

**Oxfam America**  
Research Backgrounders

# **Land Rights, Land Tenure, and Urban Recovery**

Rebuilding post-earthquake  
Port-au-Prince and Léogâne

Harley F. Etienne

# Contents

Oxfam America’s Research Backgrounders .....	4
Author information and acknowledgments .....	5
Citations of this paper .....	5
Abbreviations.....	6
Executive summary.....	7
<i>Résumé exécutif</i> .....	8
Introduction and overview .....	9
Background .....	10
Methodology and approach .....	11
Literature review .....	12
National cadaster .....	15
Political context .....	17
Overview.....	17
Presidential elections, prime minister appointment, and resignation .....	17
Laws governing the land tenure system .....	19
Agents of the land tenure system .....	22
Central Haitian government .....	22
<i>Maires</i> (mayors) .....	22
Notaries.....	22
Surveyors.....	23
Lawyers.....	23
NGOs and housing construction .....	24
Other issues .....	25
Forced evictions .....	25
Increased and competing interests in land reform efforts .....	26
Livelihoods and shelter .....	27
Speedy, fair, and transparent land dispute resolution.....	27
Public safety.....	28
Haitian inclusion, influence, participation, and management.....	28
Current conditions.....	30
Port-au-Prince.....	33
Pétionville.....	33
Delmas .....	34
Léogâne-Gressier .....	34

Croix-des-Bouquets .....	35
Cité-Soleil.....	35
<b>Conclusions and recommendations .....</b>	<b>37</b>
Overall recommendations .....	38
Oxfam-specific recommendations.....	38
<b>Further reading.....</b>	<b>40</b>

# Oxfam America's Research Backgrounders

Series editor: Kimberly Pfeifer

Oxfam America's Research Backgrounders are designed to inform and foster discussion about topics critical to poverty reduction. The series explores a range of issues on which Oxfam America works—all within the broader context of international development and humanitarian relief. The series was designed to share Oxfam America's rich research with a wide audience in hopes of fostering thoughtful debate and discussion. All Backgrounders are available as downloadable PDFs on our website, [oxfamamerica.org/research](http://oxfamamerica.org/research), and may be distributed and cited with proper attribution (please see following page).

Topics of Oxfam America's Research Backgrounders are selected to support Oxfam's development objectives or key aspects of our policy work. Each Backgrounder represents an initial effort by Oxfam to inform the strategic development of our work, and each is either a literature synthesis or original research, conducted or commissioned by Oxfam America. All Backgrounders have undergone peer review.

Oxfam America's Research Backgrounders are not intended as advocacy or campaign tools; nor do they constitute an expression of Oxfam America policy. The views expressed are those of the authors—not necessarily those of Oxfam. Nonetheless, we believe this research constitutes a useful body of work for all readers interested in poverty reduction.

Recent backgrounders:

- "Climate Change and Violent Conflict: A Critical Literature Review," by Ellen Messer (2010).
- "Under Pressure: Reducing Disaster Risk and Enhancing US Emergency Response Capacity in an Era of Climate Change," by Marc Cohen, Kelly Hauser, Ellen Messer, and M. Cristina Tirado (2011).
- "Impact of Garment and Textile Trade Preferences on Livelihoods in Cambodia," by Sophal Chan and Sothea Oum (2011).
- "In Need of a Better WASH: Water, Sanitation, and Hygiene Policy Issues in Post-Earthquake Haiti," by Figaro Joseph (2011).
- "Local Capacity in Humanitarian Response: Vision or Mirage?" by Michael Delaney and Jacobo Ocharan (2012).
- "Systems, Power, and Agency in Market-Based Approaches to Poverty," by Chris Jochnick (2012).
- "Measuring Economic Progress and Well-Being: How to Move Beyond GDP," by Heloisa Marone (2012).

## Author information and acknowledgments

Harley F. Etienne is Assistant Professor of Urban and Regional Planning at the University of Michigan.

The author would like to sincerely thank Marc Cohen, Max Theodore, Yolette Etienne, Kenny Rae, and those interviewed for their help and assistance in completing this report.

## Citations of this paper

Please use the following format when citing this paper:

Etienne, Harley F., "Land Rights, Land Tenure, and Urban Recovery: Rebuilding Post-Earthquake Port-au-Prince and Léogâne," Oxfam America Research Backgrounder series (2012): [www.oxfamamerica.org/publications/haiti-land-rights-land-tenure-and-urban-recovery](http://www.oxfamamerica.org/publications/haiti-land-rights-land-tenure-and-urban-recovery).

For permission to publish a larger excerpt, please email your request to [permissions@oxfamamerica.org](mailto:permissions@oxfamamerica.org).

# Abbreviations

CASECs	<i>Conseils d'Administration des Sections Communales</i> (Administrative Councils of the Communal Sections)
CIAT	<i>Comité Interministériel d'Aménagement du Territoire</i> (Inter-Ministry Committee for the Arrangement of Land)
DGI	<i>Direction Générale des Impôts</i>
DTM	Displacement Tracking Matrix
HNP	Haitian National Police
IDP	Internally displaced person
IHRC	Interim Haiti Recovery Commission
INARA	<i>Institut National de la Réforme Agraire</i> (National Agrarian Reform Institute)
INGO	International nongovernmental organization
IOM	International Organization for Migration
MTPTC	<i>Ministère des Travaux Publics, Transport, et Communications</i> (Ministry of Public Works, Transportation, and Communications)
NGO	Nongovernmental organization
NIF	<i>Numéro d'identité fiscale</i> (Haitian tax identification number)
OAS	Organization of American States
ONACA	<i>Office Nationale du Cadastre</i> (National Cadaster Agency)
RHP	<i>Renovación Habitacional Popular</i> (People's Housing Renovation Agency)
UN-HABITAT	UN Agency for Human Settlements

# Executive summary

Two years after the earthquake in Haiti, nearly 500,000 internally displaced persons (IDPs) remain in tents and informal settlements in the earthquake zone. The reasons for this vary, but land rights and land tenure are central. A series of forced evictions in 2011 brought attention to the issue.

In the wake of the catastrophe, many IDPs found or created shelter on public land or on private land where landowners were willing to accommodate them. As the recovery has progressed, the inability of the Haitian government to significantly increase its capacity, the inability of the international community to underwrite its pledges, and waning resources in the international nongovernmental organization (INGO) community have contributed to growing unease on the ground.

The problems with Haiti's land tenure system predate the earthquake and were in fact amplified by it. Land rights in Haiti have long advantaged those with access to title, which is granted through surveyors, lawyers, and notaries. The legal system's inability to efficiently resolve land disputes and the outdated cadastral map all collude to further inhibit land rights.

Data on the remaining IDPs show that a clear focus of remaining efforts must be on renters displaced by the complete destruction of their homes. The other challenge of reforming Haiti's land tenure system is creating opportunity for INGOs to create permanent housing, as well as foreign and domestic capital to create economic opportunity. Contrary to what one might reasonably expect, the largest challenge facing IDPs beyond land rights, health care, and public safety is access to employment.<sup>1</sup>

Recommendations for advancing the issue include supporting the Haitian government by increasing capacity in the land tenure system, and the modernization of the cadastral map and titling system. Land rights are only one edge of the tenure issue. Given the nature of the Haitian economy and the number of IDPs who were renters prior to the earthquake event, some consideration must also be given to improving tenancy rights as well.

---

<sup>1</sup> Raphael Yves Pierre, "Haitians Talk About Rebuilding the Country After the January 12, 2010, Earthquake," March 2010, <http://www.oxfamamerica.org/files/april-2010-oxfam-haiti-public-opinion-poll-english.pdf>.

