

**KEY HOUSING, LAND AND PROPERTY RIGHTS ISSUES DELAYING IDP RETURN
AND RECONSTRUCTION EFFORTS IN POST-EARTHQUAKE HAITI**

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1. LACK OF LAND TENURE SECURITY

The lack of clarity on tenure security is already slowing down reconstruction activities in Haiti. A recent comparative T-Shelter cost survey conducted by the Shelter Cluster of 12 shelter partners identified **3 main challenges to T-shelter construction: land, logistics, and labour**. 9 out of 12 agencies surveyed identified land issues, as among the most significant obstacles they face to shelter construction. Specific problems included land availability, verifying ownership, and providing support to beneficiaries who were renters.

There is an urgent need to ensure a sufficient level of tenure security to facilitate the return of displaced persons to safe houses, to support the provision of temporary shelter assistance, and to allow for housing reconstruction to begin on legitimate foundations in a manner that protects the rights of ALL earthquake-affected people including the most vulnerable.

In finding the right approach to obtaining land tenure security for reconstruction, it is critical that approaches to land tenure security be designed and implemented in ways that acknowledge the contextual **complexity, informality, and poverty in Haiti and aim for strategies that promote maximum inclusiveness and protect the rights of poor and vulnerable Haitians**.

The specific Haitian land administration context is characterised by the following factors:

- (i) nearly inexistent precise and feasible data on land tenure and tenancy rights;
- (ii) the dominant informal form of tenure in urban areas (informal settlements);
- (iii) several different forms of tenancy
- (iv) without functional land registration system with corresponding low level of formalized titles.

Considering the above, what is required is a tool that allows for the capturing of precise data on the whole range of tenure relationships in neighbourhoods to support the return and reintegration of displaced persons to their neighbourhoods of origin and to lay legitimate foundations for housing and settlements rebuilding and upgrading. **The participatory enumeration process represents a tool well suited to the Haitian context as it accommodates a high degree of informality of tenure**. Enumeration means the process of gathering statistical information about a community. Participatory enumeration, which is proposed as a method to be carried out in

Haiti, is a data gathering process which directly involves, to a significant extent, the people who are being surveyed.

Under the Housing, Land and Property Working Group, some shelter agencies (including UN-HABITAT, IOM, CHF, Architect d'Urgence, and Habitat for Humanity) have been working with the Government of Haiti, specifically the Comité Interministériel d'Aménagement du Territoire (CIAT), with input from the Interim Haiti Reconstruction Commission (IHRC), to develop a standard enumeration questionnaire that captures information on household characteristics and housing, land and property rights, as part of a more holistic community-based enumeration methodology to support reconstruction that is respectful of property rights. It is short and quick to administer, but still provides a clear picture of the situation of land tenure in a given neighbourhood. The method has been proven in the field by the cases of IOM in Morne Larzelle, as well as by the project of CHF/PCI in the Quartier of Ravine Pintade, Port-au-Prince, and provides a common standard approach that will allow for the creation of a database that will start pre-cadastre interventions with the engagement of all the institutional and legal partners on land, including ONACA, IMB, CNIGS, notaries, and surveyors.

In this context, a rush to confirm property rights through a systematic titling program at this stage of the reconstruction effort will not be appropriate to meet the housing needs of the majority of the affected population, who are tenants and squatters rather than owners. On the contrary, systematic land titling and cadastral development conducted too early on in the reconstruction effort could effectively make reconstruction more difficult for non-owners and could distract much-needed resources for participatory enumeration efforts which are already underway and proving to be effective in providing legitimate grounds for reconstruction.¹

2. FORCED EVICTIONS

Evictions are a very real threat facing earthquake-affected displaced people in Haiti today. While work continues to create the conditions for IDPs to return to their communities, earthquake-affected IDPs living in spontaneous camp settlements have been subject to an increasing number of forced evictions or eviction threats. An estimated 60-70% of IDP settlements are situated on private, including a variety of privately-run schools, and since March 2010 land owners have been increasingly seeking to remove IDPs from their property.

