



# SAK VID PA KANPE

## THE IMPACT OF U.S. FOOD AID ON HUMAN RIGHTS IN HAITI



## **ABOUT THE AUTHORS**

The **Center for Human Rights and Global Justice (CHRGJ)** brings together and expands the rich array of teaching, research, clinical, internship, and publishing activities undertaken within New York University (NYU) School of Law on international human rights issues. Philip Alston and Ryan Goodman are the Center's Faculty co-Chairs; Smita Narula and Margaret Satterthwaite are Faculty Directors; Jayne Huckerby is Research Director; Liz Sepper was the Center's 2009-10 Fellow; and Veerle Opgenhaffen is Senior Program Director.

The **Global Justice Clinic (GJC)** at NYU School of Law (a program of the Center) provides high-quality, professional human rights lawyering services to individual clients and nongovernmental and intergovernmental human rights organizations, partnering with groups based in the United States and abroad. Working as legal advisers, counsel, co-counsel, or advocacy partners, Clinic students work side-by-side with human rights activists from around the world. The Clinic is co-directed by Professor Margaret Satterthwaite and Adjunct Assistant Professor Jayne Huckerby; Diana Limongi is Clinic Administrator.

**Partners In Health (PIH)** is a Boston-based non-profit organization committed to eradicating health disparities and strengthening social justice around the globe. More than 20 years ago in Haiti, Dr. Paul E. Farmer began what would become a worldwide movement to provide community-based health care to those who need it most. While Haiti is PIH's largest project site, PIH also works in Boston, Peru, Russia, Rwanda, Lesotho and Malawi and five other countries.

PIH operates by forming lasting relationships with in-country sister organizations that coordinate all program activities with national and local ministries of health. Its sister organization in Haiti, **Zanmi Lasante (ZL)**, is an independently registered local organization with nearly 5,000 Haitian employees. Today, in partnership with the Haitian health ministry, PIH and ZL have become one of the largest health care providers in central Haiti and the lower Artibonite Valley, reaching a catchment area of nearly 1.4 million people. Beyond its full-service hospital and socio-medical complex in Cange, PIH and ZL provide comprehensive health care through twelve public health centers and hospitals in central Haiti and the Artibonite, where they have renovated dilapidated clinics, trained staff, and provided essential supplies, medicines, and equipment. ZL work expanded to Port-au-Prince in the wake of the 2010 earthquake where health care services are reaching residents of 3 IDP settlements.

**The Robert F. Kennedy Center for Justice and Human Rights (RFK Center)** was founded in 1968 by Robert Kennedy's family and friends as a living memorial to carry forward his vision of a more just and peaceful world. The RFK Center advances its work through four main initiatives: the *Robert F. Kennedy Human Rights Award*, the *Robert F. Kennedy Center for Human Rights*, *Speak Truth to Power*, and the *Robert F. Kennedy Book and Journalism Awards*. The only international human rights program of its kind, the *RFK Center for Human Rights* partners with human rights activists at home and abroad—the winners of the RFK Human Rights Award—to achieve sustainable social justice goals. It utilizes innovative tools to achieve sustainable social change, including legal, advocacy, and programmatic initiatives.

In 2002, the RFK Center awarded its Human Rights Award to Loune Viaud, the Director of Operations and Strategic Planning at Zanmi Lasante. Over the past eight years, the RFK Center for

Human Rights and Ms. Viaud have worked in partnership to transform the international community's interventions in Haiti, many of which undermine human rights, including the right to health, water, and food. Together, they launched aggressive advocacy initiatives for donor accountability and the implementation of a human rights based approach to international assistance.

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## PREFACE

*Sak vid pa kanpe.*

**An empty sack can't stand up.**

—*Haitian Proverb*

For the past several years, the organizations involved in preparing this briefing paper have collaborated across disciplines to promote the realization of human rights to food, water, and health in Haiti. In the summer of 2009, we began investigating the impact of U.S. food aid to Haiti, through both desk research and a survey administered in the town of Hinche, in Haiti's Central Plateau. Our goal was to highlight—through a snapshot of one town's experience—the impact of U.S. food aid on the Haitian people through a human rights framework. In the wake of the January 2010 earthquake, an understanding of the systemic problems with food aid that existed prior to the earthquake is critical to identifying sustainable, long-term solutions.

The findings presented in this briefing paper help illuminate how misguided food aid policies have undermined the best interests of the Haitian people, interfering with the realization of their human rights and long-term economic stability. U.S. food aid—bound by requirements that U.S. assistance earmarked for food be based on the “donation” of U.S.-produced food delivered by U.S. shipping companies—is either given out to the poor (as direct food assistance) or sold by NGOs to support their overhead and operating costs (a process known as monetization). This type of food aid can undermine local production of food by falsely reducing the price of food that can be garnered by farmers, often leading to financial ruin and forcing people to abandon agriculture as a livelihood altogether. If done differently, food aid could be effectively tailored to address urgent needs without harming the local economy, while also encouraging local agriculture and production, for example through the use of local or regional purchase of commodities by donor countries.

As the negative impacts of foreign assistance are laid bare, positive momentum is gathering to change policies and ensure that aid is effective. This includes greater attention to investing in the recipient government's capacity. It also requires increased local participation in decision-making processes and the recognition that donors have the obligation to “do no harm” when providing aid.

This briefing paper aims to contribute to the growing call for serious reform of U.S. food aid. It presents concrete recommendations for how U.S. food aid can be improved to support the human right to food. As Haiti faces the monumental challenge of rebuilding, the United States must embrace this opportunity to transform its food aid policies for the better. The U.S. government can change course, embracing Haitians' human rights as the basis for its future food aid policies.

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## **RECOMMENDATIONS FOR U.S. FOOD AID TO HAITI**

The U.S. government, by act of Congress and with available Presidential authority, should:

### ***1. Untie Food Aid and Increase Local and Regional Purchase***

- Revise Title II of P.L. 480 to allow for the use of non-U.S. commodities.
- Increase funding for initiatives that allow for flexibility by permitting local procurement of food, or cash transfers in Haiti, including the International Disaster Assistance (IDA) account and the U.S. Department of Agriculture Local and Regional Procurement Pilot Project.
- Fund the development of the infrastructure that would allow for local procurement of quality food by donors, such as roads, agricultural inputs for planting, harvesting, storage, and processing; and provide funds to enhance the local capacity necessary to maintain this infrastructure.

### ***2. End Monetization***

- Revise Title II of P.L. 480 to eliminate permission to monetize U.S. commodities.
- In the interim, increase funding for food aid programs that are not subject to any monetization requirements. To the extent that existing funding mechanisms and programs, such as the IDA account and the USDA Pilot Project, allow, maximize the use of local and regional purchase.
- Identify alternate funding streams for development programs to replace funding generated through monetization.

### ***3. Fully Comply with International Agreements on Aid Effectiveness***

- Ensure that all agencies' and grantees' assistance efforts are aligned with the Haitian government's plans and coordinated with local organizations to strengthen the Government of Haiti's capacity to guarantee Haitians' right to food.
- Disseminate information about assistance transparently, through popular media, radio programs, websites, or community meetings, to inform Haitians about the amount of assistance committed and how it is being used.

### ***4. Ensure Meaningful Participation of Haitians in All U.S. Assistance Programs to Haiti***

- Ensure that specific mechanisms exist for aid recipients and their representatives to participate in all stages of food assistance programs—from planning to implementation to evaluation.
- Ensure implementing partners support and facilitate accountability mechanisms accessible to all Haitians.
- Include relevant Haitian stakeholders—especially peasant organizations—at the table during the planning, implementation, and evaluation stages of agricultural assistance programs.

## SAK VID PA KANPE: THE IMPACT OF U.S. FOOD AID ON HUMAN RIGHTS IN HAITI

### I. INTRODUCTION

Food insecurity, hunger, and under-nutrition plague the globe, subjecting communities around the world to daily violations of the right to food.<sup>1</sup> As global inequality in access to food—and thus health and survival—has made assistance necessary for many,<sup>2</sup> direct food support or “food aid” has become the go-to tool for addressing global hunger. The United States is by far the largest donor of food aid in the world,<sup>3</sup> with the export of U.S.-produced food for aid abroad amounting to three million tons of food per year.<sup>4</sup>

While direct food support has saved countless lives in emergency situations and has provided nourishment to many people, food aid can also have significant negative impacts. Food aid exported from the United States can undermine local production and local markets<sup>5</sup> in areas where other forms of development assistance could contribute to sustainable access to adequate food and nutrition.<sup>6</sup> In such circumstances, food aid programs may threaten the livelihoods of people engaged in farming, transporting, and selling food locally.<sup>7</sup>

The realization of the right to food requires more than temporary alleviation of hunger. Under international law, food must be economically and physically accessible; adequate in quantity, quality, and nutrition; culturally acceptable; available; and sustainable.<sup>8</sup> Though well intentioned, food aid provided by the United States and other bilateral nations does not always respect these standards. To respect the right to food, donors should adopt both long and short-term solutions to food insecurity and hunger, facilitating country ownership of food production, while adequately responding to immediate needs.

In 2009, the Center for Human Rights and Global Justice (CHRGJ), Partners In Health (PIH), the Robert F. Kennedy Center for Justice & Human Rights (RFK Center), and Zanmi Lasante (ZL) set out to examine the impact of U.S. bilateral food assistance on the fulfillment of the right to food in Haiti.<sup>9</sup> This study’s findings, in combination with existing data on food aid, highlight a number of problems with U.S. food aid in Haiti, in particular aid distributed under Title II of the Food for Peace Act, Public Law 480 (hereafter “Title II”). The findings raise concern about the impact of U.S. food aid and the growing food insecurity in Haiti that existed prior to the January 12, 2010 earthquake. These findings remain relevant—and indeed are more pressing now—as 1.3 million Haitians are internally displaced, with many of the displaced unemployed and sustainable access to sufficient food precarious at best.<sup>10</sup> While food aid remains an important component of the response to food insecurity,<sup>11</sup> unless significant changes are made as a matter of priority, such assistance will continue to have unintended negative side effects.<sup>12</sup>

### *Background*

In the 1980s and ‘90s, driven by both economic interests and political concerns, U.S. policy toward Haiti sought to promote export-led development, primarily through unilateral trade preferences.<sup>13</sup> Through a number of programs that included duty-free or reduced-duty access to U.S. markets for selected Haitian imports, such as textiles,<sup>14</sup> and simultaneously decreased funding for global

agricultural development,<sup>15</sup> the U.S. ensured that Haiti would shift its development priorities, at the cost of domestic agricultural production. While coercing Haiti to nearly eliminate its import tariffs on rice, reduce investments in agriculture, and focus on a few crops for export, the United States gradually increased shipments of its own agricultural commodities to Haiti.<sup>16</sup>

This policy had a disastrous effect on Haitians' ability to produce food for domestic consumption and has created Haitian dependence on the importation of food.<sup>17</sup> President Bill Clinton himself recently publicly apologized "for the loss of capacity to produce a rice crop in Haiti," stating that the policies forcing the reduction of import tariffs "may have been good for some of my farmers in Arkansas, but it has not worked. It was a mistake."<sup>18</sup>

The promotion of U.S. agricultural commodities was not limited to trade policy. Title II food aid itself was originally designed in part to protect and promote U.S. agriculture after World War II.<sup>19</sup> As carried out today, in Haiti and around the world, the main provisions under U.S. law that ensure that Title II food aid programs promote U.S. agriculture are still intact.<sup>20</sup>

While the United States has taken important steps toward greater flexibility in its food assistance programs,<sup>21</sup> the findings of this study point to severe problems in U.S. food aid that must be addressed. Long-term, sustainable food security requires policies that respect Haiti's agricultural sector and ability to produce food, as well as Haitians' right to adequate food and nutrition.