# Résumé exécutif

*Deux ans après le tremblement de terre près de 500.000 personnes déplacées à l'intérieur (PDI) restent dans des tentes et des établissements informels dans la zone du séisme. Les raisons varient, mais les droits fonciers et des régimes fonciers jouent un rôle central. Une série d'expulsions forcées en 2011 attiré l'attention sur la question.*

*Dans le sillage de la catastrophe, de nombreuses personnes déplacées à l'intérieur (PDI) trouvé ou créé des abris sur les terres publiques ou sur des terrains privés où les propriétaires fonciers étaient prêts à les accueillir. Alors que la reprise a progressé de l'incapacité du gouvernement haïtien à augmenter considérablement sa capacité, les communautés internationales permettant de garantir de leurs engagements et les ressources déclin dans la communauté des ONG ont contribué à un malaise croissant sur le terrain.*

*Les problèmes avec le système d'Haïti foncière antérieurs au tremblement de terre et étaient en fait amplifié par elle. Les droits fonciers en Haïti ont longtemps favorisé ceux qui ont accès à un titre qui est accordé par les géomètres, les avocats et les notaires. Le système juridique de l'incapacité à résoudre efficacement les litiges fonciers et la carte cadastrale obsolète tout de connivence à faire obstacle au droit à la terre.*

*Les données sur les personnes déplacées restantes montrent qu'une orientation claire des efforts qui restent doit être déplacée sur les locataires par la destruction complète de leurs maisons. L'autre défi de la réforme du système d'Haïti foncière est la création d'opportunité pour les ONG pour créer des logements permanents et des capitaux étrangers pour créer des opportunités économiques. Contrairement à la conception populaire, le plus grand défi auquel sont confrontés les personnes déplacées au-delà des droits fonciers, les soins de santé et la sécurité publique est l'accès à l'emploi.<sup>2</sup>*

*Recommandations pour faire avancer la question incluent le soutien du gouvernement haïtien en augmentant la capacité dans le système foncier, y compris la modernisation du plan cadastral et le système de titrage. Les droits fonciers ne sont qu'un bord de la question foncière. Étant donné la nature de l'économie haïtienne et le nombre de personnes déplacées qui étaient locataires avant l'événement tremblement de terre, quelques précautions doivent également être accordées à l'amélioration des droits d'occupation ainsi.*

---

<sup>2</sup> Raphael Yves Pierre, "Haitians Talk About Rebuilding the Country After the January 12, 2010, Earthquake," March 2010, <http://www.oxfamamerica.org/files/april-2010-oxfam-haiti-public-opinion-poll-english.pdf>.

# Introduction and overview

Two years after the catastrophic earthquake of January 12, 2010, that destroyed hundreds of thousands of structures and killed almost as many people, the Haitian government is seeking to remove the last occupants of Haiti's primary civic space. This project's focus was an assessment of the role of the land tenure system in Haiti's post-earthquake recovery process. The devastation of that event left many displaced and in need of short- and long-term housing options. At the core of that issue is access to land tenure and land rights. Haiti's difficult political present and past and scarce resources have made land tenure and land rights a substantial issue, which was only amplified by the earthquake event.

Reform of the land tenure system is not only important from a poverty alleviation perspective, but also from a post-earthquake-recovery perspective. Land reform continues to be a critically important discussion in the development literature, but not as much in the post-disaster-recovery literature. A review of the literature on other disasters suggests that access to land and strong national government support for housing rehabilitation are essential elements of rapid and comprehensive recovery.

There are two dimensions to the research that are not fully understood in the original terms of reference. Any research project on the Haitian civil land tenure system must seek to understand both the policy frameworks and the sociocultural context of land tenure, land rights, and housing access. The existing research protocol focuses on contemporary frameworks and their ability to provide displaced owners and renters with access to land and housing in the wake of the earthquake. The current system is a hybrid of policy frameworks implemented over time, customary adjustments, and mores that have not adapted to contemporary demands and challenges.

My initial overall impression is that in most other nations, custom follows policy, whereas in Haiti, policy follows custom. This presents a problem for the feasibility of a study such as this one. One point that may illustrate this is that the government has not worked quickly to expedite or resolve land disputes created by the earthquake event itself or the subsequent squatting/sitting and rampant land speculation that followed. There are preexisting government-based efforts to examine land tenure issues and modernize land policy, but they have not resulted in comprehensive strategies or policy.

This report will distill some of the complex issues that are inhibiting the recovery process. Preliminary findings from this project suggest that policy frameworks

governing land tenure and land rights operate in a highly dynamic, customary, and partially informal manner. Untangling the various issues governing land tenure in the wake of the earthquake might require more time than previously understood.

The research protocol for this study revolved around several large questions, including, but not limited to:

- How was land conveyed before and after the earthquake?
- What property records exist?
- How active are the institutions involved in land management?
- What rights do renters have?
- What is the current status of forced evictions?
- What role does the international nongovernmental organization (INGO) community have to play in reform of the land tenure system?

## Background

The earthquake event of January 12, 2010, destroyed thousands of structures and killed scores of Haitians in the metropolitan areas of Port-au-Prince and Léogâne-Gressier. As of this writing, nearly half a million displaced Haitians remain in camps and other temporary shelter. The reasons for the slow recovery are varied. Critics of the recovery process have focused their attention on several factors, including the failure of foreign governments to deliver pledged funds, corruption and ineptitude within the Haitian government, and a zealous contingent of foreign aid workers and NGOs that are misusing funds.

There is also considerable evidence that the inability to reinvent Port-au-Prince is inherently tied to the central Haitian government's inability to manage its land tenure system – in both the pre-earthquake and post-earthquake eras. In the decades following the fall of the Duvalier regime in 1986, there have been numerous attempts to reform Haiti's land tenure system, but the most successful efforts have focused not on the urban poor but on farmers in rural areas. These efforts have largely resulted from a desire to curb violence that has stemmed from land disputes.

The evolution of land tenure leading up to the post-Duvalier era reforms has included a clear focus on dispossessing land from foreign investors and powers. Despite this, the legal aspects of the land tenure system remain decidedly French. Units of land measurement, such as the *carreaux*, are holdovers from the colonial

era and are representative of the extent to which the structures governing land allocation and ownership have barely changed in over two hundred years.

As of this writing, there has been a more than 66 percent decrease in the number of internally displaced persons (IDPs) still being housed in temporary or transitional housing. The overwhelming majority of those who remain (78 percent) are tenants who cannot return to their previous housing. Of the 707 IDP sites tracked through the International Organization for Migration (IOM), the number of camps situated on private land is decreasing faster than the number of camps situated on public land. Although reports of forced evictions have decreased since several high-profile mass evictions in May/June 2011, they have continued.

## Methodology and approach

The methodological approach of the research was a network ethnography that focused on government officials, representatives from INGOs and advocacy organizations, property owners, and whenever possible IDPs. Network ethnographies rely on referrals from other study participants. The 36 interviews that inform this paper took place mainly between May and June 2011; however, some follow-up interviews took place after the site visits and initial interviews. Analysis of the interview data was aided by reports, memorandums, and other published materials that were available in French, Kreyòl, and English.

# Literature review

Historically, earthquakes and other catastrophic disasters create opportunities, not just for recovery and reinvention. In 2010, Haiti, a nation long troubled with political turmoil, deep poverty, and human suffering, experienced one of the worst disasters on record in terms of fatalities.<sup>3</sup> In cataclysmic natural disasters such as earthquakes, several factors contribute to the obfuscation of land ownership and the rights of pre-disaster residents. This has been as true in other historic earthquake events as it is in contemporary contexts. When the Marquês de Pombal organized the reconstruction of Lisbon after the 1755 earthquake there, he disregarded property rights and preexisting parcel boundaries to completely design the city.<sup>4</sup>

In the case of the Haitian earthquake, undocumented deaths make land conveyance to living heirs difficult. The settlement of IDPs in temporary camps in the Port-au-Prince and Léogâne metropolitan areas on public and private land to which they have weak or no claims has complicated this further. Throughout the developing world, land reform efforts have attempted to restructure land rights for the poor due to the recognition that access to land is important for political and civil rights and poverty alleviation and upward mobility.

Land tenure and land rights will be discussed here as two interrelated and yet separate topics. For the purposes of clarity, I will discuss *land rights* here as a legal topic that explains how the law protects the interests of landowners and renters alike, whereas *land tenure* refers to the ways in which land is occupied and used by its occupants. Both depend on the capacity of the state to verify ownership through cadastral maps (see page 14 for a definition) and documentation of land ownership, and tenure can become confounded with rights when the law is used to protect long-term occupants from evictions. In Haiti, as in most post-colonial states and throughout the developing world, land rights and land tenure could be understood as being avenues for the political and economic empowerment of the urban and rural poor. In Haiti's post-earthquake context, they are still vehicles for that but are now also a means for improving living conditions for the displaced. They are also important avenues for reconstruction.

