

Republic of Haiti
Submission to the United Nations
Universal Periodic Review

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Human Rights Council

[October 3 - 14, 2011]

Right to Housing

Submitted By:

Camp Benediction

Camp CAPVVA

Camp Cavil

Camp CCTT

Camp COSSBAMI

Camp CR-5*

Camp Faitree Michiko

Camp Imaculée Deplacée

Camp Michiko I

Camp Mosaique

Camp Refugee

Camp SOHOMO

Camp Toussaint Louverture

Groupe d'Action pour la Défense des Droits Humains en Haïti

International Action Ties

MOSFV

You.Me.We

Endorsed By:

Bureau des Avocats Internationaux; Center for Constitutional Rights; Institute for Justice & Democracy
in Haiti; LAMP for Haiti Foundation; Link Haiti, Inc.; Moun Viktim; Paloma Institute; UC Davis
Immigration Law Clinic; UnityAyiti

* Two weeks before this submission, Camp CR-5 was forcibly evicted and its residents dispersed. While CR-5 is no longer a formal camp, they submit this report as a community.

I. EXECUTIVE SUMMARY

1. The housing crisis in Haiti constitutes a grave violation of human rights. A majority of Haitians live in overpopulated urban centers, shanty towns or under-developed villages that fail to meet minimum standards of habitability. These settlements lack access to basic necessities such as clean water, sanitation, and electricity, and are plagued by high rates of violence, particularly sexual violence against women and girls. Moreover, there is virtually no security of tenure in Haiti, which leaves a majority of people, especially the urban poor, facing a constant threat of forced eviction and related human rights violations.

2. These conditions pre-date the earthquake that hit Haiti in January 2010, and according to the Government's own assessment, exacerbated its effects. When the Government announced a reconstruction plan in March 2010, it noted that the toll of the earthquake – 250,000 people killed, and another 2 million left homeless – did not result from the tremor alone, but from “an excessively dense population, a lack of adequate building standards, the disastrous state of the environment, disorganized land use, and an unbalanced division of economic activity.”¹ At the time of this submission, fourteen months have passed since the earthquake, and the Government of Haiti has yet to adopt a plan that will adequately achieve durable solutions to displacement, poverty or homelessness.

II. BACKGROUND AND FRAMEWORK

A. Origins of a Housing Crisis

3. Housing conditions in Haiti are directly linked to the conditions of extreme poverty. Haiti is the poorest nation in the western hemisphere and consistently ranks near the bottom of the United Nations Development Index.² Before the earthquake, an estimated 80% of the population was formally unemployed, and most people eked out a meager living as manual laborers or service providers in the underground economy.³ Few Haitians could afford to own a home, so the majority lived in shoddy rental units or informal settlements on open land.

4. Overpopulation made matters worse by creating a severe housing shortage in the nation's urban centers after the agriculture sector collapsed in the 1980s. The United States had flooded Haiti with cheap subsidized rice, and farmers who lost their livelihoods migrated to Port au Prince in search of employment.⁴ The city, once home to 250,000 people, grew to 3 million.⁵ Construction proceeded without regard for building codes or safety standards, and poor urban planning resulted in neighborhoods being established in areas prone to flooding and other natural hazards, including steep hill-sides that collapsed in the earthquake. Following an assessment in 2009, United Nations officials concluded that the Haitian government had lost the capacity to manage metropolitan Port au Prince.⁶

5. The earthquake struck less than one year later, killing up to 250,000 people. It displaced an additional two million, and few of them had the resources to secure alternative housing outside the affected area.⁷ Inside the affected area, 300,000 residences were destroyed. Rents for the remaining structures skyrocketed, three-fold in some cases,⁸ and land-lords carried forward the customary practice of requiring tenants to advance 12 months of rent to secure a

lease.⁹ With nowhere else to go, 1.5 million people who were displaced by the earthquake migrated to displacement camps where they set up tents or makeshift shelters. In March 2011, close to 700,000 internally displaced people (“IDPs”) live in 1061 camps.¹⁰

6. Human rights abuses, including forced evictions, are endemic in the camps. In some instances, people who purport to own the land where a camp is located have resorted to violence and other coercive measures to force displaced people off the property. An estimated 74% of camps are situated on private land, and much of it is subject to competing claims of ownership.¹¹ Title is often unclear because a low percentage of land holdings were properly recorded before the earthquake,¹² forgery is rampant, and documents are frequently altered in an attempt to validate land grabs and unlawful transfers that were perpetrated under the Duvalier dictatorship. In 2007, a UN advisory group recognized land conflicts as a “principal cause” of forced evictions, and international organizations have expressed concern over the amount of land burdened by contested ownership claims in Haiti, and the number of purported land owners who cannot demonstrate legal title to land.¹³

