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## Human Rights Council

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### **Written statement\* submitted by Amnesty International, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 January 2010]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Human rights must be at the core of relief efforts and the reconstruction of Haiti**

1. Amnesty International takes the opportunity of the Human Rights Council Special Session on Haiti to stress that protecting human rights is essential for effective relief and a sustainable recovery. Efforts and activities to address human rights issues must start during the relief phase and be at the core of the reconstruction effort.
2. The loss of tens of thousands of lives cannot be attributed only to the forces of nature. The endemic poverty that afflicts most of the population has contributed significantly to the extensive devastation. In encouraging and supporting reconstruction in Haiti, it is essential that the international community does not recreate the same factors that put people at risk of human rights violations and perpetuate inequalities and poverty.
3. Relief and reconstruction efforts in Haiti must be based on the respect and promotion of all human rights. The authorities in Haiti and the international donor community must ensure that the necessary international cooperation and assistance for Haiti is consistent with human rights standards. As such, it must be provided in ways that ensure non-discrimination; 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 Haiti authorities and donor states must act with due diligence to ensure that relief and development assistance does not result in, or contribute to, human rights violations and that there are effective mechanisms for the meaningful participation of all affected communities, including the most marginalized, in the relief and development assistance efforts.
4. During the distribution of relief assistance and the early stages of the reconstruction phase, Amnesty International raises the following concerns and urges all actors to address them without delay and comprehensively:

### **Protection of children from abuse, exploitation and trafficking**

5. Children are among the most vulnerable members of society and in a humanitarian crisis their vulnerability increases significantly due to violence, abuse, separation from family and disability. The separation of families and destruction of schools and communities left thousands of children without their protective environment. Without it, they could become prey to trafficking and exploitation networks who operated already in Haiti before the earthquake.
6. Separated children who might wrongly be considered orphans are at risk of being caught in irregular adoption processes. According to the Hague Convention on International Adoptions, international adoption must be considered a last resort after domestic alternatives have been exhausted and after the competent authorities have determined that there are no parents or carers that can look after the children. This risk existed before the disaster but could now be increased, given the interest of families from other countries in responding to the plight of orphan Haitian children by adopting them. The inadequate capacity of Haitian institutions in a large number of cases to determine the appropriateness of adoption and to ensure children's rights are respected can also encourage illegal adoption networks to operate. The Haitian authorities, with the support of MINUSTAH, must ensure appropriate safeguards and mechanisms to prevent children from being taken out of the country without the completion of formal legal proceedings for international adoption.

7. Family tracing should be a priority for the international community, the Haitian authorities and international aid agencies, as well as establishing safe spaces for separated children.

### **Protecting the rights of internally displaced persons (IDPs)**

8. Hundreds of thousands of persons have been left homeless and their lives cannot resume amid the rubble without serious risks for their safety, security and well-being. Thousands are already on the move fleeing the devastated areas. The Haitian government, including local authorities, and international humanitarian and development agencies must observe adherence to the Guiding Principles on Internal Displacement in addressing the security and humanitarian needs of the displaced in Haiti.

9. In a country where food insecurity before the earthquake affected an estimated 1.8 million Haitians (December 2009), and 40% of the population lacked access to potable water, the large number of displaced persons increases the potential of the humanitarian crisis spreading to the whole country.

10. Amnesty International stresses the need to protect the rights of internally displaced people both within and outside camps and that displaced people must be supported to make voluntary and informed decisions about their future.

11. In line with the international standards set out by the Guiding Principles on Internal Displacement, any relocation of internally displaced persons from camps or disaster areas must be voluntary, unless the safety and health of those affected requires evacuation. They should not be coerced in any way, including through the suspension of assistance. The right of internally displaced persons to return voluntarily to their former homes or lands in safety and with dignity should be respected and the authorities should assist them in either returning or resettling in another part of the country.

### **Protection of women and girls from gender-based violence, including sexual violence**

12. During humanitarian crisis and in post-disaster situations, women and girls are often particularly at risk of sexual violence, exploitation by traffickers, and reduced or lost access to sexual, reproductive and maternal health care services. Their disadvantage in accessing aid has been documented within and outside camps of displaced persons in countries where humanitarian crisis have developed.