---

<sup>3</sup> Robert Debs Heinl, Jr., and Nancy Heinl, *Written in Blood: The Story of the Haitian People, 1492-1971* (Boston: Houghton Mifflin, 1978).

<sup>4</sup> Kenneth Maxwell, "Lisbon," in *Out of Ground Zero: Case Studies in Urban Reinvention* (Munich: Prestel Verlag, 2002).

In Haiti, as in many post-colonial contexts, and throughout much of the developing world, tenure informality is tied to tenure insecurity.<sup>5</sup> Tenants' rights to remain in place are inhibited by the inability to leverage the legal system to resolve land disputes. For some time, numerous property management systems have coexisted in Haiti.<sup>6</sup> Tenure security is also not simply a matter of preventing unlawful and unjust evictions but having the opportunity to profit from land and transfer land to children.

There are several precedents for ways in which land tenure system reform can facilitate post-disaster recovery. The most instructive for the situation in Haiti is the Mexico City earthquake of 1985. It is useful for comparison, not only due to the nature of the disaster but also the relative economic and social conditions present in Mexico City before that disaster. In short, Mexico City is and has been one of the largest metropolitan areas on earth for more than thirty years. Although the September 19, 1985, earthquake registered 8.2 on the Richter scale, it differed greatly from the Haiti earthquake in many ways. Despite the larger magnitude, the damage and fatalities were only a fraction of what occurred in Haiti.

The city largely recovered from the earthquake in two short years thanks to a program of land reform that was instituted fairly quickly after the earthquake event. The rapid recovery was facilitated by several things, including almost immediate protests demanding housing security for the displaced. The government quickly expropriated approximately 5,500 rental units and created the *Renovación Habitacional Popular* (RHP), which managed the demolition, clearance, reconstruction, and repair of more than 42,000 apartments, while supervising the temporary shelter and predicament of some 85,000 families.<sup>7</sup> The staff for RHP was drawn largely from existing Mexican government departments and was given a two-year horizon for existence, which created an urgency to achieve results.

An additional feature of Mexico City recovery following the 1985 earthquake was the limited role of the NGO community. In total, NGOs were responsible for only three percent of the rehabilitated housing. The World Bank's role was to support the Mexican government in creating and sustaining a strong central government program in the form of a \$400 million loan (which is notable given

---

<sup>5</sup> Alain Durant-Lasserve and Harris Selod, "The Formalization of Urban Land Tenure in Developing Countries," in *Urban Land Markets: Improving Land Management for Successful Urbanization*, ed. S. V. Lall, M. Friere, B. Yuen, R. Rajack, and J. J. Helluin (Dordrecht: Springer, 2009).

<sup>6</sup> Peter C. Bloch, Virginia Lambert, and Norman Singer, "Land Tenure Issues in Rural Haiti: Review of the Evidence," *Land Tenure Center Paper* 94, April 1988 (Madison: University of Wisconsin-Madison); and Mats Lundahl, *Peasants and Poverty: A Study of Haiti* (London: Croom Helm, 1979).

<sup>7</sup> Aseem Inam, *Planning for the Unplanned: Recovering from Crises in Megacities* (New York: Taylor and Francis, 2005).

the foreign debt crisis that was affecting Mexico at that time). This was not Mexico City's first attempt at land regularization. In fact, the effort to normalize illegal settlements has been a part of the development literature for some time.

There are two policy processes that have been important in providing tenure security to the poor: tenure regularization and tenure formalization.<sup>8</sup> With only 10 to 15 percent of the developing world's households defined as having tenure arrangements, informal tenure takes many forms. The UN Human Settlements Program (UN-HABITAT) and the Global Land Tool Network have conceptualized tenure as having a continuum. Instead of being a duality between no land rights and security and formal land rights, tenure regularization and formalization can serve as intermediate steps on this continuum. In regularization, illegal settlements may be recognized as being spaces that are occupied; formalization involves having those spaces recognized by public authorities.

---

<sup>8</sup> Nefise Bazoglu, Remy Sietchiping, Gora Mboup, and Clarissa Augustinus, *Monitoring Security of Tenure in Cities: People, Land and Policies* (Nairobi: UN-HABITAT and Global Land Tenure Network, 2011).

# National cadaster

A *cadaster* is a public record that contains the delineation of individual parcel boundaries, details concerning the land, ownership information, and the rights associated with each parcel. This information is the basis for confirmation of ownership as well as property valuation and taxation, and the systems required for all of the above to function....<sup>9</sup>

Cadaster systems allow governments to understand land ownership patterns, spatial relationships between properties and natural features, and land use. They also can also serve as alternative documentation systems for land ownership records. At present, Haiti lacks a modern and updated cadastral map that identifies accurate property boundaries and their legal owners.

The current civil land tenure system requires surveyors and notaries to verify land transactions and property limits, create land titles, and register them with the government revenue agency, the *Direction Générale des Impôts* (DGI). Each commune<sup>10</sup> maintains its own DGI office and unique record-keeping system. Notaries are responsible for sending copies of titles to the central DGI office, where they are registered chronologically. The DGI's principal purpose is tax collection, not land registration for data analysis or planning.

There are several efforts underway to remedy this situation. First, the *Office Nationale du Cadastre* (ONACA) is working with the Organization of American States (OAS) to modernize the current cadaster. The project is currently in the fundraising stage and will take several years to complete. OAS has been working in Haiti on a long-standing development mission since 2009.

The OAS's interest in the cadaster is the formalization of property and the support of Haiti's development through the standardization of land ownership and land use data and security of land ownership.<sup>11</sup> The connections between the

---

<sup>9</sup> Organization of American States, *Modernization of Cadastre and Land Rights Infrastructure in Haiti: A Rapid and Inclusive Approach, Project Proposal* (Washington, DC: OAS, 2010), p. 6, <http://www.ifud.org/wp-content/uploads/2010/05/Modernization-of-Cadastre-and-Land-Rights-Infrastructure-in-Haiti-Project-Proposal-v9-2010.pdf>.

<sup>10</sup> In Haiti, political jurisdictions follow the French model of subcommune, commune, arrondissement, and department, which correlate respectively to neighborhood, city, region, and state. For more information on Haitian political jurisdictions and description of government systems, see Sigifredo Ramirez, Andre Lafontant, and Michael Enders, "Local Governance Decentralization Assessment in Haiti," prepared for the US Agency for International Development Haiti Mission, July 2006, [http://pdf.usaid.gov/pdf\\_docs/PNADN818.pdf](http://pdf.usaid.gov/pdf_docs/PNADN818.pdf).

<sup>11</sup> OAS, *Modernization of Cadastre*.

need for an updated cadaster, the DGI, local commune offices, the *Ministère des Travaux Publics, Transport, et Communications* (Ministry of Public Works, Transport, and Communications, MPTC), and others are due to the emergence of the *Comité Interministériel d'Aménagement du Territoire* (Inter-Ministry Committee for the Arrangement of Land, CIAT), which brings together all of the relevant government agencies that deal with land in some form or fashion.

CIAT is currently drafting a report that was to be completed by the end of 2011 that outlines the central government's plans for remedying the most significant problems with the civil land tenure system. A central problem is CIAT's ability to manage the various ministries comprised by CIAT. The transition between the Préval and Martelly administrations brought about changes in the heads of each ministry and perhaps will affect how CIAT functions.

A formal cadaster is necessary but threatens to challenge the domain of local *maires* (mayors), who understand their role in the civil land tenure system as being the custodians of all state-owned land in their jurisdictions. In recent months, Maire Wilson Jeudy of Delmas has earned a reputation for taking a hard-line stance against illicit activity occurring in the IDP camps.

It was said more than a few times during this research that policy follows custom in property conveyance. A common practice throughout Haitian history has been the pork-barreling of land to curry political loyalty and favor. This occurs at both a local and national level. Many respondents spoke of how presidents Duvalier and later Aristide used "land gifts" during their tenures to reward loyalty or earn favor with the beneficiaries of their gifts. In the post-Duvalier era, with no formal cadaster or land titles, and/or a fear of confronting politically connected landowners, land disputes often go unresolved. When challenged, land-owners sometimes create or use proxy documents, such as endorsements from local and national politicians, that verify their land claims.