## II. THE PROBLEM WITH U.S. FOOD AID

Even prior to the January 12, 2010 earthquake, Haiti was a major recipient of U.S. food aid, ranking in the top ten of all receiving countries.<sup>22</sup> By 2008, local production of food amounted to only 42 percent of Haiti's food consumption, compared to 80 percent in 1986.<sup>23</sup> A full 52 percent of Haiti's food consumption came from commercial importation (including large amounts of U.S.-subsidized food exports) and six percent in the form of food aid.<sup>24</sup> Seventy-one percent of Haiti's food aid—127,483 tons—was provided by the U.S. government.<sup>25</sup>

The United States provides the vast majority of its food aid under Title II of P.L. 480.<sup>26</sup> Under Title II, the agency administering the program—the United States Agency for International Development (USAID)—donates up to \$2.5 billion of U.S.-grown food annually to meet emergency and non-emergency (or development) needs around the world.<sup>27</sup> Multilateral organizations, such as the World Food Program (WFP), and non-governmental organizations (NGOs) then distribute the aid.<sup>28</sup>

In 2009, CHRGJ, PIH/ZL, and the RFK Center undertook a study of a direct food distribution program supported by the United States' food aid program. Quantitative methods, in the form of a survey of Haitian women; qualitative methods, including focus groups and interviews; and desk research, were used to evaluate whether those receiving direct food support under a U.S. food aid program experienced improved food security in Hinche, the capital of the Central Plateau department of Haiti with a population of approximately 50,000. *See Box 1 (Methodology).*

### **Box 1. Methodology**

During the summer of 2009, the groups authoring this report examined the status of the right to food and the role of food assistance programs in improving access to the right through a study carried out in Hinche, an area with severely high levels of food insecurity. The study utilized both quantitative and qualitative methods adapted from public health, in order to capture a broad range of information, statistics, and perspectives. A household survey was conducted of 152 women over the age of 18 with at least one child under the age of five in their household, two-thirds of whom received food aid. The investigative team, which included both Haitians and Americans, surveyed randomly selected women waiting in line at a Hinche food distribution center and at Zanmi Lasante Malnutrition and Vaccination Clinics.

Qualitative methods included participant observation, open-ended interviews, and focus group discussions. Four focus groups, two with mothers and two with fathers, were conducted in July 2009. Participants were asked their perspectives on hunger in the household and community or on the impact of food assistance programs in Hinche. Desk research and additional interviews with USAID personnel and implementing NGOs were also conducted as part of this study during fall 2009 and spring 2010.

Zanmi Lasante's Institutional Review Board in Haiti reviewed and approved the study protocol. The survey instrument questions were designed with widely accepted criteria used to measure food insecurity and the normative framework on the right to food. *See Box 2 (The Right to Food).* The investigative team designed and implemented all consent forms and study procedures in accordance with ethical standards for research involving human subjects.<sup>29</sup>

The results demonstrated that participation in direct food support programs does not protect families from hunger because the assistance does not adequately address the family's food security in absolute terms or in nutritional diversity. A large majority of participants reported that children in the household had gone to bed hungry in the previous month. Study participants also reported that programs often failed to provide food that is of acceptable quality, fulfills basic dietary needs, and is familiar to the Haitian people. Not only is the food given in direct assistance not sufficient, but research suggests it is also harmful to the availability of local food for purchase.<sup>30</sup>

U.S. food monetization programs, in which inexpensive food is sold in Haitian markets to generate funds for development programs in the same country, compete with production by Haitian small farmers and traders.<sup>31</sup> In addition, U.S. law requires the purchase of virtually all food used as aid from the United States, rarely permitting the purchase of food for use as aid on the local markets of a recipient country or in the region.<sup>32</sup>

These restrictions limit the ability of U.S. programs to respond to specific market and agricultural conditions; the resulting programs may harm local traders and farmers in highly agrarian societies like Haiti when they flood markets with artificially inexpensive products.<sup>33</sup> While alternative mechanisms do exist that allow greater flexibility to respond to the needs on the ground, these are substantially limited in size and scope.<sup>34</sup> The International Disaster Assistance (IDA) account operated by USAID, for example, is free from the U.S. procurement and monetization restrictions of Title II; however IDA can only be used in disaster response and not in cases of chronic food insecurity.<sup>35</sup> Likewise, the U.S. Department of Agriculture's Local and Regional Procurement Project (USDA Pilot Project) created through the 2008 Farm Bill, expands the use of local commodities and reduces the role of U.S. commodities in U.S. food assistance, but is designed as a limited five-year pilot program to assess the efficacy of local procurement, not as a long-term fix.<sup>36</sup>

Title II food aid programs—including the ones implemented in Haiti—are ineffective at combating food insecurity in the short-term as the food distributed is insufficient in quantity and diversity, as the study suggests, and are harmful to Haiti's own food production, as has been suggested in other studies.<sup>37</sup> Because U.S. food assistance is delivered in the form of U.S.-produced food rather than cash to fuel local economies or agricultural assistance to produce a more robust and sustainable food supply, it is both ineffective and—more importantly—harmful to the recipients of aid, their communities, and food security on a national scale. The framework for the right to food provides minimum standards for governments seeking to ensure their food aid policy respects basic rights, as well as an appropriate lens through which to view the study's findings. *See Box 2 (The Right to Food).*

### **Box 2. The Right to Food**

Food is a human right, essential for basic human dignity, and recognized by a number of international human rights treaties. For the right to food to be guaranteed, food must be:

1. *Adequate in terms of quantity, quality, and acceptability*—Adequate food provides an individual with sufficient calories and nutrients for physical and mental development and activity. It is safe for human consumption and free from adverse substances. It is culturally acceptable, reflecting “non nutrient-based values attached to food and food consumption.”
2. *Available*—The food supply should be well-functioning, reliable, and responsive to demand, allowing individuals to purchase food or to produce food to feed themselves.
3. *Accessible*—Food must be accessible to everyone, including physically or mentally vulnerable individuals, in the jurisdiction of the State Party without discrimination. The cost of food should not be so high as to interfere with or threaten the attainment of other basic needs.
4. *Sustainable*—Realization of the right to food should also be sustainable, ensuring food security through long-term environmental and economic viability so that future generations can enjoy the right to food.<sup>38</sup>

As a State involved in assistance to other countries, the United States has a **duty to respect** human rights, that is, **to do no harm** to those who receive assistance.<sup>39</sup> As a party to the International Covenant on Civil and Political Rights, the United States has obligations under Article 6 with regard to the right to life, including rights necessary for survival, such as food.<sup>40</sup> The United States has also signed the International Covenant on Economic, Social and Cultural Rights, which explicitly recognizes the right to food; therefore the United States must refrain from acting in a manner that frustrates the object and purpose of the treaty.<sup>41</sup>

### ***Tied Aid Is the Wrong Tool to Fight Hunger***

In its activities under Title II of the Food for Peace Act, the U.S. government provides only in-kind food aid to Haiti and other developing countries.<sup>42</sup> No cash donations are permitted.<sup>43</sup> Overall, nearly all of the food—and the entirety of food provided under Title II—must be grown in and sent from the United States.<sup>44</sup> In 2008, out of three million tons of food the U.S. government provided to all countries, 95 percent came directly from the United States.<sup>45</sup>

The requirement that food aid be grown and shipped from the United States to developing countries (known as “tied aid”) sets the U.S. food aid program apart from other food aid donors. Most major donors—including the European Union and Canada—have rejected tied food aid as ineffective.<sup>46</sup> They provide the vast majority of their food aid as cash for procurement of food locally or regionally by multilateral organizations or NGOs.<sup>47</sup> See Box 3 (*Delivery Mode for Food Aid*).

**Box 3. Delivery Mode for Food Aid from the Top Food Donors in 2008<sup>48</sup>**

<u>Donor</u>	<u>Direct Transfer</u>	<u>Local &amp; Regional Purchase</u>
The Netherlands	0%	100%
Australia	0%	100%
United Kingdom	0.06%	99.04%
United Nations	1%	99%
Saudi Arabia	2%	98%
Germany	4%	96%
European Community	14%	86%
Canada*	44%	56%
Japan	45%	55%
United States of America	95%	5%

\*Note that these most recent numbers from 2008 do not reflect Canada's untying of 100 percent of its aid in September 2008.

Requiring the provision of U.S. commodities prioritizes the perceived needs of U.S. agribusiness, rather than the needs of food insecure people.<sup>49</sup> It ties the hands of U.S. aid specialists, preventing them from choosing the most appropriate, cost-effective method to respond to a crisis or long-term food insecurity. This tying of aid interferes with the right to food by harming the sustainability of food production and, thus, the long-term availability and accessibility of food. Use of cash transfers, vouchers, or local or regional purchase may only rarely be considered, despite evidence

that these methods can, if designed properly, improve access to and availability of food while supporting local farmers.<sup>50</sup>

Tied aid also wastes precious resources that could be used to more effectively fight world hunger. Economists estimate that it costs more than two dollars of taxpayer money to generate one dollar of U.S. in-kind food aid.<sup>51</sup> Through aid effectiveness declarations like the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action, the United States itself—along with Haiti and 133 other nations—has agreed that tied aid is inefficient and ineffective.<sup>52</sup>

More fundamentally, tied food aid harms farmers and rural communities in impoverished countries by flooding their local markets with highly subsidized, inexpensive U.S. food products.<sup>53</sup> Of course there may be emergency circumstances, such as those following the earthquake, where the local population does not have sufficient resources to support their own food needs.<sup>54</sup> In such circumstances, programs to assist the population are necessary. However, such programs should be carefully tailored to the circumstances, ensuring that local production, procurement, and access are supported or enhanced, rather than reduced. Poorly managed food aid, which can undermine local agricultural production, may interfere with self-sufficient, sustainable food production, reducing food availability and cyclically increasing the need for food aid.<sup>55</sup>

In countries like Haiti, where 70 percent of the population depends either directly or indirectly on the agricultural sector,<sup>56</sup> the livelihoods of farmers suffer as a result of competition from U.S. food aid in the markets. Over the past 20 years, 1.5 million tons of food grown in the United States have come into Haiti as emergency and development aid.<sup>57</sup> This influx of U.S. goods under Title II—particularly wheat—has reduced prices for locally produced staples, such as rice and millet, and discouraged local production.<sup>58</sup>

### ***Monetization Harms the Ability to Grow and Buy Food***

*“Monetizing food to fund development projects is an inherently inefficient use of food aid.”*—U.S. Government Accountability Office, April 2007<sup>59</sup>

In markets throughout Haiti and other developing countries, bags marked with the USAID logo can be seen for sale. Visitors might assume that this is a sign of corruption in food distribution; rarely would they suspect that the sale of donated food is actually the official policy of the United States.