13. All actors involved in the relief and later efforts of reconstruction must integrate the prevention of and response to all forms of gender-based violence, in particular sexual violence, in their programmes. UN agencies and other actors have developed Guidelines for Gender-based Violence Interventions in Humanitarian Emergencies: Focusing on Prevention and Response to Sexual Violence. The Guidelines present a coherent and participatory approach to preventing and responding to gender-based violence and outline the range of response services required to meet the need of survivors of sexual violence. Amnesty International calls on all actors involved in humanitarian and reconstruction efforts in Haiti to use the Guidelines as an essential framework for their operations.

### **Security and law enforcement**

14. The earthquake has further limited the capacity of the Haitian authorities to ensure the rule of law and provide security. Incidents of violence have been reported but they

remain so far localized to a few areas in Port-au-Prince, mainly the old city. Establishing a functional justice system to deal promptly with most serious crimes should be a top priority for Haitian authorities and international donors.

15. There is a growing concern that prisoners convicted of violent crimes who escaped from Port-au-Prince's National Penitentiary are trying to regain access to and control of the most deprived and vulnerable communities. In response to this threat, community members have organized themselves to prevent gangs from taking over communities. Amnesty International is concerned that this could put community members at risk of spiralling violence. The organization has received reports of lynchings and incidents of mob justice where alleged looters have been killed.

16. The Haitian National Police, with the assistance of MINUSTAH, must ensure security, particularly in areas where gang violence has been rife in the past. This is paramount to ensuring that relief work is not hampered by threats to people in the communities and to aid and relief workers. Those involved in lynchings and other forms of violence must be brought to justice.

17. The Haitian authorities must take immediate action to set up a provisional detention centre as the country's main prison has been destroyed and other detention centres in the country are overcrowded. They must also ensure that all detainees have access to humanitarian assistance and are treated humanely.

18. Reports have surfaced about the use of lethal force by Haitian law enforcement officials where alleged looters have been shot. Amnesty International urges the Haitian authorities and international forces present in Haiti to implement and ensure strict observance of the UN Basic Principles for the Use of Force and Firearms by Law Enforcement Officials which state that firearms should only be used by police in self-defence or against the imminent threat of death or serious injury. Independent, impartial and thorough investigations must be launched into reports of unlawful killings and other serious human rights violations, and suspected perpetrators must be brought to justice.

### **Accountability of international forces**

19. International forces have arrived in Haiti at the request of the Haitian government in order to provide security for the distribution of humanitarian assistance. More than 10,000 US troops, 150 military personnel from the Dominican Republic and 800 Canadian soldiers have been deployed in Haiti. More troops could be deployed in the weeks to come, including from other countries.

20. Issues relating to the accountability and responsibility of a large number of international military and police personnel need to be clarified from the onset. The terms of deployment and specifically the rules of engagement must be consistent with international human rights law and there should be effective mechanisms for ensuring they are respected by all members of the international forces at all times.

21. Experience of other peacekeeping operations has demonstrated that leaving accountability for violations solely to the discretion of the troop-contributing countries leads to impunity for serious human rights violations.

### **Cancellation of Haiti's foreign debt**

22. In 2009, international financial institutions and other creditors cancelled US\$ 1.2 billion of Haiti's foreign debt. In spite of this, Haiti still owes hundreds of millions of dollars to its creditors. In the current circumstances the repayment of this debt represents an

unacceptable burden on Haiti's population and national economy. Amnesty International calls on all international financial institutions and other creditors to take all necessary steps towards cancelling Haiti's debt given that insistence on repayment would hinder Haiti's ability to meet its human rights obligations, including in respect to fulfilling minimum essential levels of economic, social and cultural rights. Debt cancellation should not be accompanied by conditions that would have a negative human rights impact.

23. All financial resources available to Haiti in the years to come must be channelled to reconstruction programmes that would ensure Haitians' welfare and access to basic services, and equitable and sustainable development.

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