The issue of forced evictions is a priority of the UN Humanitarian Coordinator and the Humanitarian Country Team. The HLP Working Group has developed a policy paper on evictions that has been submitted to the Humanitarian Coordinator and the Humanitarian Country Team for discussion. The HLP WG is also working to standardize reporting and monitoring tools and to set up a database on forced evictions with credible data so that evictions cases can be tracked and trends analysed.

¹ What would complement participatory enumeration efforts would be a multipurpose land inventory system (LIS), with priority on the identification of "property" based on satellite imagery and the identification of occupants, with formal adjudication of land rights postponed to a later stage when a series of preconditions have been met (effective conflict resolution procedures, modernisation of the embryonic cadastre and titling system, and institutional reform), as has been proposed by the Government of France.

According to verified data from more than 30 organizations compiled by IOM and the HLP WG some **144,175 people have been subject to threats of eviction**. Of these, **28,065 individuals have been subject to actual evictions, and 88,203 are currently involved in cases under mediation at the time of writing**. (See Table I). As of 21 September 2010, 32 evictions had been implemented and 60 cases were undergoing mediation.

Table I: Consolidated evictions monitoring data compiled and verified by IOM, 21 Sept 2010.

GENERAL CCCM EVICTION CASES		# of Families	# of Individuals
Evicted	33	6490	28065
In Mediation	58	17450	88203
Partially evicted	3	1118	4836
Temporarily resolved	3	945	3494
Resolved	2	171	684
Other	20	87223	18893
TOTAL	119	113397	144175

The longer it takes to establish a national housing reconstruction framework, clear rubble, clarify land tenure issues, get housing repair programs underway, provide viable livelihood options, settlement infrastructure and access to social services, the longer earthquake-affected displaced persons will be unable to sustainably return to their pre-earthquake communities, increases the need and incentive for families to remain in camps and, subsequently, increases the risk of evictions.

At the same time, the cost of maintaining camps is very high and resources would be better dedicated to reconstruction. **USAID estimates an annual cost of \$1.2 billion to run the camps at the level they are now (approximately \$1,000/per/year/person or \$5,000 per household)**. According to estimations by the Haiti Shelter Cluster, more than **USD 16 million will be needed for replacement tarpaulins until the end of 2011**, even as the number of beneficiaries in emergency shelters decreases over time with the scaling up of T-shelter construction and repair of yellow houses.²

People in camps generally come from the same neighbourhoods; so in PAP, neighbourhood redevelopment and camp closing are two sides of the same coin. The strong preference of families, according to a new UNFPA survey, is to return to original their houses and neighbourhoods. **The return strategy must focus on attraction back to neighbourhoods, not expulsion from camps, and must engage all stakeholders, including beneficiaries, land owners of camp sites, and local authorities with realistic time-frames for transition from camps to neighbourhoods as return options become viable.**

² “Forecast of Outstanding Supply and Funding Needs for Emergency Shelter 2010-2011” IASC Haiti Shelter Cluster, 28 September 2010.

3. NEED TO ASSIST RENTERS AND SQUATTERS

It is estimated that between 70-80% of the residents of Port-au-Prince were renters or squatters before the earthquake. According to the IOM's camp registration data, 150,349 households, out of a total of 265,624 registered households, are renters. Out of these, the Shelter Cluster estimates that some 60,415 renters households cannot return to or repair their homes.³

In Haiti, it is the poorest and most vulnerable households who occupy rental housing or who occupy lands without formal authorization. Renters and squatters risk being left behind in shelter assistance programs due to lack of documentation, while rental properties often have a more difficult time in accessing recovery programs due to program conditions or to the complicated ownership structure of the housing. At the same time, long time-frames and increased construction costs to repair damaged dwellings will have an impact on landlords, which could increase housing costs for renters.⁴ Accordingly, it will be important to develop specific housing reconstruction policies that support the rental market (distinguishing between rental housing and owner-occupied units), offer viable options and targeted livelihoods assistance to renters (particularly those from the lowest income group), and address the pre-earthquake housing deficit.⁵

