate vulnerability to disasters is a result of underlying human rights violations that must be addressed in order for the humanitarian response to be effective.

⁴³ Id. Haitian women reported an increase in "survival sex" (trading sex for food, money, protection or shelter) after the earthquake. Id. at 19. Women also reported being assaulted and having their aid stolen when in line for food and other types of distribution. See, David Schaper, *New Program For Food Aid In Haiti Targets Women*, NPR (Feb. 1, 2010), available at <http://www.npr.org/templates/story/story.php?storyId=123202099>.

⁴⁴ Conversation with Charlot Jeudy, President of Kouraj, on Oct. 24, 2016.

⁴⁵ Jo-Anne Garnier Lafontant, *Reflections from my backyard while Hurricane Matthew is killing my country*, Disability Rights Fund blog (Oct. 6, 2016), available at <http://www.disabilityrightsfund.org/2016/10/06/reflections-from-my-backyard-while-hurricane-matthew-is-killing-my-country-haiti/>.

⁴⁶ RNDDH report, *supra* note 14 at 12.

⁴⁷ Sphere Minimum Standards in Disaster Response, see e.g., <http://www.sphereproject.org/resources/?search=1&keywords=&language=English&category=22&subcat-22=23&subcat-29=0&subcat-31=0&subcat-35=0&subcat-49=0>.

⁴⁸ Handbook for the Protection of Internally Displaced Persons, see e.g., <http://www.unhcr.org/en-us/protection/idps/4c2355229/handbook-protection-internally-displaced-persons.html>.

We respectfully urge you to encourage the Haitian government and the international community to adopt a rights-based approach to Hurricane Matthew relief and reconstruction. The rights-based approach leads to long-term efficiency and sustainability of projects, making investments more fruitful.⁴⁹

The following is a list of best practices⁵⁰ that we recommend international actors follow:

- Adopt a rights-based approach that supports the Haitian people in efforts to claim their rights and empowers the government of Haiti as the principal duty-bearer to fulfill these rights.
- Relief and recovery programs should be Haitian-led wherever possible.
- All actors in the relief and recovery process must consult with the communities they are assisting about their plans before acting and make themselves accountable to the people they aim to assist.
- Meaningful accountability and transparency requires opportunities for informed participation by people in decisions affecting their lives, with particular attention to marginalized groups.
- All international actors, both governmental and non-governmental, must comply with their minimum obligations to do no harm and their commitments to support fulfillment of fundamental rights.

Thank you very much for your consideration.

Sincerely,

Allard K. Lowenstein International Human Rights Clinic, Yale Law School
Bureau des Avocats Internationaux
Gender Action
Global Justice Clinic, NYU School of Law
Institute for Justice & Democracy in Haiti
Li, Li, Li! Read
Réseau National de Défense des Droits Humains

⁴⁹ Concannon, *supra* note 4, at 1159.

⁵⁰ For more best practices, see Best Practices for Hurricane Matthew Relief Aid in Haiti, Haiti Advocacy Working Group (Oct. 2016), *available at* <http://haitiadvocacy.org/wp-content/uploads/2016/10/HAWG-best-practice-post-hurricane-.pdf>.