B. International Obligations

7. The right to housing is a necessary component of the right to an adequate standard of living. Article 25 of the Universal Declaration of Human Rights (“UDHR”) establishes that “[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care . . .” The International Convention on Economic, Social and Cultural Rights (“ICESCR”) establishes the right “of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.” While Haiti has not ratified the ICESCR, other international agreements to which Haiti is a party incorporate the right to housing either expressly or implicitly, including the International Covenant on Civil and Political Rights (“ICCPR”),¹⁴ the Convention on the Rights of the Child (“CRC”),¹⁵ and the Convention on the Rights of Disabled Persons (“CRDP”).¹⁶ Non-discrimination with regard to housing is also recognized by the Covenant on the Elimination of Discrimination Against Women (“CEDAW”) and the International Convention on the Elimination of All Forms of Racial Discrimination (“ICERD”).¹⁷

8. The right to adequate housing includes elements of habitability, affordability, physical security, and security of tenure.¹⁸ It also includes a corresponding right to be free from forced evictions, which can only be justified “in the most exceptional circumstances, and in accordance with the relevant principles of international law,”¹⁹ which include adequate notice, sufficient consultation with IDPs, and arrangements for alternative habitable shelter. Forced evictions must also be accompanied by a clear set of due process and procedural protections.²⁰ Further, in the context of persons displaced by the earthquake, forced evictions cater to the interests of alleged property owners, many of whom lack legal title, at the cost of leaving evicted camp residents at extreme risk, and therefore violate Haiti’s obligations under the ICCPR (Art. 26) and ICERD (Art. 5) to uphold each individual’s right to equality before the law.

9. The UN’s Guiding Principles on Internal Displacement (“Guiding Principles”) affirm that IDPs have the right to an adequate standard of living, which includes “basic shelter and

housing,” essential food and water, appropriate clothing, and essential medical services and sanitation.²¹ The Guiding Principles also hold that “[e]very human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.”²² This prohibition against arbitrary displacement applies specifically to “cases of disasters, unless the safety and health of those affected requires their evacuation...”²³ The Guiding Principles reflect and are consistent with human rights and humanitarian law, and have the force of law in Haiti.²⁴

10. The Principles on Housing and Property Restitution for Refugees and Displaced Persons (“Pinheiro Principles”) also require States to pursue “durable solutions” to displacement, including “positive measures aimed at alleviating the situation of refugees and displaced persons living in inadequate housing.”²⁵ These include measures to ensure that “individuals, corporations, and other entities within [the] legal jurisdiction or effective control [of States] refrain from carrying out or otherwise participating in displacement.”²⁶ The Pinheiro Principles are not directly enforceable against States, but provide internationally recognized benchmarks for determining whether a State has demonstrated compliance with underlying human rights obligations.

C. Domestic Obligations

11. The Constitution of Haiti recognizes “the right of every citizen to decent housing, education, food and social security.”²⁷ The Constitution does not elaborate on the scope of this right, but does incorporate standards established under international agreements that are duly ratified or adopted. Those agreements become “part of the legislation of the country and abrogate any laws in conflict with them.”²⁸ Haiti has not adopted the ICESCR, but it is a party to the ICCPR, the CRC, the CRDP, and CEDAW.

12. The Constitution also states that ownership “entails obligations,” and that “uses of property cannot be contrary to the general interest.”²⁹ The Government has not enforced these limits against private individuals who have violently and illegally evicted displaced people from land they purport to own, or who have maintained festering public health hazards as an excuse to force displaced people off the land. Judicial remedies are available under Haitian law to protect a rightful landowner who is wrongfully dispossessed of the land, but some purported landowners have sidestepped judicial mechanisms and obtained assistance from Government agents in perpetrating violent and coercive evictions.³⁰

13. The Constitution also authorizes the government to expropriate land for public purposes, so long as it follows certain procedural safeguards and provides appropriate compensation to entitled individuals.³¹ This authority has been invoked on numerous occasions in the past,³² and in March 2010, the Government authorized the seizure of more than 17,000 parcels of vacant land.³³ According to human rights monitors, however, the Government designated 450 hectares of land in downtown Port-au-Prince for government buildings, shops and offices, but only five plots of land for transitional shelter. Moreover, those plots are located on land that is far from main roads, sources of employment, commercial opportunities or existing social structures.³⁴ The Special Rapporteur on the Rights of Internally Displaced People visited one of those sites in October 2010, and called it a “barren area” that “offers virtually no sustainable livelihood

opportunities.”³⁵ The Protection Cluster’s Housing Law and Property Working Group echoed that concern, stating that the “resettlement of earthquake affected [people] has not been consistent with international norms, standards and best practices.”³⁶

D. Housing Policy After the Earthquake

14. Haiti remains under a state of emergency, and decision-making authority on matters related to reconstruction is exercised concurrently by the Interim Haiti Recovery Commission (“IHRC”) and national lawmaking bodies. The IHRC was established pursuant to an emergency presidential decree on April 21, 2010 in order to coordinate international donors and the Haitian Government.³⁷ It is co-chaired by Former U.S. President Bill Clinton and Haitian Prime Minister Jean Max Bellerive, and is responsible for “continually developing and refining development plans for Haiti,” and for approving internationally funded projects that are consistent with the *Action Plan for Recovery and Development*, Haiti’s framework document for recovery.³⁸ The IHRC has an 18 month mandate, and is vested with all “powers necessary” to conduct its activity. Decisions taken by the IHRC on significant projects must be confirmed by the President to be enforceable.