Since 1990, U.S. NGOs that receive USAID food aid have been authorized to sell non-emergency food aid in local markets to fund development projects or cover administrative expenses, a practice known as monetization.<sup>60</sup> Indeed, Congress now requires that at least 15 percent of non-emergency U.S. food aid under Title II be monetized.<sup>61</sup> In practice, however, the amount far exceeds this minimum. In 2008, the last year for which numbers are available, two-thirds of all U.S. non-emergency food aid was monetized.<sup>62</sup>

Haiti receives the second largest amount of U.S. non-emergency food aid under Title II in the world, a large percentage of which is sold on the Haitian market. In fact, so much wheat provided as food aid has been sold on the Haitian market that it has come to constitute an important share—18 percent—of total annual imports.<sup>63</sup>

The U.S. Government and Accountability Office (GAO) has called monetization “an inherently inefficient use of food aid”<sup>64</sup> because it requires NGOs to procure, ship, handle, market, and sell food, diverting resources from other programmatic work.<sup>65</sup> Monetization does not effectively increase food security or further development. Instead, it provides a way for large, U.S.-based NGOs to generate cash for programs and expenses. In the six-year period from 1999 to 2005, a mere 19 NGOs sold \$1.5 billion in U.S. food aid in developing countries.<sup>66</sup> During the same period in Haiti, the 406,720 tons of food sold by four U.S. NGOs was valued at \$99.2 million.<sup>67</sup>

Monetization can inflict serious damage on livelihoods, particularly those of local farmers. The unintended consequences of monetization extend further, however. First, the selling of food aid is not targeted to reach people who need food, but cannot afford it; this over-inclusive quality makes monetization inherently inefficient. Second, monetized food aid often enters the market when market supplies are high, in part because of the tendency of donors to give food when prices are low, rather than when need is great,<sup>68</sup> and in part because NGOs are under pressure to dispose of monetized food aid as soon as possible to minimize storage and transaction costs and to generate needed funds.<sup>69</sup> It therefore can drive prices down, reducing the income of farmers during harvest seasons.<sup>70</sup> Last, it forces U.S.-based NGOs to compete with—and typically to undersell—local traders, “disrupting long-term relationships in recipient country commodity markets.”<sup>71</sup>

Although local consumers may benefit from access to inexpensive food through monetization, they do so at the expense of local farmers, who are often unable to compete with the prices at which food aid is sold.<sup>72</sup> Ultimately, farmers may be driven out of business and become dependent on food aid themselves.<sup>73</sup> This resulting competition interferes with the right to food by limiting the sustainability of food production.

### ***Food Aid Is Not Enough***

*“Hunger makes us lose our hope and spirit.”*—Focus group participant, Hinche, Haiti

Haiti has received food aid now for 55 years. Yet, three out of four Haitians live on less than two dollars a day and 54 percent live on less than one dollar a day and are without the means to fulfill basic needs for food, housing, and health.<sup>75</sup> This level of poverty and food insecurity takes a significant toll on the health status of the Haitian people, in particular children under the age of five. *See Box 4 (Food Insecurity and the Health of Haiti’s Children).*

Extreme levels of food insecurity and hunger similarly characterize daily life for the people in the city of Hinche, where our study was conducted. Although many participants in the study received food aid, they found it insufficient to ensure food security.

Aid programs, which in large part provide U.S. in-kind food aid, help many households in Hinche and other Haitian cities supplement their meager food supply. U.S. food aid is distributed both by a small number of NGOs that receive Title II food aid as part of Multi-Year Assistance Programs, and by the WFP or NGOs receiving U.S. food through the WFP.<sup>76</sup> In Hinche, food aid participants typically receive some combination of corn-soy blend, rice, beans, vegetable oil, wheat, and lentils through these programs.<sup>77</sup> In focus groups, aid recipients agreed that the programs do benefit their families:

- “There’s more food for the house, and you can share the food.”
- “Children in the community are malnourished . . . but the programs help a lot. The programs are very good. They feed the children very well and this keeps the children healthy.”
- “Sometimes there is not enough money to buy food for our household and the programs provide food.”

#### **Box 4. Food Insecurity and the Health of Haiti’s Children<sup>74</sup>**

In Haiti, one out of ten children under five years of age is severely malnourished, suggesting acute food shortages in a large part of the population. In addition, one in three children is chronically malnourished. This serious level of malnutrition has a direct impact on the under-five child mortality rate, which is 72/1,000 live births, indicating that for every 100 children one to two do not survive until their fifth birthday. In 2008, this resulted in approximately 19,000 child deaths, a large percentage of which were easily preventable if provided with adequate water quality, sanitation, and food security.

Nevertheless, food aid fails to enable these families to avoid persistent hunger. Our study showed that in Hinche many surveyed recipients of food aid and their children still go hungry on a regular basis. Despite the fact that two-thirds of people surveyed received food assistance, nearly 100 percent of survey respondents indicated that in the previous month their young children had to eat fewer and smaller meals because there was not enough food. In addition, 97 percent of respondents reported that adults in their households had fewer meals in the past month, with 92 percent indicating that their young children also suffered from eating fewer meals.

The amount of food provided is simply inadequate to fill the gap between available food and dietary needs. Focus group participants repeatedly complained that the quantity of food aid distributed was inadequate. One program’s monthly distribution amounts to “only six cups of rice, six cups of beans, and half a bag of flour” according to one aid recipient. Others reported that “[s]ometimes we

only have four cups of rice for the month.” With these small amounts, one food aid recipient said, “we don’t receive enough in our rations to make it through the month.” A representative of an NGO that distributes food agreed that the rations (amounting to ten kilograms per month) “were not that much.”<sup>78</sup> Thus, as distributed, food aid was not adequate to ensure that participants’ right to be free from hunger was fulfilled.

Nearly 90 percent of people responding to the survey—and over 80 percent of their young children—had gone to sleep hungry in the month before administration of the survey because there was not enough food.

Food aid is distributed not only to the food insecure population in general, but also to targeted groups who are particularly vulnerable to hunger, such as pregnant and breastfeeding women, school children, and persons living with wasting diseases like HIV or TB. These targeted distributions play an important role in increasing the amount of food available to those especially at

risk, though at times such distributions may not take into account the reality of intra-household sharing of rations. Focus group participants told us that, although the programs focus on women and children, everyone in the household eats the food distributed; some even suggested that men may benefit most from these programs because they eat more.<sup>79</sup> Programs may recognize this issue by shifting to targeted family distributions, instead of distributions directed only at the individual.

### ***Culturally Unacceptable Food***

Food distributed by the United States does not come from Haiti or the region, and much of it is unfamiliar to recipients. The type of food provided sometimes does not reflect Haitians’ dietary preferences and may not be culturally acceptable, an element of the right to food that promotes the non-nutrient values associated with consumption. By contrast, local and regional procurement tends to provide more culturally appropriate food, as people are likely to be familiar with food grown in other parts of their country or in neighboring countries.<sup>80</sup>

In our study, over 62 percent of surveyed food aid recipients reported that they did not know how to prepare the food because it was unfamiliar. Food distributed was not a type of food eaten in Haiti, according to 42 percent of the food aid recipients we surveyed. “Sometimes the programs don’t distribute food that people find palatable” one focus group participant said. As another focus group participant in Hinche told us, “Sometimes families sell the food because if their children don’t find it palatable then they don’t want to eat it. . . If [the families] sell the food, they can get food they will eat.”

*“Hunger affects the whole community all the time, because when people are hungry, they get sick more easily and they have trouble working or going to school. Then, if there is money, it goes to treating the sickness—so we cannot escape [hunger].”—Focus group participant, Hinche, Haiti*

Over time, U.S. food aid in Haiti has contributed to the shift in consumption away from locally produced food to imported, heavily subsidized food.<sup>81</sup> For instance, as a consequence of large-scale distribution of U.S. wheat as aid, Haitians now often eat wheat—100 percent of which is imported—instead of grains grown in Haiti, such as corn.<sup>82</sup> This shift in consumption is not accidental, but rather is a natural result of a longstanding U.S. policy.<sup>83</sup>

**Poor Quality Food**

*“Sometimes the quality of the food . . . is really bad. Sometimes the flour from [an NGO] actually goes bad, rots. Sometimes when this happens, people can’t or won’t eat the food, and they will give it to their pigs. They are given the food to feed the baby, but they can’t feed the baby with it, so they give it to the pigs.”*—Focus group participant, Hinche, Haiti

According to the GAO, “food quality concerns have been long-standing issues for both food aid agencies and the U.S. Congress.”<sup>90</sup> Organizations distributing aid frequently report receiving heavily infested and contaminated food.<sup>91</sup> Many quality problems are related to requirements that food be grown in and shipped from the United States to recipient countries. See Box 5 (*Legislative Restrictions Make Aid Slow and Inefficient*). Delays in transport, unloading at ports, and storage before transport into a country increase the risk of spoliage or contamination.

**Food Quality: Poor**

- 11 percent of recipients in Hinche had received rotten or inedible food through food programs.
- 14 percent of households reported that the food distributed had made them ill.
- Over 62 percent did not know how to prepare the food because it was unfamiliar.

**Box 5. Legislative Restrictions Make Aid Slow and Inefficient**

Only a small amount of U.S. funds for food aid actually reaches people who need assistance. Instead, approximately two-thirds of Title II aid goes for transportation, diverting critical resources intended to address food insecurity.<sup>84</sup> Onerous legal restrictions require that 75 percent of food aid be transported on ships flying U.S. flags<sup>85</sup> and that 25 percent of food aid be shipped through the Great Lakes.<sup>86</sup> As a result, the United States pays significantly more to transport food than other donors,<sup>87</sup> and food aid shipments from the U.S. take an average of four to six months to reach their destination.<sup>88</sup> According to the GAO, “every \$10 per metric ton reduction in freight rates could feed almost 850,000 more people during an average hungry season.”<sup>89</sup>

In Hinche, 11 percent of recipients surveyed had received rotten or inedible food through food programs. Fourteen percent of households reported that the food distributed had made them ill. Focus group participants similarly reported quality problems with some of the food programs, but made clear that not all programs are equal and that some distribute better quality food than others.

Our organizations also received reports that U.S. programs do not include safeguards to prevent the distribution of expired food, which may have gone bad. One NGO representative told us that, out of the four goods distributed, wheat and lentils do not include expiration dates, and only after nine years of requests had an expiration date been included on corn-soy blend and oil.<sup>92</sup> This delivery of poor quality food through

U.S. food aid fails to advance the right to food, which requires safe and adequate food.