At the same time, there are over 20,000 households of squatters who have occupied lands around the resettlement site of Corail Cesselesse (see point 4 below). There is no clarity of whether these households are earthquake victims or poverty-affected IDPs, but an initial investigation by the Shelter Cluster of 20 families revealed that all surveyed households originated from earthquake-affected areas.⁶ None of these squatter households have been registered through the IOM camp registration system, as the settlement has not been recognized as an official camp. **It is critical to ensure that squatters are not left out of the reconstruction process as a result of a failure to develop appropriate beneficiary criteria for various return and relocation options.**

4. NEED FOR GUIDELINES ON PLANNED RESETTLEMENT SITES

Approximately 1,500 families so far have been moved to the resettlement site Corail Cesselesse and work continues to build transitional shelters and facilities on this site for IDPs who have been evacuated from at-risk camps. However, there are a number of outstanding policy questions that are impeding implementation and raising questions about sustainability of programmes there: **there is a lack of clarity amongst implementing agencies about which government authority is responsible** for overall management and planning of resettlement sites, as well as the **legal and contractual obligations** of agencies working on the site; **lack of clarity about the long term plans for these sites** which leads to difficulties in agencies planning their programmes, and providing services to beneficiaries.

³ "Transitional Shelter Needs Analysis", IASC Shelter/NFI Cluster, 22 September 2010.

⁴ *The Right to Housing After Natural Disasters*, Harvard Human Rights Journal / Vol. 22.

⁵ "A Framework for Housing Reconstruction for a Sustainable, Resilient and Inclusive Haiti" Massachusetts Institute of Technology, March 2010.

⁶ A more systematic survey is being planned by the Shelter Cluster and the HLP Working Group.

These outstanding issues affect the ability of agencies to plan their activities and provide shelter assistance in resettlement sites. If more IDPs are to be relocated to new planned resettlement sites, **it is critical that the international community work with the Government of Haiti to ensure that resettlement is a last resort for IDPs who have no other viable alternatives, and resettlement processes are carefully planned and implemented in line with international norms, standards and best practice, ensuring the provision of basic services and infrastructure, viable livelihoods options, and mobility.** It is also important that long-term plans with clear management responsibility are developed for these sites and that clear beneficiary criteria is determined for resettlement to ensure that beneficiaries are clear of their entitlements under such programmes.

The Government of Haiti and the international community should develop resettlement guidelines, adapting the framework of the **World Bank's Involuntary Resettlement Policy, OP/BP 4.12**, which sets out guiding principles and procedural steps for programme implementation of resettlement programmes.⁷

5. LACK OF ACCESS TO INFORMATION AND LEGAL AID

Earthquake-affected persons do not have adequate information about reconstruction plans or where they can turn to for support on housing, land and property rights issues, such as loss of documents, inheritance, or tenure issues. According to the International Development Law Organization, “in addition to myriad safety and security problems within the displaced persons camps people are facing legal issues relating to loss of documentation, food security and production, inheritance, land tenure and re-establishing businesses and economic livelihoods. Compounding the situation are structural problems that have dogged the justice system for years, including judicial independence, obsolete codes and laws, inaccessibility and a lack of resources.”⁸ Inheritance cases can be particularly complicated, especially in the case where entire families were killed as a result of the quake, leaving no apparent heir, or where heirs are abroad and lack representation in the country. It will also be important to pay specific attention to the protection of the rights of women and children in inheritance, especially of widows and orphans. Although there is a bar association in Haiti, legal aid services are practically non-existent, and the trust in legal institutions and the justice system is very low. **There is an urgent need to support effective legal aid programmes and to support information campaigns that inform IDPs about their rights and entitlements in the context of the reconstruction process.**

⁷ World Bank Involuntary Resettlement Source Book, World Bank Involuntary Resettlement Policy OP/BP 4.12, 2004, p 371. Procedural step identified in OP/BP 4.12 include: establishing clear beneficiary eligibility for resettlement programmes, identifying institutional responsibilities and capacities, consultation with beneficiaries, conducting socio-economic needs survey, ensuring access to livelihoods opportunities, employment, and credit, and establishing a complaints mechanism.

⁸ International Development Law Organization, “IDLO Calls on International Donors for Haiti to Support Holistic Rule of Law Effort”, Press Release, 25 March 2010.