# Political context

## Overview

Haiti's political instability predates the earthquake event and exists in its current milieu as well. The loss of key personnel, structures, records, and resources has only exacerbated the problem. The challenges of facilitating a peaceful presidential transition and installing a viable cabinet have delayed the recovery process and laid the groundwork for potential challenges in the months and years to come.

The most important task of the reconstruction is preparing the Haitian national government to coordinate reconstruction activities across its various ministries, municipalities, and Haitian civil society, as well as with INGOs, aid organizations, and governments. To date, no single authority can claim to have control or influence over a significant proportion of the aforementioned sectors. President Martelly's difficulty in identifying a successful candidate for prime minister has been a reflection of challenges to foreign influence in the recovery process.

## Presidential elections, prime minister appointment, and resignation

On May 14, 2011, Michel Martelly was sworn in as Haiti's new president. Although tame in comparison to other Haitian elections and transitions of power, this election cycle was not without its episodes of violent protests and accusations of voting irregularities. However, these particular elections were not just a contest of candidates or political parties but also a referendum on how the reconstruction process would be managed and evolve.

Nearly six months after the tragic earthquake, then-President René Préval issued decrees mandating presidential and legislative elections for November 28, 2010. As Haitian election cycles go, Martelly's ascendance to power was relatively bloodless. At the outset however, he did not appear to be the most likely or viable candidate. The backdrop of earthquake recovery nevertheless made the selection of a new president all the more important.

The 1987 Haitian constitution places emphasis on the legislature's control of the government as a check against dictatorial power in the presidency. In the Haitian government system, the president, elected by popular vote, nominates a head of government as his prime minister. The majority of the seats in the minister's cabinet are then chosen by the dominant party in the legislature. This preemptive check on power can also create a logjam for seating a cabinet that will in turn administer the various ministries of the Haitian government.

Due to this, President Martelly's primary challenge has been in seating his own government. The results of the general election in 2011 empowered the pro-Préval INITE Party to gain control of the legislature. This led to the veto of two of Martelly's picks for prime minister.

On February 18, 2012, Martelly's first seated prime minister, Gary Conille, resigned amidst growing pressure for Martelly himself to step down.<sup>12</sup> Reports of calls for investigations into the nationality of key government officials and controversies concerning reconstruction contracts drafted under the previous administration were leading to the stalemate that would eventually result in Conille's resignation.

There is already some controversy facing Haiti's new prime minister, Laurent Lamonthe, installed in May 2012, due to residency requirements and long ties to Martelly. He is perhaps President Martelly's last chance to organize and lead the Haitian government but has started his tenure with a focus on development and antipoverty programs.<sup>13</sup>

---

<sup>12</sup> Randal C. Archibold, "Haiti's Prime Minister Quits After 4 Months," *The New York Times*, February 24, 2012.

<sup>13</sup> Jacqueline Charles, "New Haiti PM Touts Anti-Poverty, Pro-Investments Agenda," *Miami Herald*, May 16, 2012, <http://www.miamiherald.com/2012/05/15/2803074/new-haiti-pm-touts-anti-poverty.html>.

# Laws governing the land tenure system

The 1987 Haitian Constitution guarantees every citizen's right to housing and provides protections against the unlawful expropriation of that property by the state without due process and compensation. However, between 1927 and 1979, there were eight laws and decrees that provide the government with permission to own, enter, lease, or expropriate land for a variety of reasons, but most usually for the purposes of enhancing the public welfare.

There are several key laws and decrees that will affect the distribution of land in post-earthquake Haiti. Duvalier's decree of September 24, 1964, allows the government to hold land in either its public or private domain. This decree also states that land in the public domain is inalienable and indefeasible but may be alienable by order of law (i.e., court order). This means that all territory that belongs to the republic may be used at the discretion of the government. Land taken for a particular purpose by the Haitian government is in its private domain.

The legal system possesses many flaws that inhibit or obscure the legal rights of tenants and owners. The larger legal framework in Haiti does not support the legal ownership of land by foreigners. The idea that the state should limit property ownership to particular classes of people is as old as the republic itself. Historically, Jean-Jacques Dessalines (the first ruler of independent Haiti) and his successors wrote and maintained laws that displaced the French and other Europeans from owning land to ensure that slavery would not persist. The rise of the enfranchised class is tied to the intermarriage that resulted from foreigners exploiting provisions that allowed landownership in such cases. The rules governing ownership shifted continuously throughout the republic's history.

The most obvious flaw in the legal system is the emphasis and use of French in legal proceedings and documents. Many of the decrees and rules that govern land tenure and land rights are published in *Le Moniteur*, a legal journal that archives decrees signed into law. Complete sets of *Le Moniteur* are difficult to access and are entirely in French (and not Kreyòl). This means that the law is accessible only to attorneys and government officials and often very open to interpretation.

A key difference is that case law and precedent do not influence legal opinions in Haiti as they do in other legal systems. Although it would appear that the government of Haiti follows its own laws, there are varying interpretations of what the law is in the courts. Provincial courts often follow different standards and may not necessarily respect the decisions of courts in other provinces (*départements*). Communes – a subprovincial administrative unit – have the ability to set up land tribunals to hear dockets of land dispute cases but do not do so often.

It is unclear why this has not been done recently or if it will be in the near future, although many agree that it is probably necessary as many property owners attempt to rebuild. In many cases, the local *justice de paix* (magistrate) can and does serve as an arbiter of land disputes, but often only if one of the litigants wishes to bring it to this court and if the dispute involves violence or family disagreements.

Another very significant problem is Haitian law and custom that treats each legally documented child of a property owner as an heir to his/her property. The result is a land pattern that appears fractured and divided beyond practicality. One perspective is that the intent behind such “family property” was to ensure that no individual would ever become indigent or become a ward of the state. However, many other countries that employed this practice (including France, where this tradition and legal framework originated) have moved away from such systems.

As prescribed by the law of September 5, 1979, and the process of expropriation as delineated by law, the Haitian government must collect titles from land owners before land can be expropriated for public use. In the event that the appropriate titles are not collected from existing land-owners to assemble developable lots, the government is not permitted to expropriate.

Unlike countries with more formal land tenure practices and standards, Haiti’s standards allow several agents to act on the state’s behalf to assist in the conveyance and documentation of land transactions. Problems with government agents in the civil land tenure system appear to have been made scapegoats for the larger system’s problems. All recommendations for action or future research must focus on this area.

Analysis of the Haitian constitution, laws, and orders reveals three sections of the constitution and ten laws and decrees that outline the government’s ability to expropriate land for public purposes. These laws favor the government’s ability to seize land over private property rights. Many of these laws represent past attempts to centralize government power through the expropriation of land. In the post-disaster environment, these laws can be used to expropriate land for the

public good. The interviews for this research revealed that there is more than some disconnect between how the laws are written and how they are executed in practice.

A survey of the laws, however, shows a series of fits and starts to revise the system. The law can be understood as a set of documents that frames codes of behavior for the people and its leaders. In the most recent era, former President Préval failed to allocate public land for resettlement and temporary shelter.

# Agents of the land tenure system

## Central Haitian government

The central government's role is one of coordination and control; however an outdated cadaster, limited government capacity, and antiquated inheritance laws have all contributed to its inability to respond to the earthquake and lead the reconstruction effort.

## *Maires* (mayors)

In theory, Haiti is a federal system of government. Each commune has two or more *maires* (mayors) with one serving as the *maire principale*. The *maires* of Haiti's communes have authority to dispense land and titles within their jurisdictions. Over time, this practice has evolved in various ways to confuse land titles. The outdated cadaster and confused land titles have left *maires* to decide on their own where parcel boundaries lie. With each office of the DGI operating with different records that are in turn informed by the local surveyors and lawyers who draft land transactions, opportunities abound for human error and blatant corruption. Since land is a source of social and economic power, the weaknesses of the central government and other corollary systems of land management make it possible for local *maires* to exploit this to their own gain. Where corruption is not a factor, a lack of credible information on parcels and titles may make it impossible for local *maires* to resolve land disputes.