*Insufficient Role for Food Recipients in Design and Decision-making*

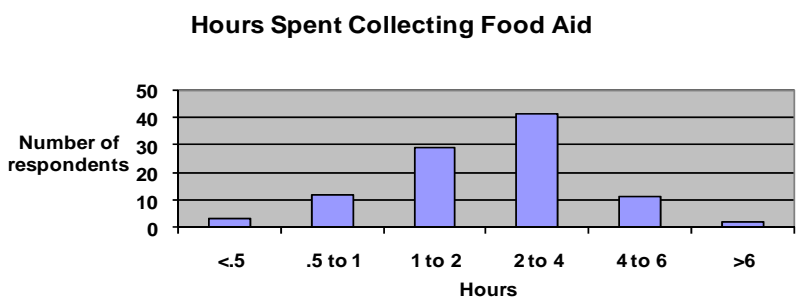
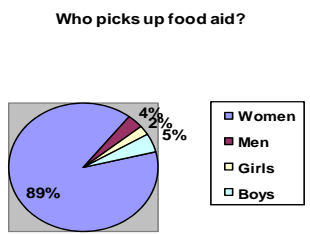
*“No one is really sure who is responsible for the programs. Particularly with [food aid distribution], you see the food and pick it up at the distribution point, but no one knows who to tell if there is a problem.”*—Focus group participant, Hinche, Haiti

The study suggests that a primary reason U.S. food aid programs fail to deliver adequate, quality, and culturally acceptable food is that they are not designed with enough participation of intended recipients.<sup>93</sup> Participation is an important element of a rights-based approach to development and assistance. A rights-based approach seeks to empower the beneficiaries of aid by ensuring they are informed of the processes that affect their lives and are given the opportunity to share their perspective in a meaningful way. However, our data suggests that recipients are not offered sufficient opportunities to demand accountability for poor quality food or mistreatment, or to participate in decision-making about programs.

By contrast, our study indicated that the programs in Hinche are generally transparent as to requirements for participation. Almost all survey participants (94 percent) said they knew of programs that provide free food. According to focus groups, information on programs is easily available and almost everyone knows the criteria for participation. No one knew of any cases where a family that met program criteria had been denied the ability to participate.

Information provided to recipients by distributing agencies, however, does not always match the reality of food distribution, one focus group participant said. The survey results supported this, with approximately 75 percent of surveyed recipients reporting that there had been times when the program was supposed to have food, but did not. In those circumstances, programs were much less transparent; only 42 percent of people surveyed who encountered such problems were told why food was unavailable.

People collecting food also reported having been mistreated at distribution sites. As the chart indicates, our study showed that among recipients surveyed, primarily women collected food aid at the distribution sites. Sixteen percent of people surveyed said they had not been treated respectfully when receiving food. One-fourth of respondents said they were afraid of violence when they receive food, even when in line for distribution. Yet focus group participants indicated that they would not know whom to complain to about problems with food aid distribution, indicating a lack of accessible accountability mechanisms. Forty-two percent of aid recipients surveyed said they did not know to whom they could give suggestions, and only 41 percent thought suggestions would be considered. Many recipients indicated, as noted in the chart below, that it took several hours to collect food aid.



***Sustainability: Undermining Haiti's Food Production and Long-Term Food Security***

*"Every time we spend a dollar in Haiti from now on we have to ask ourselves, 'Does this have a long-term return? Are we helping them become more self-sufficient? ... Are we serious about working ourselves out of a job?'"—United Nations Special Envoy to Haiti and Former U.S. President Bill Clinton, March 25, 2010<sup>94</sup>*

In the short term, U.S. food aid in Haiti does reduce food insecurity for individual households receiving help. But in the long term, food aid has been unable to ensure lasting, sustainable food security, an element of the right to food. Instead of supporting the agricultural production upon which so many Haitians depend, it has undermined the livelihoods of peasants and small farmers in Haiti.

By restricting food assistance to in-kind U.S. agricultural commodities, instead of supporting the Government of Haiti's plans to invest in agriculture and other livelihoods, the United States fails to respond to the needs and priorities of the Haitian people. Development of the agricultural sector has long been a stated goal of the Haitian government. In November 2007, the Haitian Government identified improving growth of the agricultural industry and rural development, as well as tourism and national infrastructure, as the first of its three priority goals in its Poverty Reduction Strategy Paper.<sup>95</sup> Following the earthquake, the Haitian government again made it clear that "[a]griculture, livestock farming and fishing together form one of the primary forces of economic revival as well as regional and local economic recovery" and are key priorities in reconstruction.<sup>96</sup>

*"We go to sleep hungry many nights and when we wake up, we don't eat breakfast, so then our children go to school tired and hungry. And they cannot study, and they get sick."  
— Focus group participant, Hinche, Haiti*

Yet, major donors to Haiti have not adequately funded agricultural development. The share of international assistance to Haiti devoted to agriculture dropped from ten percent in 2000-01 to less than three percent in 2002-03.<sup>97</sup> And, according to the latest numbers (for 2008), the United States spends 67 times more on food aid to Haiti than it does helping Haitian farmers.<sup>98</sup> It will be important to track whether the international community responds to the Haitian government's call for assistance to the agricultural sector following the earthquake.<sup>99</sup>

In its assistance policies, the United States also fails to adequately respond to and counter the detrimental effects of its past food and economic policies on the people of Haiti. In the 1980s and '90s, USAID worked to increase Haitian market interdependence with the United States, by pushing the Haitian agricultural sector to produce commodities for export to the United States, rather than for local consumption.<sup>100</sup> At the same time, under pressure from donors and international financial institutions, Haiti embarked on a large-scale liberalization of its economy.<sup>101</sup> In 1995, the United States pressured Haiti to drastically reduce tariffs on agricultural imports and tariffs that had previously been between 45 to 50 percent were slashed to between zero to 15 percent.<sup>102</sup> Absent protection for Haitian products, subsidized U.S. agricultural imports flooded Haitian markets.<sup>103</sup> Impoverished peasants fled to cities, particularly Port-au-Prince, in pursuit of work in the industrial or informal sectors and, within a matter of years, many who had once subsisted on their own food production found themselves in need of food aid to survive.

Today, most Haitian farmers are impoverished and lack essential agricultural equipment; although 90 percent of households engaged in agriculture have a machete, only one-third have a pick-axe and

only 2.3 percent possess a spray pump, a basic irrigation tool.<sup>104</sup> One focus group participant in Hinche told us:

Some of us have gardens, but we don't have enough tools or seeds to grow things well. Also, we are dependent on the rainy season because we can't get water for our gardens. Even though Hinche has a lot of water, we don't have the capacity to maintain our gardens enough to grow a lot of food.

Another participant made clear the need for assistance to increase the ability of Haitians to feed themselves: "We need more technical equipment to grow things, but we can't buy them because we don't have the money."

A country that produced most of its own food 30 years ago, Haiti now meets just over 40 percent of its own food needs.<sup>105</sup> The agricultural sector, which provided nearly half of the gross domestic product (GDP) in the 1970s (and was still at 37 percent at the beginning of the 1990s), now constitutes just 26 percent of Haiti's GDP.<sup>106</sup> Although in the early-1980's, Haiti produced a majority of its rice,<sup>107</sup> which is a mainstay of the Haitian diet, today Haitian rice is prohibitively expensive, costing some 50 to 100 percent more than subsidized U.S. rice.<sup>108</sup> Other locally grown and once widely consumed foods, such as corn and sorghum, similarly cannot compete with subsidized imports.<sup>109</sup> As a Haitian public health expert we interviewed said, "We have an agrarian tradition and people understand they have to consume local, but it's not always clear that we can consume local. [It doesn't matter] how much we produce if Miami rice costs a few cents."<sup>110</sup> Haiti's dependence on imported food and decreased capacity to produce food for local consumption in turn make it particularly vulnerable to price shocks, like the 2008 food crisis which saw prices of staples soar around the world.

### **III. TOWARD RIGHTS-RESPECTING FOOD ASSISTANCE**

An intersection of efforts in Washington, D.C. present a real opportunity to rework U.S. food assistance and to significantly increase food security for the world's hungry. First, the U.S. Government has taken steps to address global food insecurity by substantially re-investing in agriculture in developing countries, in part through the Feed the Future initiative.<sup>111</sup> Second, after nearly 40 years, momentum is building in favor of a major restructuring of U.S. foreign assistance.<sup>112</sup> This long awaited reform is critical for the United States to live up to its commitments to international standards of good practice for assistance.<sup>113</sup>

Reform of U.S. food aid policy is fundamental to any foreign assistance overhaul and is an important part of U.S. efforts to combat global food insecurity. This section presents the reasoning supporting the recommendations set out on page 5 of this report.

#### ***1. Untie Food Aid and Increase Local and Regional Purchase***

Untying food aid would give U.S. food assistance programs the flexibility to best respond to the needs and circumstances of aid-recipient communities, whether through U.S., local, or regionally procured food, cash transfers, or vouchers. As the Paris Declaration on Aid Effectiveness recognizes, untying aid is an important vehicle to increase aid effectiveness, “by reducing transaction costs for partner countries and improving country ownership and alignment.”<sup>114</sup>

Eliminating the requirement for U.S. procurement and shipping, which other major donors have already done,<sup>115</sup> would allow for local or regional purchase of food. Recipients could, as a result, receive familiar and culturally appropriate food. Local or regional farmers would receive cash for their crops, contributing to their livelihoods and self-sufficiency. Moreover, U.S. food subsidies would no longer compete with aid for rural peasants, farmers, women, and children, who make up the majority of the world's hungry.<sup>116</sup> It would instead support the growth of local agriculture.

One of the most critical ways to untie food aid would be to eliminate major restrictions of Title II of P.L. 480, the Food for Peace Act. Revising the major U.S. food aid vehicle to allow for the purchase of non-U.S. commodities, as needed in order to respond to conditions on the ground, is one of the key U.S. food aid reforms needed.

Moving toward this goal, the United States should increase the funding and scope of current initiatives that permit local procurement of food or cash transfers in Haiti, including the IDA account and USDA Pilot Project, which allow for greater flexibility. This would in turn respond to concerns about food quality and cultural appropriateness identified in our study.

Direct distribution of food will continue to be the best method to tackle emergencies where food is scarce or markets are not functioning in the area, country, or region.<sup>117</sup> In other situations, however, the United States should allow carefully designed cash distributions to recipients of assistance. Studies have shown that providing cash instead of food to aid recipients permits them to prioritize their own needs and use the funds to buy a wider variety of food or other immediate necessities (such as clean water, medicine, etc).<sup>118</sup> Cash also has the potential to boost local trade and business<sup>119</sup> and to allow households to purchase productive assets or farming equipment.<sup>120</sup>

To the extent necessary, the United States and other donors also should provide funding to support the development of the infrastructure and local capacity that would allow for local procurement of quality food by donors. This includes, for example roads, storage structures, and drying and processing facilities, which can be furthered by increasing funding for community-based grants for small farmers providing food to local markets.

## ***2. End Monetization***

Eliminating the permission and minimum requirements for NGOs to monetize, or sell, food aid in recipient countries to fund other development programs is important to ensure that U.S. food assistance respects the right of recipient communities to grow and access their own local food. It would reduce competition between local producers and subsidized U.S. agricultural commodities, as well as allow the United States to respond most effectively to development needs around the world.

The requirement in Title II of P.L. 480 that NGOs monetize at least 15 percent of food aid also allows them to monetize substantially more. Moving toward rights-respecting food assistance means that the United States should eliminate this monetization requirement to end the practice all together.

The United States should increase funding for food assistance programs that are not subject to any monetization requirements, such as the IDA account and the USDA Pilot Project. Similarly, instead of forcing NGOs to sell food to fund their projects, the U.S. government should provide direct assistance for development projects, and allow government and NGO actors to respond to beneficiaries' needs in the most effective and efficient manner. Selling donated food to meet these needs is often the wrong tool and it is inherently inefficient.

## ***3. Fully Comply with International Agreements on Aid Effectiveness***

As an endorser of the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action,<sup>121</sup> the United States has committed itself to conducting assistance with transparency; to recognizing the ownership of recipient states over assistance; to engaging in aid harmonization with other donors; to aligning its assistance with national priorities; to building effective and inclusive partnerships with recipient governments; and to tracking and accounting for the results of its assistance. Data from the Organisation for Economic Co-operation and Development (OECD) demonstrates that the practice of the United States lags behind its intentions,<sup>122</sup> and our study is further proof that this practice has not changed.

Aligning assistance with Haitian institutions would mean ending the practice of predominantly channeling funds through NGOs that do not coordinate or partner with the Haitian government, thereby failing to strengthen the capacity of Haiti's local institutions.<sup>123</sup>

Furthermore, U.S. assistance programs lack adequate and accessible transparency mechanisms. When information is not publicly available and accessible, Haitian civil society cannot track or monitor funding, or disseminate information to local communities receiving funds. Without such information, recipient communities cannot monitor the progress of projects and have no effective recourse if projects are poorly implemented, fail, or are causing harm to their communities.

As a first step to complying with the Paris Declaration and the Accra Agenda for Action, the United States should ensure that all agencies' and grantees' assistance efforts are aligned and coordinated with Haitian public institutions to strengthen the Government of Haiti's capacity. In addition, every stage of development projects must include transparency mechanisms that are adequate and accessible for both Haitian civil society and recipient communities.

***4. Ensure Meaningful Participation of Haitians in All U.S. Assistance Programs to Haiti***

Congress, the State Department, and USAID have all acknowledged the pivotal role of small farmers in the agricultural development and food security of food insecure countries.<sup>124</sup> Thus far, however, they have stopped short of ensuring that these key actors are provided meaningful avenues for input, participation and, when necessary, accountability. As part of a coherent strategy to achieve food security, the United States should engage in assistance that reflects the priorities of key stakeholders in recipient countries.

The United States should commit to making paramount the ownership of assistance programs by Haiti—including both the government and impacted communities—and the meaningful participation of aid recipients. Participation of recipients and communication between donor-funded programs and recipient communities can encourage a higher quality and cultural acceptability of assistance, as well as program effectiveness.

To this end, the U.S. government should ensure implementing partners conduct meaningful outreach in communities. International assistance projects must include accessible and well-publicized mechanisms for recipients of assistance to file complaints and receive remedies in the communities where they live, in cases where projects have harmful impacts or little measurable results.

Moreover, the United States should actively create avenues for recipients of assistance and their representatives to participate in decision-making in all stages of food assistance programs—from planning, to implementation and evaluation. In particular sectors, such as agriculture, key stakeholders such as peasant groups and farmers' associations, should be consulted and their participation supported.

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<sup>1</sup> U.S. DEPARTMENT OF AGRICULTURE, FOOD SECURITY ASSESSMENT 15 (2008-2009) *available at* <http://www.ers.usda.gov/publications/gfa20/> (last visited Aug. 23, 2010); FOOD AND AGRICULTURAL ORGANIZATION, HUNGER GRAPHICS, UNDERNOURISHMENT IN 2009, by region, *available at* <http://www.fao.org/hunger/hunger-graphics/en/> (last visited Aug. 23, 2010).

<sup>2</sup> This assistance can be in the form of government subsidies of food production, such as in the U.S. farm bill; conditional cash transfers for food, such as the U.S. food stamp program; agricultural assistance, such as Malawi's government program to subsidize fertilizer; and direct food support—giving food to the needy.

<sup>3</sup> In 2009, the United States accounted for 51 percent of all food aid donations. WORLD FOOD PROGRAM, INTERNATIONAL FOOD AID INFORMATION SYSTEM (INTERFAIS), *Food Aid Flows*, 12 (2009), *available at* <http://documents.wfp.org/stellent/groups/public/documents/newsroom/wfp223562.pdf> (last visited Aug. 10, 2010).

<sup>4</sup> WORLD FOOD PROGRAM, INTERNATIONAL FOOD AID INFORMATION SYSTEM (INTERFAIS), *Food Aid Flows*, 12 (2009), *available at* <http://documents.wfp.org/stellent/groups/public/documents/newsroom/wfp223562.pdf> (last visited Aug. 10, 2010).

<sup>5</sup> CHRISTOPHER B. BARRETT & DANIEL G. MAXWELL, FOOD AID AFTER FIFTY YEARS 184 (2005) (exploring how monetization of food on the local markets can displace local producers and sellers); Emmy Simmons, MONETIZATION OF FOOD AID: RECONSIDERING U.S. POLICY AND PRACTICE vii (Partnership to Cut Hunger and Poverty in Africa, 38 – 41 June 2009); *see also* CARE USA, *White Paper on Food Aid Policy* 5 (June 6, 2006).

<sup>6</sup> INSTITUTE FOR AGRICULTURE AND TRADE POLICY, U.S. FOOD AID: TIME TO GET IT RIGHT 12 (2005) *available at* <http://www.tradeobservatory.org/library.cfm?refid=73512>.

<sup>7</sup> *E.g.*, BARRETT & MAXWELL, *supra* note 5. (noting that poorly managed food aid programs can negatively impact market prices); GRASSROOTS INTERNATIONAL, FEEDING DEPENDENCY, STARVING DEMOCRACY: USAID POLICIES IN HAITI 4-6 (Mar. 6, 1997), *available at* <http://www.hartford-hwp.com/archives/43a/597.html>.

<sup>8</sup> UN Committee on Economic Social and Cultural Rights, General Comment No. 12, *The Right to Adequate Food*, U.N. Doc. E/C.12/1999/5 (1999).

<sup>9</sup> *Id.*

<sup>10</sup> UNITED NATIONS, HAITI: SIX MONTHS AFTER, 37, *available at* [http://www.un.org/en/peacekeeping/missions/minustah/documents/6\\_months\\_after\\_commemoration.pdf](http://www.un.org/en/peacekeeping/missions/minustah/documents/6_months_after_commemoration.pdf) (noting that already high unemployment was exacerbated by the earthquake); *see also* Haiti Protection Cluster, *Situation Report 2* (June 2010), *available at* [oneresponse.info/.../Haiti/Protection/.../Haiti%20Protection%20Cluster%20Sitrep%20June%202010.doc](http://oneresponse.info/.../Haiti/Protection/.../Haiti%20Protection%20Cluster%20Sitrep%20June%202010.doc).

<sup>11</sup> Bigg, Matthew, *Long-term Food Aid Risk to Haiti Economy*. Business & Financial News, Mar. 8, 2010, *available at* <http://www.reuters.com/article/idUSN0825685020100308>. Widespread distribution of food aid to internally displaced persons was halted on March 2010 and continues to be directed at vulnerable populations.

<sup>12</sup> WORLD FOOD PROGRAM, GLOBAL UPDATE FOOD SECURITY MONITORING, Issue N° 3, (Aug. 31, 2010) (indicating that food security has deteriorated drastically and purchasing power has declined, although the situation between February and June improved compared with the period immediately following the earthquake); COORDINATION NATIONALE DE LA SÉCURITÉ ALIMENTAIRE & FEWSNET, HAITI: MISE À JOUR DE LA SÉCURITÉ ALIMENTAIRE (Juin/Juillet 2010), *available at* [http://www.cnsahaiti.org/bulletins/Bulletins%20conjoncturel/Haiti\\_FSU\\_Juin10\\_FINAL.pdf](http://www.cnsahaiti.org/bulletins/Bulletins%20conjoncturel/Haiti_FSU_Juin10_FINAL.pdf) (noting that while food security generally increases during the harvest season, it is expected that food security in vulnerable households may decline during the hurricane season).

<sup>13</sup> J.F. HORNBECK, CRS REPORT FOR CONGRESS, U.S. TRADE POLICY AND THE CARIBBEAN, (Jan. 28, 2010), *available at* <http://www.nationalaglawcenter.org/assets/crs/RL33951.pdf> (last visited 8/13/2010).

<sup>14</sup> *Id.*

<sup>15</sup> Todd Thompson, *A History of Extension at USAID* 1 (2002) *available at* [http://pdf.usaid.gov/pdf\\_docs/Pcaab171.pdf](http://pdf.usaid.gov/pdf_docs/Pcaab171.pdf) (last visited Aug. 23, 2010).

<sup>16</sup> Claire McGuigan, AGRICULTURAL LIBERALISATION IN HAITI 11-12 (Christian Aid, 2006); Nathaniel Gronewold, *Post-Quake Revitalization Plans Collide in Haiti's Breadbasket*, Greenwire, Mar. 8, 2010, *available at* <http://www.nytimes.com/gwire/2010/03/08/08greenwire-post-quake-revitalization-plans-collide-in-hai-15994.html> (explaining slashing of import tariffs in Haiti). This interdependence was notable in the recent 2008 food price crisis in which food prices rose dramatically and led to massive protests about the cost of food in Port-au-Prince.

<sup>17</sup> United Nations Conference on Trade and Development, *Rebuilding Haiti: A New Approach to International Cooperation*, Policy Brief N° 13, 1 (Mar. 2010) available at [http://www.unctad.org/en/docs/presspb20103\\_en.pdf](http://www.unctad.org/en/docs/presspb20103_en.pdf) (last visited Aug. 23, 2010)

<sup>18</sup> Videotape: *Building on Success: New Directions in Global Health*, Statement of William Jefferson Clinton, Chairman, William J. Clinton Foundation, before the U.S. Senate Committee on Foreign Relations (Mar. 10, 2010), available at <http://foreign.senate.gov/hearings/hearing/?id=3f546a93-d363-da0b-b25f-f1c5d096ddb1>. Clinton went on to say “I had to live every day with the consequences of the loss of capacity to produce a rice crop in Haiti to feed those people because of what I did.”

<sup>19</sup> Agricultural Trade Development and Assistance Act of 1954, 7 U.S.C. § 1721 et seq. (1954); H.R. Rep. No. 1776, at 5 (1954); 100 CONG. REC. H8270 (daily ed. Jun. 15, 1954); see also David R. Purnell, *A Critical Examination of the Targeted Export Assistance Program, Its Transformation Into the Market Promotion Program and Its Future*, 18 N.C. J. INT’L L. & COM. REG. 564 (1993). At its origins, U.S. food aid was an outlet for U.S. products to prevent a decline in agricultural prices, to promote U.S. agricultural commodities in foreign markets, and reverse the trend of the global restriction of exports. As international assistance evolved, the provision of relief for malnutrition and hunger became another rationale for the law as it has been expanded on over the years.

<sup>20</sup> Title II – Emergency and Private Assistance Programs, 7 U.S.C. § 1724(b)(1) (2008) (requiring U.S. processing, fortification and bagging).