## Notaries

All land transactions will ultimately pass through the hands of a notary public. Notaries not only deal with land titles and registration, they can also assist with the replacement of birth certificates and identity problems. For many interviewees, including representatives of INGOs that depend on local notaries to conduct due diligence reports on land given to them by the central Haitian government, local communes, or private individuals, there are only a small number of "trustworthy" notaries in the Port-au-Prince metropolitan area. The inability to impugn malevolent, corrupt, or incompetent notaries is only one aspect of this problem. The larger system has no method to control quality or consistency across this sector. It is only in extraordinarily egregious cases that

notaries have been prosecuted for criminal behavior. While there is a professional organization of notaries, it does not have the authority to impeach or suspend members for misconduct.

Notaries have, to an extent, been vilified by actors interested in land tenure and land rights. Several of the efforts at land reform are attempting not to consult them or revise their role in land transactions. The full implications of this are not clear and may be counterproductive. Given their current and historical role in land conveyance, their perspectives and counsel may be useful, even if the credibility of some is in question.

## Surveyors

Much like notaries, surveyors face no formal school or training requirement. Several universities in Haiti provide training in the discipline, but there is a very loose link between surveyor education and surveyor practice. The most frequently expressed concerns with the work of surveyors was not about ethics, as it was with the notaries, but more to the issues with technology and the issues brought about by the lack of a cadaster. For example, with no geographic coordinates attached to property surveys, surveyors may unwittingly assign the same land to more than one property owner. When land is subdivided between heirs, mistakes are commonplace, further complicating burgeoning land disputes.

## Lawyers

Access to legal counsel is not widespread in Haiti. It is a commodity reserved for only the middle class and wealthy. The members of the population in most need of legal representation in land transactions and disputes are those most unable to afford it. There is a considerable problem with lawyers who demand payment but fail to deliver services. The channels through which the public can file claims or complaints against such professionals are difficult to navigate and inaccessible to most. The Haitian legal system does provide for pro bono legal representation, but this is most often reserved for penal matters. The number of nonprofit organizations offering pro bono legal assistance to those engaged in land disputes is small, and they are unable to meet the demand for legal assistance in land disputes.

## NGOs and housing construction

Only a few NGOs are working on the land tenure/land rights issue, and yet it is critical and essential to what most are doing. The emergency Shelter Cluster was designed to assist in the coordination of shelter efforts, and it is one of the few clusters that would transcend periods of the disaster. Yet, according to local participants, it has been ineffective at its primary task of coordinating housing efforts. In the initial period, relief, it was headed by the International Federation of Red Cross and Red Crescent Societies. Late in 2011, UN-HABITAT assumed leadership of the group and has been managing it ever since. Some challenges with staffing and resources have made the work even more challenging.

Not all NGOs and charitable groups involved in the shelter sector are working with the Shelter Cluster, which further complicates coordination. Most groups are at some point working directly with local *maires* to identify sites for building transitional and permanent shelters. For some others, there have been accusations and challenges to the quality of the housing that has been provided. This all may happen beyond the gaze of the Shelter Cluster and efforts to coordinate housing provision. There is an emerging problem with some NGOs negotiating with local *maires* who allocate land for housing provision without a clear inventory of state-owned land. As one informant shared, “No one cares about the land until you start building on it.” Several NGOs have placed themselves in jeopardy of facing legal action from private property owners who believe that these organizations do not have legal title or authority to build on these lands.

The government’s use of eminent domain is entangled in this in that in some cases, Haitian law requires the government to petition to seize land for the public good and to provide “fair and just compensation” for whatever is seized. Furthermore, all land that is seized through the use of eminent domain must be used for the stated purpose or returned to the original owner within three years.

## Other issues

There are several factors that are inhibiting the reconstruction process. It should be noted that this is perhaps not an exhaustive or static list. The long process of selecting, confirming, installing, and retaining a prime minister and the progress made to move the Haitian parliament and ministries into new offices will aid in the government of Haiti's ability to manage the reconstruction process.

### Forced evictions

In the midst of this research, the mayor (*maire principal*) of Delmas engaged in the forced eviction of IDPs from three camps in his suburban Port-au-Prince commune. This event followed a series of forced evictions of IDPs from private spaces over the course of the preceding months. In some instances, the forced evictions were accompanied with violence and, in one particular case, the death of a child.

Commune and government officials are not attempting to regulate public spaces for a variety of reasons. The destruction of Centreville (central Port-au-Prince) has forced vendors (*marchands*) and vehicular traffic southeastward toward Delmas and Pétionville. Several challenges to the legitimacy of the IDPs and their behavior are decreasing sympathy for their plight.

First, the IOM engaged in a comprehensive survey of IDPs that helped create the original statistic of 1.5 million displaced persons after the earthquake. Identification cards were issued to each individual, including information such as the NIF (Haitian fiscal identity number) and fingerprint. Several updates have shown how that number has decreased over time to fewer than 500,000 IDPs (as of this writing).<sup>14</sup>

The emergence of businesses inside the camps has proven that the tents have evolved into serving as much more than shelter. The ability to run an informal business out of a tent with no ground rent challenges the notion that the charity is only helping people survive. Public challenges to the actual residence of IDPs have become a significant issue in recent months. Those involved in camp management commented on watching provisions arrive at 6 a.m. and seeing

---

<sup>14</sup> International Organization for Migration, "Haiti: Camp Population Fell to 600,000," press release, August, 20, 2011.

people emerge from homes and not tents. Beyond this, there are claims of rampant drug use and sexual exploitation of women and children in the camps. Delmas Maire Jeudy used his claims that criminal activity was taking place in the camps as justification for the removal of IDPs.

On private property, Haitian law is fairly clear that legitimate property owners have the right to remove squatters. This issue is somewhat complex in that in some cases the private property owners are schools and churches that desire to use their land for socially beneficial purposes. Many stakeholders also see some large property owners and IDPs as taking advantage of NGO largesse. The idea is that some are waiting in camps in the hopes that an NGO will eventually “*fè mwèn kado kay*” (give me a gift house). The issue is not really the house but more the land that the house will sit on. Many NGOs are forbidden through internal rules from purchasing land. The implications of this are that the land they build on must be gifted by a private party or the government itself.

The most important analytical tool in the fight to understand which IDPs remain and where they are located is the UN Camp Coordination and Camp Management Cluster “Displacement Tracking Matrix” (DTM). The most recent DTM report shows a population of 390,276 in the camps (as of April 2012).<sup>15</sup>

## Increased and competing interests in land reform efforts

There are several other research reports and advocacy programs either recently completed or in development at the current time. Maps created by IOM and the Shelter Cluster understate the current situation with IDPs, temporary shelter, and the remaining camps throughout Port-au-Prince.

The most viable groups already formed or under development are the Shelter Cluster’s Logements Quartier Group; an affiliated but separate subunit of the Protection Cluster, Housing, Land, and Property; and new group being organized by Habitat for Humanity International on Strategies for Land Reform. These groups have different and overlapping interests and memberships.

---

<sup>15</sup> See <http://iomhaitidataportal.info/dtm/>.

## Livelihoods and shelter

A clear gap in the reconstruction process is the link between livelihoods and shelter. Oxfam America is already working in the area of livelihoods, as are many other INGOs. The perception of the Shelter Cluster's weaknesses and eventual decommissioning of all of the clusters as the emergency "ends" means the opportunity to create a comprehensive recovery strategy that considers how and where Haitians work. This is critically important for this research project in that land and shelter become essential commodities that many Haitians will use to generate income through rent(s) or as a depot for their entrepreneurial activities where they lack other options. To view land rights and land tenure through an international civil/legal rights framework is to ignore the social meaning and economic uses of land for most Haitians.

CIAT is currently implementing its Haiti Tomorrow plan, which focuses on the 10 medium and small towns of the Central Plateau. This effort centers on the infrastructure projects that can support the transformation of rural, agriculture-based economies outside of Port-au-Prince to lessen the pressure rural/urban migration has caused over the past several decades.