<sup>21</sup> In 2008 and 2009, the U.S. began to fund food assistance programs that provide for greater flexibility than the traditional PL-480 food aid, including \$125 million to USAID and \$60 million to the U.S. Department of Agriculture. Supplemental Appropriations Act 2008, Pub. L. No. 110-252 (2008); Omnibus Appropriations Act, 2009, Div. H., Pub. L. No. 111-8 (2009); U.S. DEPARTMENT OF AGRICULTURE, LOCAL AND REGIONAL PROCUREMENT PROJECT (Pilot Program), <http://www.fas.usda.gov/excredits/FoodAid/LRP/LRP.asp> (last visited Aug. 10, 2010).

<sup>22</sup> Numbers retrieved from the World Food Programme, Food Aid Information System, available at <http://www.wfp.org/fais/quantity-reporting>.

<sup>23</sup> REPUBLIQUE D’HAÏTI, MINISTERE DE LA SANTE PUBLIQUE ET DE LA POPULATION, POLITIQUE NATIONALE DE NUTRITION (Draft) 21 (revised Dec. 2009) (on file with authors).

<sup>24</sup> Numbers retrieved from the World Food Programme, *supra* note 22.

<sup>25</sup> *Id.*

<sup>26</sup> Food for Peace Act, Title II, Pub. L. No. 480, 7 U.S.C. §§ 1691 -- 1738r (2008). Over the past decade, P.L. 480 has typically constituted 50 to 90 percent of the total annual international food aid budget. MELISSA D. HO & CHARLES E. HANRAHAN, CRS REPORT FOR CONGRESS, INTERNATIONAL FOOD AID PROGRAMS: BACKGROUND AND ISSUES 2 (Feb. 2010). The United States has principally employed nine programs to deliver food aid: Title I of Public Law 480; Title II of Public Law 480; Title III of Public Law 480; Title V of Public Law 480 (also called the John Ogonowski and Doug Bereuter Farmer-to-Farmer Program); Food for Progress of the Food for Progress Act of 1985; McGovern-Dole International Food for Education and Child Nutrition of the Farm Security and Rural Investment Act of 2002; Bill Emerson Humanitarian Trust of the Bill Emerson Humanitarian Trust Act; Local and Regional Food Aid Procurement Projects; and Section 416(b) of the Agricultural Act of 1949. All of these programs, except for Section 416(b), have been codified in the Food for Peace Act of 2008 (7 U.S.C. §§ 1691 -- 1738r). § 416(b) has been codified in 7 U.S.C. § 1431(b).

<sup>27</sup> The annual authorization level for Title II set by the 2008 Farm Bill was \$2.5 billion. 7 U.S.C. § 1722(d). The goals of Title II food aid are to: “(1) address famine and food crises and respond to emergency food needs, arising from man-made and natural disasters; (2) combat malnutrition, especially in children and mothers; (3) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity; (4) promote economic and community development; (5) promote food security and support sound environmental practices; (6) carry out feeding programs; and (7) promote economic and nutritional security by increasing educational, training, and other productive activities.” 7 U.S.C. § 1721. The United States only added promotion of food security to the objectives of P.L. 480 in 2008. CHARLES E. HANRAHAN, CRS REPORT FOR CONGRESS, INTERNATIONAL FOOD AID PROVISIONS OF THE 2008 FARM BILL 3 (Jul. 10, 2008).

<sup>28</sup> *Id.*

<sup>29</sup> RFK Center, PIH, and ZL conducted the survey, analysis, and participated in the analysis of the data gathered. CHRIGJ participated in interviews and analysis of the data gathered.

<sup>30</sup> See OXFAM, MAKING THE CASE FOR CASH 5 (Apr. 8, 2005). See also OXFAM, PLANTING NOW 14-15 (Oct. 5, 2010) (noting that when food is available for local purchase best practice is to provide cash instead of commodities).

<sup>31</sup> See Emmy Simmons, MONETIZATION OF FOOD AID, RECONSIDERING U.S. POLICY AND PRACTICE, 38-41 (Partnership to Cut Hunger and Poverty in Africa, June 2009) (discussing this dynamic as a general phenomenon of

food aid: “Food aid monetization can disrupt local markets and provide disincentives for production or further market development.”).

<sup>32</sup> Title II – Emergency and Private Assistance Programs, *supra* note 20; MELISSA D. HO & CHARLES E. HANRAHAN, CRS REPORT FOR CONGRESS, INTERNATIONAL FOOD AID PROGRAMS: BACKGROUND AND ISSUES (Feb. 2010), *available at* <http://www.nationalaglawcenter.org/assets/crs/R41072.pdf> (last visited Aug. 10, 2010).

<sup>33</sup> BARRETT & MAXWELL, *supra* note 5 at 184 (citing price distortion).

<sup>34</sup> Food, Conservation, and Energy Act of 2008, 7 U.S.C. § 1726(c) (2008) (containing total budget of only \$60 million for USDA Local and Regional Procurement Project); *see also* Foreign Assistance Act of 1961, 22 U.S.C. § 491 (1961). The IDA account, established under the Foreign Assistance Act (Pub. L. No. 94-161) in 1975, is limited to providing aid to support international disaster relief and rehabilitation.

<sup>35</sup> *See generally* USAID AUTOMATED DIRECTIVES SYSTEM 251, INTERNATIONAL DISASTER ASSISTANCE, 251.5.3 PRINCIPLES FOR DEVELOPING AND MANAGING DISASTER ASSISTANCE ACTIVITIES (“OFDA may use the notwithstanding clause where necessary to deliver disaster assistance on a timely basis.”), *available at* <http://www.usaid.gov/policy/ads/200/251.pdf> (last visited Aug. 10, 2010).

<sup>36</sup> Food, Conservation, and Energy Act of 2008, 7 U.S.C. § 1726(g)(2) (2008). The total for the USDA Pilot Project is \$60 million. USDA funds will be disbursed in stages, \$5 million for FY 2009; \$25 million for FY 2010; \$25 million for FY 2011; and \$5 million for FY 2012; *see also* USDA Local and Regional Food Aid Procurement Pilot Project, *available at* <http://www.fas.usda.gov/excredits/FoodAid/LRP/LRP.asp>. This project will evaluate how local and regional procurement can speed delivery of food aid during food crises and disasters; provide development assistance to strengthen agricultural and food market systems, safety nets, and purchasing power of vulnerable groups; and ensure that local and regional procurement does not have a negative impact on food producers, low-income consumers, or fragile market systems in purchase and recipient countries.

<sup>37</sup> *See* OXFAM, PLANTING NOW 19 (Oct. 5, 2010) (noting that U.S. subsidies and food aid harm Haitian agricultural markets).

<sup>38</sup> This definition of the right to food is derived from UN Committee on Economic, Social and Cultural Rights, General Comment No. 12, *The Right to Adequate Food*, ¶ 7, UN Doc. E/C.12/1999/5 (1999).

<sup>39</sup> For a discussion of the right to food, *see* Special Rapporteur on the Right to Food, *The Right to Food: Report of the Special Rapporteur on the Right to Food*, ¶¶ 49 & 51, UN Doc. E/CN.4/2005/47 (Jan. 24, 2005); George Kent, *Global Obligations, in* GLOBAL OBLIGATIONS FOR THE RIGHT TO FOOD 1, 18 (G. Kent, ed. 2008) (“Viewed globally, respect essentially means that the state’s external activities should do no harm to the nutritional status of people in other countries.”). *See also* Sigrun I. Skogly, *Beyond National Borders: States’ Human Rights Obligations in International Cooperation*, 124 (2006).

<sup>40</sup> *See* UN Human Rts. Committee, General Comment No. 6, *The Right to Life*, ¶ 5, U.N. Doc. HRI/GEN/1(1982) (interpreting the right to life broadly to include the requirement that states take measures “to eliminate malnutrition”).

<sup>41</sup> Vienna Convention on the Law of Treaties (VCLT), art. 18, May 23, 1969, 1155 U.N.T.S. 331.

<sup>42</sup> Title II – Emergency and Private Assistance Programs, 7 U.S.C. § 1721, 1722 (a) and (b), and 1724(a) (2008). § 7 U.S.C. 1722 (a) provides that emergency assistance may be provided “notwithstanding any other provision of law.” The USAID administrator may provide a waiver in order to allow appropriate provision of emergency assistance, however in practice, this authority has not been used to overcome the requirement for use of U.S. commodities. *See e.g.* CONG REC. H. Vol. 15 Part 18 at 24199 (2005) Natsios Speech from the Kansas City Export Food Aid Conference, May 3, 2005.

<sup>43</sup> United States Government Accountability Office, *Foreign Assistance: Various Challenges Impede the Efficiency and Effectiveness of U.S. Food Aid 7*, Report to the U.S. Senate Committee on Agriculture, Nutrition, and Forestry, GAO-07-560 (Apr. 2007).

<sup>44</sup> United States Government Accountability Office, *International Food Assistance: Local and Regional Procurement Can Enhance the Efficiency of U.S. Food Aid, but Challenges May Constrain Its Implementation 36-37*, Report to the Chairman, U.S. House of Representatives Subcommittee on Africa and Global Health, Committee on Foreign Affairs, GAO-09-570 (May 2009). “Food” for most Food for Peace Act of 2008 programs, including Title II, is defined as “any agricultural commodity or the products thereof produced in the United States, including wood and processed wood products, fish, and livestock as well as value-added, fortified, or high-value agricultural products.” 7 U.S.C. § 1732(2).

<sup>45</sup> Numbers retrieved from the World Food Programme, *supra* note 22.

<sup>46</sup> ACTIONAID, *TRANSITIONING US FOOD AID TOWARD LOCAL AND REGIONAL PURCHASE: LESSONS FROM THE EUROPEAN UNION EXPERIENCE* (Sept. 2007) (noting that, as of 2006, the European Commission and the largest E.U. donor states provide 88 to 99 percent of their food aid budgets for local or regional purchase); CANADIAN INTERNATIONAL DEVELOPMENT AGENCY, *CANADA PROVIDES CRUCIAL FOOD AID – WORKING TO REDUCE WORLD HUNGER*, *available at* <http://www.acdi-cida.gc.ca/acdi-cida/acdi-cida.nsf/eng/JUD-24133116-PQL> (last visited July 27, 2010) (stating that in April 2008, the Government of Canada untied 100 percent of food aid).

<sup>47</sup> United States Government Accountability Office, *supra* note 44, at 11.

<sup>48</sup> Numbers retrieved from the World Food Programme, *supra* note 22.

<sup>49</sup> Nor does U.S. aid help U.S. farmers. Only a few large agro-businesses are qualified to bid on the procurement contracts at all. In 2003, just two firms, Cargill and Archer-Daniels Midland (ADM), won the contracts to provide one-third of all U.S. food aid shipments. INSTITUTE FOR AGRICULTURE AND TRADE POLICY, *supra* note 6. In fiscal year 2008 the government awarded ADM and Cargill more than 40 percent of the commodities, totaling more than \$150 million worth for each. Avi Salzman, *U.S. Food Aid: We Pay for Shipping*, BUSINESS WEEK, July 9, 2008, available at [http://www.businessweek.com/bwdaily/dnflash/content/jul2008/db2008078\\_468803.htm](http://www.businessweek.com/bwdaily/dnflash/content/jul2008/db2008078_468803.htm). This dominance by a few corporations has led to the U.S. government paying 11 percent more than market price on average across commodities. INSTITUTE FOR AGRICULTURE AND TRADE POLICY, *supra* note 6).