## Speedy, fair, and transparent land dispute resolution

It is unclear how long it will take to resolve the vast number of land disputes that have arisen or will arise as a result of reconstruction activities. Haiti's highest court (*Court de Cassation*) and magistrates (*Justices de Paix*) have the authority to create tribunals to engage land disputes but often elect not to do so. This could be avoided by considering an enclosure process, which would reassign all public land to private owners. Contemporary examples of this include the regularization of illegal cities in Brazil and India. The challenge, however, is that there is some evidence that such a process has drastically different impacts on poor people in urban and rural settings and in many ways dispossess poor people more than it protects their interests and land rights.

Since the Haitian legal system often does not respect precedents or the decisions of courts across jurisdictions, decisions often express regional particularism or are subject to local political dynamics or corruption.

## Public safety

In other contexts, such as the Global North, the connection between violence and land tenure seems nonexistent. Even in the most extreme cases, there are legal structures in place to resolve land disputes. The March 1987 Haitian constitution attempted to deal with this issue by creating the *Conseils d'Administration des Sections Communales* (Administrative Councils of the Communal Sections, CASECs), which were charged with democratically resolving such disputes. Due to the nature of the selection and appointment process, the democratic promise of the councils was never realized. The effort that succeeded the CASECs' engagement in land disputes was the quasigovernmental *Institut National de la Réforme Agraire* (National Agrarian Reform Institute, INARA), which reformed agrarian rules to favor local farmers.

A clear requirement of the successful reconstruction of Port-au-Prince will be the rule of law. This is relevant to land tenure reform in two important ways. First, property owners and investors will be less likely to rebuild if they cannot afford to develop the structures and the fortifications that make their use of those buildings possible. This is even more true for non-Haitians that are unsure of how to navigate Haiti's often tumultuous political life. Second, property owners will need some assurance that the legal system has the ability and willingness to resolve land disputes. Although no reliable data exists with the Haitian National Police (HNP), representatives from the HNP treated the role of land disputes in assaults, kidnappings, and murders as routine and factual.

## Haitian inclusion, influence, participation, and management

A clear source of political tension is the extent to which many Haitians view the reconstruction process as being heavily influenced by foreigners – particularly by American interests. Former US President Bill Clinton's placement as cochair of the Interim Haiti Recovery Commission (IHRC) and the presence of many Clinton-friendly Haitians in positions of prominence has inspired some resentment. The fleetingly successful nomination of former Clinton chief of staff Gary Conille as Prime Minister has only added to the idea that the reconstruction is being driven by American interests. The IHRC, however, is not the only place where American interests are appearing imposing. In many rural parts of Haiti, American interests are present constructing schools and plants as well.

Many US-based NGOs have invested heavily in housing and transitional housing in Port-au-Prince and various departments of the country, and some

have systematically attempted to gather information on the satisfaction of beneficiaries. IOM placed boxes in IDP camps to survey people living there.<sup>16</sup> Gathering information can also lead to expectations that such information would be used to better serve potential beneficiaries. Camille Chalmers, representing a group of grassroots organizations, has led several demonstrations against this influence. This critique is not limited to grassroots organizations but is also articulated by officials within the Haitian government itself. As in the case of Mexico, the plight of the landless is more than a policy issue. It is inherently and deeply political.

Further proof that Haitian people are somewhat disconnected from the recovery process is the disengagement from the Shelter Cluster. This problem has a dual nature. Many of those interviewed felt that the Shelter Cluster is and has been relatively weak in comparison to its counterparts in Camp Management and Water, Sanitation, and Hygiene. Some of this is due to the very clear and specific mandates of those clusters and their need to respond to post-earthquake crises, such as the cholera outbreak.

The question stands, what would the Shelter Cluster do? And, how would they achieve any substantial success with 1.5 million displaced and living temporarily on land they often did not own or have any claims to? This challenge is intensified by the competing objectives not only of the organizations working with the Shelter Cluster but of the UN, Haitian government, and numerous parties interested in rehousing the IDPs.

---

<sup>16</sup> Nicholas Von Praag, "Aid Agencies Must Listen to the People They're Helping," *The Guardian*, Poverty Matters Blog, April 1, 2011, <http://www.guardian.co.uk/global-development/poverty-matters/2011/mar/29/ashdown-humanitarian-aid-review-listen-beneficiaries>.

# Current conditions

The following is a mix of qualitative assessments and observations of post-earthquake disaster recovery and numbers from the DTM Phase II data. These data on the Port-au-Prince and Léogâne-Gressier areas do not include the many IDPs living with host families or in informal camps of fewer than five families. While these figures and observations do not include all communes or families included in the IOM DTM data, they do provide a good sense of the origin, intended destinations or and reasons for their displacement.

As shown by the table below and Figure 1 (see page 30), as of January 2012, 15 percent of all IDP families hope to return to their original locations. A significant proportion of IDP camp families plan or hope to move to planned communities. This is consistent with the discontentment many of those interviewed for this study felt toward IDPs. Without other options, IDPs would wait for NGOs to provide “gift” houses, which at this stage are primarily transitional housing and not permanent options. Much smaller percentages of those surveyed planned to move in with host families or return to one of Haiti’s rural provinces (four percent and seven percent, respectively).

## Families in IDP camps by commune

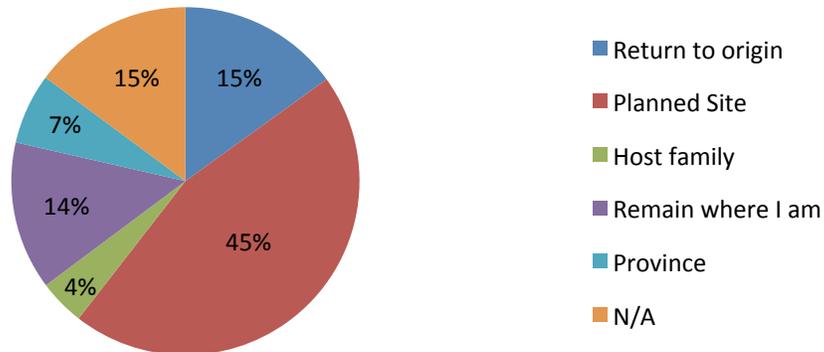
	Individuals	Return to Origin	Planned Site	Host Family	Remain Where I Am	Province	N/A
Carrefour	8,783	351	1,098	187	320	81	209
Cite-Soleil*	2,736	77	379	6	84	33	89
Croix-des-Bouquets*	10,445	436	1,321	156	304	90	435
Delmas**	65,610	1,921	8,774	518	2,483	265	2,467
Gressier*	2,360	87	158	70	196	66	96
Léogâne*	7,622	305	436	377	566	219	488
Pétionville*	14,808	874	1,217	221	581	102	836
Port-au-Prince*	74,562	3,484	9,374	608	2,369	217	2,814
<b>Totals</b>	<b>186,926</b>	<b>7,535</b>	<b>22,757</b>	<b>2,143</b>	<b>6,903</b>	<b>1,073</b>	<b>7,434</b>

Source: Author’s calculations using IOM DTM data and reports. See <http://iomhaitidataportal.info/dtm/>.

\*Accurate as of January 12-13, 2012.

\*\*Accurate as of January 23, 2012.

**Figure 1. Relocation intentions of IDP camp families in metropolitan Port-au-Prince communes**

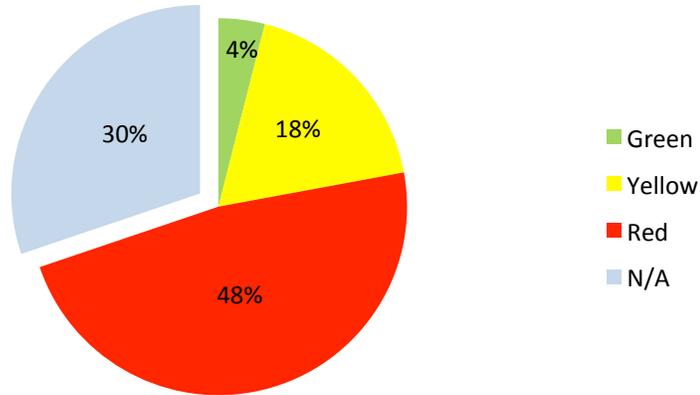


Source: Author's calculations using IOM DTM Phase II data. Communes considered in calculations include Port-au-Prince proper, Carrefour, Cite-Soleil, Delmas, Croix-des-Bouquets, Léogâne, Gressier, and Pétionville.

Figure 2 is critically important for considering why those remaining in the IDP camps have been unable to find suitable housing. The small number of remaining families still in camps coming from housing coded "green" by the MTPTC assessment process suggests that those who were able to make repairs have done so and moved back into their homes. Perhaps more stunning is the 48 percent figure representing the number of IDPs remaining in camps whose homes were coded red. When viewed in concert with the information shown in Figure 3, we know that the overwhelming majority of those remaining in camps are either former tenants or owners who cannot repair their homes.

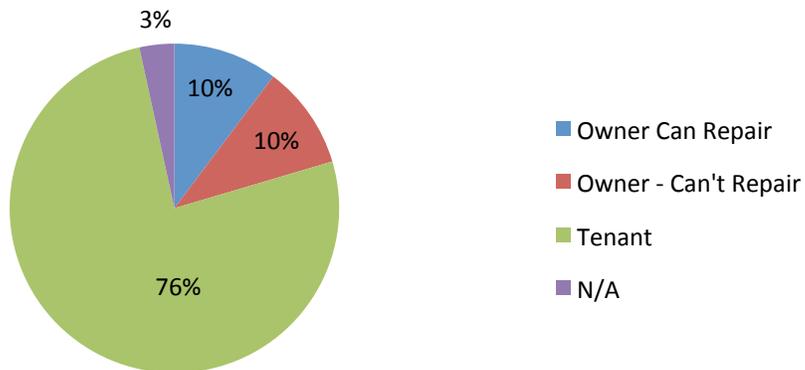
Based on what was gleaned from the interviews, this four percent statistic from Figure 2 and the large, 30 percent of families who did not report on the status of their housing, may be deliberate. The speculation of many was that some owners were deliberately living in camps to benefit from the largesse of NGOs while renting out their damaged or repaired homes to others. While the ethics of this activity could jeopardize international sympathy for IDPs, it is important to note that the obfuscation of IDPs' ability to return to their homes is also an economic survival strategy in an environment where the economy has not recovered from the earthquake event two years ago.

**Figure 2. IDP camp families by MTPTC assessment code in metropolitan Port-au-Prince communes**



Source: Author's calculations using IOM DTM Phase II Data. Communes considered in calculations include Port-au-Prince proper, Carrefour, Delmas, Croix-des-Bouquets, Léogâne, Gressier, and Pétionville.

**Figure 3. IDP Camp families by tenure status and MTPTC assessment code in metropolitan Port-au-Prince communes**



Source: Author's calculations using IOM DTM Phase II Data. Communes considered in calculations include Port-au-Prince proper, Carrefour, Delmas, Croix-des-Bouquets, Léogâne, Gressier, and Pétionville.

## Port-au-Prince

Central Port-au-Prince looks more like the epicenter of the disaster than perhaps any other part of the earthquake zone. The post-colonial storefronts and two-story buildings that formed its grid are either heavily damaged or gone altogether, leaving patches of dirt where city blocks once stood. Substantial progress has been made in rubble and debris removal. The *Marché en Fer* (Iron Market) has been restored and is open for business. Informal vending has returned in large numbers and carts used for such vending line the streets along Grand Rue and around the market.

The camps at the center of Port-au-Prince in the Champs de Mars area and in open public areas around the center of town have been clearing under assistance from the Canadian government.<sup>17</sup> There are almost no camps located on private demolished blocks heading away from the capital areas. The Sylvio Cator soccer stadium has been vacated, as have several other key sites in Port-au-Prince where schools and other civic groups have attempted to normalize operations.

There are, however, several large camps in areas where the only option will be the forced relocation of IDPs from transitional housing or camps settled on public land. It is important to note that many camps that are now settlements of transitional housing are not represented in maps of IDP camps, although it could be argued that they should be due to the transitory nature of their existence due to issues of land ownership.

## Pétionville

This important suburb of Port-au-Prince has become the new commercial and social center of the metropolitan region. Once a seemingly distant suburb, the transects of Autoroute de Delmas, Rue Pan Americaine, Route de Tabarre, and Route des Frères converge on different sides of Pétionville and connect it to central Port-au-Prince. Due to the damage to critical buildings and residential areas of central Port-au-Prince, Pétionville has become vital as a commercial and government center, and as a base of operations for the many INGOs working on the recovery.

Place St. Pierre and Place Boyer, both near the center of Pétionville, have served as camp sites since the earthquake two years ago. At the current time, the

---

<sup>17</sup> Stuart Neatby, "Evictions Mar Canada's Resettlement Project," April 11, 2011, <http://canadahaitiaction.ca/content/evictions-mar-canadas-resettlement-project-haiti>.

population of all camps in Pétienville has dwindled to 14,000. In the case of the camp at Place St. Pierre, which is directly adjacent to the local *mairie* (city hall), the primary *mairie* paid many families a nominal fee (\$500) to evacuate the park. Many took her up on her offer, only to return weeks later or relocate to nearby camps. As of this writing, Place St. Pierre and Place Boyer in Pétienville have been completely vacated.

## Delmas

This large commune hosts the second largest population of IDPs in the earthquake zone. Delmas also has the distinction of hosting a wide diversity of incomes, being a buffer between much poorer Port-au-Prince and Pétienville, and being home to arguably the most important traffic route in the metropolitan area.

There are a variety of camps scattered throughout the commune of various sizes with many somewhat away from Autoroute de Delmas. After the initial earthquake event, there were multiple spontaneous camps immediately off the main thoroughfare and several large camps located near the intersection of Avenue Martin Luther King and Autoroute de Delmas.

A series of highly publicized and controversial forced evictions (see above) led to a national moratorium on government-led forced evictions from public land. This has not halted the number of evictions off of private land but certainly tempered the violence that often accompanied the act.

## Léogâne-Gressier

These two communes were closest to the epicenter of the earthquake event. Some of the original estimates of earthquake damage and mortalities suggested that more than 80 percent of the structures and population were destroyed or killed, although these may have been substantially exaggerated. Large sections of both communes are rural and largely agricultural. The connections between Léogâne and Port-au-Prince are multiple, as many residents commute between the two for economic opportunities.

The earthquake damaged much of the center of Léogâne, including many civic buildings, a large Catholic parish, a market, and a hospital. The plaza in the center of town has been a campsite ever since. Several international organizations have been working closely with the people of the town to provide

healthcare and temporary shelter. To a lesser degree, the Haitian police force and UN forces have been working to maintain peace among the many young people who have migrated to the Léogâne area in search of opportunity.

## Croix-des-Bouquets

This arrondissement hosts the fourth largest population of IDPs in the Port-au-Prince metropolitan area. Being topographically the flattest part of the Port-au-Prince metropolitan area and the part furthest from the earthquake's epicenter, the damage reports here were not as severe as they were elsewhere. Many schools and businesses survived the quake and continued to provide services to new and existing area residents. This has contributed to why this has become an area of choice for many IDP families.

Since the 1980s, the area has grown dramatically. In recent years, the flow of rural migrants to the city has spilled northwards. While a great degree of it has been formal, well-built housing, several informal camps have taken a turn towards the formal. The emergence of "Camp Canaan" and a scattering of IDP tents along Route National 1 on the north side of the arrondissement have brought resources from NGOs and the Haitian government and further contributed to the growth of "La Plaine du Cul de Sac."

## Cité-Soleil

Cité-Soleil has long been known as one of Port-au-Prince's most dangerous and poverty-stricken areas. Located near the western end of the runway of the Toussaint Louverture International Airport and the remains of the Haitian-American Sugar Company, armed gangs have long controlled the area, leading to several high-profile incidents, including a gun battle with *Mission des Nations Unies pour la stabilisation en Haïti* (UN Stabilization Mission in Haiti, MINUSTAH) forces in February 2007.

In the wake of the earthquake, Cité-Soleil has seceded from the Port-au-Prince commune to form its own government. The effects of the earthquake on the area have been different from other parts of the Port-au-Prince metropolitan area, since it has created growth of the formal and informal kind. Cité-Soleil's secession from the Port-au-Prince commune is a sign of progress for the political representation of the region's poorest citizens. Hosting one of the region's smallest populations of IDPs, the challenge here will be to provide services to

both IDPs and the incumbent population of Cité-Soleil that is choosing to remain and develop this village.