<sup>50</sup> When the USDA Local and Regional Purchase Pilot Project was launched in 2008, Andrew Natsios, the Administrator of USAID from 2001-2006 said, “We don’t need a pilot like this. It works. We know it works.” Avi Salzman, *U.S. Food Aid: We Pay for Shipping*, BUSINESS WEEK, July 9, 2008, available at [http://www.businessweek.com/bwdaily/dnflash/content/jul2008/db2008078\\_468803.htm](http://www.businessweek.com/bwdaily/dnflash/content/jul2008/db2008078_468803.htm). See, e.g., *A Call to Action on Food Security: The Administration’s Global Strategy*, Hearing Before the H. Comm. on Foreign Affairs, Subcommittee on Africa and Global Health, 111th Cong. (2009) (Statement of Helen D. Gayle, MD, MPH, President and Chief Executive Officer, CARE USA), at 4; WORLD FOOD PROGRAM, VOUCHERS AND CASH TRANSFERS AS FOOD ASSISTANCE INSTRUMENTS: OPPORTUNITIES AND CHALLENGES, 3-9 (2008) (stating that WFP believes increased use of cash transfers and vouchers, in combination with other strategies, allows for flexible and appropriate response to identified needs).

<sup>51</sup> INSTITUTE FOR AGRICULTURE AND TRADE POLICY, *supra* note 6; (citing BARRETT & MAXWELL, *supra* note 5).

<sup>52</sup> Organisation for Economic Co-Operation and Development, Paris Declaration on Aid Effectiveness ¶ 31, Feb. 28-Mar. 2, 2005. The United States participated in the drafting and has agreed to the Paris Declaration on Aid Effectiveness, which states “[u]ntying aid generally increases aid effectiveness by reducing transaction costs for partner countries and improving country ownership and alignment.”

<sup>53</sup> CARE USA, *White Paper on Food Aid Policy* 3-4 (June 6, 2006).

<sup>54</sup> However, as shown by the impact of the Government of Haiti decree issued in March 2010, requesting an end to blanket distributions of food in lieu of targeted distributions, it is important that incremental steps be taken to move away from dependence on food aid toward purchase from the local market must an incremental transition, so as not to leave the population with neither food aid nor sufficient funds to purchase food locally.

<sup>55</sup> BARRETT & MAXWELL, *supra* note 5.

<sup>56</sup> COORDINATION NATIONALE DE LA SECURITE ALIMENTAIRE, HAÏTI : IMPACT DE LA CRISE ALIMENTAIRE SUR LES POPULATIONS URBAINES DE PORT-AU-PRINCE 13 (Nov. 2008).

<sup>57</sup> Numbers retrieved from the World Food Programme, *supra* note 22.

<sup>58</sup> GRASSROOTS INTERNATIONAL, FEEDING DEPENDENCY, STARVING DEMOCRACY, *supra* note 7.

<sup>59</sup> United States Government Accountability Office, Foreign Assistance: *supra* note 44.

<sup>60</sup> 7 U.S.C. § 1723(a); 22 C.F.R. § 211.5(k); see also BARRETT & MAXWELL, *supra* note 5 at 100.

<sup>61</sup> 7 U.S.C. § 1723(b). INSTITUTE FOR AGRICULTURE AND TRADE POLICY, *supra* note 6. In fact, the United States and South Korea remain the only donors that sell a portion of their food aid.

<sup>62</sup> USAID & USDA, UNITED STATES INTERNATIONAL FOOD ASSISTANCE REPORT 2008 48 (2009). Aid to Haiti reflects this percentage. USAID Office of Inspector General, Audit of USAID/Haiti’s Management of P.L. 480 Non-Emergency Monetization Program, Audit Report No. 9-521-06-010-P 2 (Sept. 28, 2006) (“Since FY 2005, the FFP [Food for Peace] monetization budget has represented as much as 67 percent of the total FFP budget at USAID/Haiti.”).

<sup>63</sup> Simmons, *supra* note 31.

<sup>64</sup> United States Government Accountability Office, Foreign Assistance: Various Challenges Impede the Efficiency and Effectiveness of U.S. Food Aid 38, 15, Report to the U.S. Senate Committee on Agriculture, Nutrition, and Forestry, GAO-07-560 (Apr. 2007).

<sup>65</sup> *Id.*

<sup>66</sup> Simmons, *supra* note 31.

<sup>67</sup> *Id.*

<sup>68</sup> BARRETT & MAXWELL, *supra* note 5, at 32, 35, 133.

<sup>69</sup> United States Government Accountability Office, *supra* note 64.

<sup>70</sup> INSTITUTE FOR AGRICULTURE AND TRADE POLICY, *supra* note 5 at 29.

<sup>71</sup> BARRETT & MAXWELL, *supra* note 5.

<sup>72</sup> Karol C. Boudreaux & Adam Aft, *Fighting the Food Crisis: Feeding Africa One Family at a Time*, 32 ENVIRONS, ENV'T L. & POL'Y J. 131, 176 (2008).

<sup>73</sup> Christopher Barrett, *Food Aid's Intended and Unintended Consequences* 5, Background Paper for FAO State of Food and Agriculture 2006 (Mar. 2006).

For monetization, P.L. 480 requires a determination that “(1) adequate storage facilities will be available in the recipient country at the time of the arrival of the commodity to prevent the spoilage or wastage of the commodity; and (2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country” (the so-called Bellmon determination). 7 U.S.C. § 1733(a); Title II Guidance 24 (2010). In fiscal year 2009, USAID launched a three-year pilot program to conduct independent market analyses (the Bellmon Estimation for Title II Project), which temporarily replaces the Bellmon determination requirement. Title II Guidance 24 (2010). In practice, however, the Bellmon Determination has proved insufficient as a way to block sales of food aid that disrupt local markets. INSTITUTE FOR AGRICULTURE AND TRADE POLICY, *supra* note 6.

<sup>74</sup> The data in this table are taken from UNICEF, State of the World's Children, Special Edition, Statistical Tables (2009), available at <http://www.unicef.org/rightsite/sowc/statistics.php>. See also UNICEF, CHILDREN OF HAITI: MILESTONES AND LOOKING FORWARD AT SIX MONTHS 18 (July 2010).

<sup>75</sup> GOUVERNEMENT DE LA REPUBLIQUE D'HAÏTI & PROGRAMME DES NATIONS UNIES POUR LE DEVELOPPEMENT, PLAN D'ACTION DU PROGRAMME DE PAYS 2009-2011 5 (Apr. 2009).

<sup>76</sup> USAID HAITI, *Our Partners*, available at [www.usaid.gov/ht/partners.html](http://www.usaid.gov/ht/partners.html) (last visited May 21, 2010); see also 7 U.S.C. § 1722(d) (detailing organizations eligible to distribute U.S. food aid).

<sup>77</sup> Interview with international non-governmental organization, name withheld, Hinche, Haiti.

<sup>78</sup> *Id.*

<sup>79</sup> A study of another program in Haiti confirmed that, although the targeted food distribution program under examination was beneficial, the amounts were too small and, in some cases, failed to reflect the size of households, providing rations for a family of four when the average family size was six. L.C. Ivers et al., Targeted Food Assistance Improves Food Security and Quality of Life in People Living with HIV in Haiti (studying a Partners In Health program for people with HIV and concluding that food provided was meant to assist a family of four, but average family size was six).

<sup>80</sup> United States Government Accountability Office, *supra* note 64.

<sup>81</sup> BARRETT & MAXWELL, *supra* note 5, at 181-82. (giving examples of ways in which food aid inappropriate to local uses distorts consumption patterns).

<sup>82</sup> GRASSROOTS INTERNATIONAL, FEEDING DEPENDENCY, STARVING DEMOCRACY, *supra* note 7. These patterns have been replicated throughout Latin America. See generally RACHEL GARST & TOM BARRY, FEEDING THE CRISIS: U.S. FOOD AID AND FARM POLICY IN CENTRAL AMERICA (1990).

<sup>83</sup> Although promoting U.S. exports is still a goal of the Food for Peace Act, it was removed from the objectives of Title II in 2008. CHARLES E. HANRAHAN, CRS REPORT FOR CONGRESS, INTERNATIONAL FOOD AID PROVISIONS OF THE 2008 FARM BILL 2 (Jul. 10, 2008).

<sup>84</sup> *Foreign Assistance: U.S. Agencies Face Challenges to Improving the Efficiency and Effectiveness of Food Aid: Hearing Before the State Committee on Agriculture, Nutrition, and Forestry*, 110th Cong. (2007) (statement of Thomas Melito, Government Accountability Office at 9).

<sup>85</sup> Cargo Preference Act of 1954, 46 U.S.C. § 55305 (1954); Food Security Act of 1985, 46 U.S.C. § 55314 (1985).

<sup>86</sup> Maritime Security Act of 1996, 46 U.S.C. § 55314(c)(2) (1996).

<sup>87</sup> United States Government Accountability Office, *supra* note 64; INSTITUTE FOR AGRICULTURE AND TRADE POLICY, *supra* note 6, at 30. (noting that the “E.U.’s greater reliance on local and triangular purchases contributes to shipping costs of less than one half those paid by the U.S.”).

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* (providing an example of cornmeal that arrived in South Africa containing live and dead insects).

<sup>92</sup> Interview with international non-governmental organization, *supra* note 77.

<sup>93</sup> Focus group recipients noted that many implementers conducted a survey prior to beginning a project, but this did not provide a sufficient avenue for consultation in the design of the project.

<sup>94</sup> Samantha Gross, *Clinton Asks Groups to Make Haiti Self-Sufficient*, AP, Mar. 25, 2010, available at <http://abcnews.go.com/US/wireStory?id=10205129>.

<sup>95</sup> REPUBLIC OF HAITI, GROWTH AND POVERTY REDUCTION STRATEGY PAPER: 2008-2010 10 (Nov. 2007).

<sup>96</sup> GOVERNMENT OF THE REPUBLIC OF HAITI, ACTION PLAN FOR NATIONAL RECOVERY AND DEVELOPMENT OF HAITI: IMMEDIATE KEY INITIATIVES FOR THE FUTURE 23 (Mar. 2010).

<sup>97</sup> REPUBLIC OF HAITI, *supra* note 95, at 54 (Nov. 2007).

<sup>98</sup> Numbers retrieved from the Organisation for Economic Co-operation and Development, Development Co-operation Directorate-Development Assistance Committee, *available at* [www.oecd.org/dac/stats/data](http://www.oecd.org/dac/stats/data).

<sup>99</sup> As of the August 17, 2010 Interim Haiti Recovery Commission Board meeting, three agricultural projects have been approved, although they are inadequate to address the large-scale concerns about the agricultural sector. These include (1) Inter-American Development Bank and World Bank funded project to Establish Necessary Conditions to Induce a Sustainable Growth of the Agricultural Sector; (2) Agence Française Développement and European Union funded project to Expand Irrigation and Rural Entrepreneurship; and (3) Unfunded project for Rehabilitation of Production Capacity Among Rural Households and Preparation for the Hurricane Season. *See* <http://www.cirh.ht/index.jsp?sid=1&id=9&pid=9#agriculture> (last visited Oct. 21, 2010).