# Conclusions and recommendations

The ingredients of an achievable recovery program have been and are still present in Haiti. As currently conceived and operationalized, the IHRC was a Haitian government authority with considerable foreign influence and support and an eighteen month mandate that expired in October 2011. Since its inception, the IHRC has received some criticism for that feature. It's useful to note that this differs from the Mexican RHP in several ways, including the lack of a sunset for its operation to push its agenda forward on a more aggressive timeline.

As other reports and documents have suggested, the recovery process cannot wait for the comprehensive reform of the land tenure system. As was done in Mexico, provisional land titles must be issued to assist IDPs with finding housing that is constructed by either themselves, private contractors on their behalf, or the NGO community.

At the end of 2011, the Haitian parliament moved into a new temporary shelter. Haiti does not need a new bureaucracy; however, the recovery process would benefit from a Haitian entity that is squarely focused on coordinating activity between CIAT, *Entreprise Publique de Promotion de Logements Sociaux* (EPPLS, Haiti's public housing agency), *Ministère de Planification et Coopération Externe* (MPCE), INARA, and ONACA, as well as with international organizations such as IOM, NGOs such as Habitat for Humanity, and others. There are other Haitian government departments that engage in a plethora of activities that could be considered "planning." For example, *Direction Nationale de l'Eau Potable et de l'Assainissement* (DINEPA, Haiti's water company) and *Electricité d'Haïti* (EDH, Haiti's electric company) are fairly apart from the business of long-term reconstruction strategy and should be involved.

Given the numbers of IDPs remaining in camps, their origins, and uncertain claims to housing due to previous status as tenants, the focus on rehousing should be on establishing clear tenants' rights. This is perhaps the most undeveloped discussion in the development literature due to the emphasis on land as means of production and poverty alleviation for the ultra-poor in the Global South. The harsh reality is that without land regularization, or state capacity that is strong enough to implement such a policy with minimal political unrest and displacement, tenants' rights would appear to be the most direct and clear way of rehousing the remaining 390,276 IDPs.

## Overall recommendations

The current political situation in Haiti would suggest that recovery would take much longer than expected. Diminishing resources in the NGO community and the failure of the international community to deliver pledged resources is contributing to frustrations with the national government. In the likely event that all or most of the international community defaults on its pledges to aid Haiti, the only other route to recovery and development will be domestic and foreign investment guided by sound government policy. That policy must include restoring and enhancing the rule of law through its uniform application.

The challenge is that the Haitian government has a long history of controversy and tumult. The government institutions that have guided development in advanced industrial countries either do not exist in Haiti or operate at a minimal or very low capacity. The talent that might staff the government are either situated within an ineffective structure, employed by international NGOs, or working/living abroad. Undoing these arrangements will require a substantial revolution in Haitian government and migration patterns.

Where land rights and land tenure are concerned, the ability of parties to resolve land disputes through an efficient and operational legal system will encourage investment from a number of sectors – both domestic and foreign. Access to Haiti’s legal system must also become more universal than it is. The language divide is perhaps larger than most casual observers recognize. The French/Kreyòl divide is not a quirk of Haitian history and culture but more of a social order that – intentionally and unintentionally – keeps poor Haitians marginal in decision making, governance, and economic opportunity.<sup>18</sup> Most importantly, the focus is perhaps too much on land rights and not enough on tenancy rights. Given the data on remaining IDPs, the rehousing effort will need to focus on affordable options. This is a double-edged agenda. The first edge is jobs access and employment and the second is affordable housing options.

## Oxfam-specific recommendations

Oxfam’s leadership in this area may come from supporting authoritative research and scholarship on the subject and possible partnerships with one or more of the groups working on land and shelter issues. The most important challenge might be to serve as staunch advocates for affordable, clean, decent, and spatially accessible housing options for Haiti’s poor. That advocacy should

---

<sup>18</sup> Bambi B. Schieffelin and Rachele Charlier Doucet, “The ‘Real’ Haitian Creole: Ideology, Metalinguistics, and Orthographic Choice,” *American Ethnologist*, 21:1 (1994): 176-200.

fully appreciate the complexity of their experience and limited options for income and housing.

Although an assessment of Oxfam America, Oxfam Great Britain, Intermón Oxfam, or Oxfam Québec was not central to this research, some alignment of efforts is needed. The geography of Oxfam's work is scattered around Haiti, and yet its "thought leadership" is centered in Pétionville. Some within and external to the organization found this arrangement cumbersome and difficult to navigate. Plans to merge affiliates and operations may assist with correcting redundancies and maximizing efforts, but the geographic distribution of offices and projects contributes to the misalignment of efforts.

For many INGOs like Oxfam, this creates a paradox. To effectively engage and collaborate with the Haitian government, state-level agencies, other NGOs, and the best of Haiti's infrastructure, Oxfam America must operate in the Port-au-Prince metropolitan area. This however, works against the Haitian government's goal to develop other parts of Haiti through rural development. To address this, a site immediately west or north of Port-au-Prince that allows for access to rural projects and to the primate city would be useful.

As discussed in other research, Oxfam should be clear about how the Shelter Cluster should work much more closely with the Haitian government and insist on weighing local needs against nation building and recovery.

# Further reading

Americas Watch, National Coalition for Haitian Refugees, and Caribbean Rights. *The More Things Change...: Human Rights in Haiti*. New York: Americas Watch, 1989.

Bethell, Amber. "Land Tenure and Reform in Haiti," May 2002, <http://aboutweston.com/Haitilandtenure.pdf>.

Comité Interministériel d'Aménagement du Territoire (CIAT). *Haïti Demain: Objectifs et Stratégies Territoriales Pour La Reconstruction*. Port-au-Prince: République d'Haïti, 2010.

Commission Intérimaire Pour La Reconstruction d'Haïti (CIRH). *Briefing Paper: Land Issues*. Port-au-Prince: CIRH, 2011.

Commission Intérimaire Pour La Reconstruction d'Haïti. *Statement of Purpose Corail-Cesslesse Summit Meeting*. Port-au-Prince: CIRH, 2011.

Fass, Simon and C. Roy. "Housing Process in Port-au-Prince, Haiti." Paper prepared for the US Department of Commerce, National Technical Information Service (for the US Agency for International Development), PB90-261868, June 1989.

Fernandes, Edésio and Ann Varley. "Law, the City and Citizenship in Developing Countries: An Introduction," in *Illegal Cities: Law and Urban Change in Developing Countries*, edited by Edésio Fernandes and Ann Varley. New York: Zed Books, 1998.

L'Étang, Gerry. "Haiti after the earthquake: Camps, Shanty Towns, and Housing Shortages," *Metropolitiques*. May 2, 2012, <http://www.metropolitiques.eu/Haiti-after-the-earthquake-camps.html>.

Kain, Roger J. P. and Elizabeth Baigent. *The Cadastral Map in the Service of the State: A History of Property Mapping*. Chicago: University of Chicago Press, 1992.

Olishansky, Robert, B. and Harley F. Etienne, "Setting the Stage for Long-Term Recovery in Haiti," *Earthquake Spectra*, 27(S1) (2011): S463-S486.

Scott, James C. *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New Haven: Yale University Press, 1998.

Forty percent of the people on our planet—more than 2.5 billion—now live in poverty, struggling to survive on less than \$2 a day. Oxfam America is an international relief and development organization working to change that. Together with individuals and local groups in more than 90 countries, Oxfam saves lives, helps people overcome poverty, and fights for social justice. To join our efforts or learn more, go to [oxfamamerica.org](http://oxfamamerica.org).



**Headquarters**

226 Causeway Street, 5th Floor  
Boston, MA 02114-2206  
(800) 77-OXFAM

**Policy & Advocacy Office**

1100 15th Street, NW, Suite 600  
Washington, DC 20005  
(202) 496-1180

[oxfamamerica.org](http://oxfamamerica.org)

© 2012 Oxfam America Inc. All Rights Reserved. Oxfam America is a registered trademark of Oxfam America Inc., and the Oxfam logo is a registered trademark of Stichting Oxfam International.