<sup>100</sup> JOSH DEWIND & DAVID H. KINLEY III, AIDING MIGRATION: THE IMPACT OF INTERNATIONAL DEVELOPMENT ASSISTANCE ON HAITI 95-98 (1988).

<sup>101</sup> Claire McGuigan, AGRICULTURAL LIBERALISATION IN HAITI 7-11 (Christian Aid, 2006).

<sup>102</sup> *Id.* at 11-12. ; Nathaniel Gronewold, *Post-Quake Revitalization Plans Collide in Haiti's Breadbasket*, GREENWIRE, Mar. 8, 2010, *available at* <http://www.nytimes.com/gwire/2010/03/08/08greenwire-post-quake-revitalization-plans-collide-in-hai-15994.html>.

<sup>103</sup> *Id.*

<sup>104</sup> COORDINATION NATIONALE DE LA SECURITE ALIMENTAIRE, ANALYSE COMPREHENSIVE DE LA SECURITE ALIMENTAIRE ET DE LA VULNERABILITE (CFSVA) EN MILIEU RURAL HAÏTIEN: REPUBLIQUE D'HAÏTI 35 (Nov. 2007).

<sup>105</sup> REPUBLIQUE D'HAÏTI, MINISTERE DE LA SANTE PUBLIQUE ET DE LA POPULATION, POLITIQUE NATIONALE DE NUTRITION (Draft) 20-21 (revised Dec. 2009) (on file with author). While other factors, including population growth, have contributed to Haiti's inability to produce its own food, they do not detract from the role played by the significant decline of the Haitian agricultural sector.

<sup>106</sup> Paisley Dodds, *U.S. Rice Doesn't Help Haitian Farmers: Question Is How to Help Without Undermining Fragile Economy*, ASSOCIATED PRESS, Feb. 26, 2010, *available at* <http://www.msnbc.msn.com/id/35608836/>; COORDINATION NATIONALE DE LA SÉCURITÉ ALIMENTAIRE, HAÏTI : IMPACT DE LA CRISE ALIMENTAIRE SUR LES POPULATIONS URBAINES DE PORT-AU-PRINCE 12 (Nov. 2008).

<sup>107</sup> FOREIGN AGRICULTURAL SERVICE, Official USDA Estimates, numbers retrieved through query of Production, Supply and Distribution Database, *available at* <http://www.fas.usda.gov/psdonline/psdQuery.aspx>; *See also* Mark Weisbrot, Jake Johnston, & Rebecca Ray, *Using Food Aid to Support, Not Harm, Haitian Agriculture*, Center for Economic and Policy Research Issue Brief 2 (Apr. 2010) (stating that by 1988 Haiti imported 53 percent of its rice).

<sup>108</sup> Mark Weisbrot, Jake Johnston, & Rebecca Ray, *Using Food Aid to Support, Not Harm, Haitian Agriculture*, Center for Economic and Policy Research Issue Brief 3 (Apr. 2010).

<sup>109</sup> Claire McGuigan, AGRICULTURAL LIBERALISATION IN HAITI 13 (Christian Aid, Mar. 2006) (noting that the average Haitian once consumed 25 kg of rice a year and now consumes 45 kg to the detriment of other locally grown foods).

<sup>110</sup> Interview with Haitian public health expert, name withheld on request, Port-au-Prince Haiti, Mar. 2010.

<sup>111</sup> *See, e.g.*, U.S. GOVERNMENT, FEED THE FUTURE INITIATIVE, *available at* <http://www.feedthefuture.gov/commitment.html>, (Stating that “President Obama’s pledge of at least \$3.5 billion for agricultural development and food security over three years helped to leverage and align more than \$18.5 billion from other donors in support of a common approach to achieve sustainable food security.”). Feed the Future takes a government-wide approach to align U.S. resources with country-owned processes, and moves toward re-investing in the agricultural sectors of the world’s most food insecure countries.

<sup>112</sup> *See* Initiating Foreign Assistance Reform Act of 2009, H.R. 2139, 111th Cong. (2009); Foreign Assistance Revitalization Act of 2009, S. 1524, 111th Cong. (2009).

<sup>113</sup> Organisation for Economic Co-Operation and Development, Paris Declaration on Aid Effectiveness, Feb. 28-Mar. 2, 2005; Accra Agenda for Action, Sept. 2-4, 2008.

<sup>114</sup> Organisation for Economic Co-Operation and Development, *supra* note 113, at ¶ 31.

<sup>115</sup> Canada, for example, went from tying 90 percent of food aid, to untying 50 percent in September 2005, before untying all food aid by April 2008. Canadian International Development Agency, *Canada Provides Crucial Food Aid – Working to Reduce World Hunger*, *available at* <http://www.acdi-cida.gc.ca/acdi-cida/acdi-cida.nsf/eng/JUD-24133116-PQL> (last visited July 27, 2010). The reform was meant to “lower transportation costs, provide more culturally appropriate food and allow Canada’s aid dollars to go further while supporting local farmers in developing countries.”

Canadian International Development Agency, Canada Opens Food Aid Purchases to Developing Countries (Sept. 22, 2005).

<sup>116</sup> See generally Initiating Foreign Assistance Reform Act of 2009, H.R. 2139, 111th Cong. (2009); Global Food Security Act of 2009, H.R. 3077, 111th Cong (2009); U.S. Government Global Hunger and Food Security Initiative, Feed the Future (2010), available at <http://feedthefuture.gov/> (last visited July 27, 2010).

<sup>117</sup> OXFAM, MAKING THE CASE FOR CASH 5 (Apr. 8, 2005).

<sup>118</sup> OXFAM, MAKING THE CASE FOR CASH 4 (Apr. 8, 2005); HUMANITARIAN POLICY GROUP, ODI, CASH BASED RESPONSES IN EMERGENCIES 2 (Jan. 2007).

<sup>119</sup> HUMANITARIAN POLICY GROUP, ODI, CASH BASED RESPONSES IN EMERGENCIES 2 (Jan. 2007).

<sup>120</sup> Candace Miller, ECONOMIC IMPACT REPORT TO THE MCHINJI SOCIAL CASH TRANSFER PILOT 5 (USAID, Boston University, & UNICEF 2009).

<sup>121</sup> ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, *Countries, Territories and Organisations Adhering to the Paris Declaration and AAA*, available at

[http://www.oecd.org/document/22/0,3343,en\\_2649\\_3236398\\_36074966\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/22/0,3343,en_2649_3236398_36074966_1_1_1_1,00.html); see also Lois Romano, *State Department's Cheryl Mills on Rebuilding Haiti*, WASH. POST, May 10, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/05/09/AR2010050903009.html> (quoting Cheryl Mills as saying “[w]e as donors have an obligation to organize ourselves to be consistent with what it means to have a country-led approach, consistent with the vision and goals of [the] people of Haiti. We have an obligation to ensure that aid is actually effective”).

<sup>122</sup> ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, 2008 SURVEY ON MONITORING THE PARIS DECLARATION: MAKING AID MORE EFFECTIVE BY 2010, Table C.30: United States, 134 (2008).

<sup>123</sup> In 1982, Congress required USAID funnel through NGOs as much aid as possible. TERRY BUSS & ADAM GARDNER, HAITI IN THE BALANCE: WHY FOREIGN AID HAS FAILED AND WHAT WE CAN DO ABOUT IT 118 (2008). From 1996 to 2000, the Dole/Helms Amendment blocked direct U.S. financial support for the public sector in Haiti altogether. Foreign Operations Appropriations Act for FY1996, section 538, Pub. L. 104-99 & Pub. L. 104-107 (1996). In 2002, based on electoral disputes, the Clinton administration began to cut the Haitian government out of its provision of humanitarian assistance. TERRY BUSS & ADAM GARDNER, HAITI IN THE BALANCE: WHY FOREIGN AID HAS FAILED AND WHAT WE CAN DO ABOUT IT 118 (2008); see also *Food Security in Haiti: A Case Study Comparing the Food Security Frameworks of the Haitian Government, the European Commission and the U.S. Agency for International Development*, prepared for the United States Agency for International Development Bureau for Global Programs Center for Economic Growth and Agricultural Development Division of Agriculture and Food Security 14-15 (May 1, 2000) (comparing European Union (E.U.) to U.S. assistance and noting that the E.U. focuses more on institution-building whereas the United States prefers a “lean” state).

<sup>124</sup> See, e.g., INTERACTION, INTERACTION VIEWPOINT: SENATE GLOBAL FOOD SECURITY ACT ESSENTIAL IN FIGHT AGAINST GLOBAL HUNGER, Apr. 21, 2010, available at <http://www.interaction.org/article/interaction-viewpoint-senate-global-food-security-act-essential-fight-against-global-hunger>; Cheryl Mills, *The Importance of Agriculture in Confronting Hunger, Poverty, and Unemployment in Haiti*, Huffington Post, Feb. 13, 2010, available at [http://www.huffingtonpost.com/cheryl-mills/the-importance-of-agricul\\_b\\_461556.html](http://www.huffingtonpost.com/cheryl-mills/the-importance-of-agricul_b_461556.html); *Promoting Global Food Security: Diplomacy and Development: Hearing Before the S. Comm. on Foreign Relations*, 111th Cong. (2010) (statement of Dr. Rajiv Shah, USAID Administrator at 4).

## SAK VID PA KANPE

### The Impact of U.S. Food Aid on Human Rights in Haiti

*Sak vid pa kanpe*

An empty sack can't stand up.

The title of this report draws on a Haitian proverb which laments that a sack cannot stand if it is empty—a powerful metaphor for the importance of food and sustenance to one's capacity to “stand” and function. Living in the most impoverished nation in the Western Hemisphere, the Haitian people know all too well how vital access to food is to their daily survival. However, many Haitians have also experienced the unintended negative consequences of U.S. food aid programs. While these programs often help people in times of crisis, many also run afoul of the human right to food by undermining the local economy, eroding agricultural self-reliance, and failing to include Haitians in their design and implementation. This report presents the findings of a study on the right to food in Haiti jointly undertaken by four organizations, based on a survey undertaken in the town of Hinche and additional desk research and interviews. This report draws on both human rights and public health methodologies to assess the impact of food aid programs on the right to food in Hinche. It finds that while U.S. food aid may provide nourishment to many people, the way in which it is procured, delivered, and administered often interferes with Haitians' human rights by failing to improve long-term food security. The report sets out concrete recommendations calling on the U.S. government to transform food aid in accordance with human rights principles so that food in Haiti is: economically and physically accessible; adequate in quantity, quality, and nutrition; culturally acceptable; available; and sustainable. At a time when the Haitian people are facing the monumental task of rebuilding their country after the devastating January 12, 2010 earthquake, it is vital that donor countries and NGOs adopt approaches that advance and respect Haitians' human rights. Only then will U.S. policy respond to the Haitian people as they “stand up” and lead themselves into a more promising future.

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Left: Rations during a food distribution at a food aid depot in Hinche, Haiti.

Right: An enumerator administers the "right to food" survey to a woman outside a food aid depot in Hinche, Haiti.

Additional cover photos: bags of rice and lentils stacked in the warehouse of an organization providing food aid to residents of Hinche.