15. In September 2010, the IHRC put forth a draft *Neighborhood Return and Housing Reconstruction Framework* that it created in consultation with the Government of Haiti and the UN’s Shelter Cluster. The Framework purports to “meet the needs of the families affected by the earthquake and help restore the basis of peoples’ social and economic lives.”³⁹ It does not adequately reflect international guidelines on durable solutions for IDPs that ensure protection of their human rights, however.⁴⁰ For example, the Framework does not provide sufficient protection for renters, those with informal living arrangements, or those who have a right to occupy disputed land under domestic or international law, which make up the vast majority of those displaced by the earthquake.⁴¹

16. While the Government of Haiti has the primary role to respect, protect and fulfill the right to housing, the IHRC plays a central role in deciding the direction of Haiti’s reconstruction and as such, has a responsibility to implement a human rights based approach throughout its activities, which includes capacity building, participation, transparency and accountability.⁴² The IHRC has not engaged meaningfully with Haitian stakeholders to ensure their participation in decision-making on housing policy. The IHRC lacked a consultation mechanism that would allow IDPs, the primary stakeholders in the Framework, the opportunity to provide input on design and to ensure necessary modifications to the projects to maximize the realization of human rights. Drafts of the Framework have not been made available in Creole, the only language spoken by a majority of the population. The lack of transparency and participation is inconsistent with a human rights based approach, and has resulted in little ownership of the plan by the Government and affected communities. At the time of this submission, the Government has yet to adopt this or any other return and resettlement policy, exposing IDPs to continued vulnerability and lack of access to sustainable housing solutions.

E. Domestic Government Framework

17. At the national level, the Government has failed to exercise its constitutional authority to protect housing rights that every Haitian citizen is entitled to enjoy, or to marshal the resources of existing institutions in a way that promotes progress, transparency, and accountability in the reconstruction process.

18. National housing policy is generally administered by the Ministry of Social Affairs and Labor through the division of Social Housing Promotion and Planning, or EPPLS. The primary obligation of the EPPLS is “to prepare, plan, implement and manage social housing projects for the benefit of families and individuals with lower incomes.”⁴³ The Government of Haiti has not designated the EPPLS, or any other domestic agency for that matter, as the focal point for housing reform within the context of earthquake reconstruction. Instead, it has implemented a decentralized process that delayed the immediate earthquake response and continues to slow the pace of progress.

19. For instance, it took a full year for the Ministry of Public Transport and Public Works to release new building guidelines that developers are now encouraged to follow voluntarily. The delay stalled the initial rebuilding process, and those who did proceed with reconstruction were forced to do so without the guidance of best practices relevant to the Haitian context. Furthermore, there does not appear to be plans to promulgate enforceable building codes in the near future,⁴⁴ raising serious concerns about compliance enforcement. The practice of rebuilding without strict adherence to a code sets the stage for recreating the same structural deficiencies that caused disproportionate damage and loss of life in the January 12, 2010 earthquake.

20. Moreover, four months after the earthquake, the Government commissioned an interim Bureau on Relocations to investigate solutions for some of the largest camps in Port au Prince, particularly those in the Champs de Mars district where the Presidential Palace and most government ministries were located.⁴⁵ The Bureau launched a rubble removal project to make room for transitional shelters, but from the 19 million cubic meters of debris created by the earthquake, only 20% was removed in the first year.⁴⁶ The accumulation of debris blocking land and thoroughfares has been identified as a major obstacle to reconstruction.⁴⁷

21. Finally, despite repeated calls from housing advocates, the Government of Haiti has declined to steadily implement a temporary moratorium on forced evictions, or adopt alternative measures to protect the occupancy rights of displaced people who have no alternative shelter outside of a camp. In March 2010, the Government reportedly agreed to a three-week moratorium on forced evictions after negotiating with relevant UN entities, but that moratorium was not publicly communicated or enforced.⁴⁸ In November 2010, the Inter-American Commission on Human Rights instructed the Government of Haiti to implement a moratorium, but the Government has not taken any steps to comply with that directive.⁴⁹ The Government has also failed to publicly condemn or discourage forced evictions.

III. THE RIGHT TO ADEQUATE HOUSING AS IT RELATES SPECIFICALLY TO HAITI'S IDPS

A. Camp Conditions

22. Fourteen months after the earthquake, 800,000 homeless people still live in squalid IDP camps that fall short of the Sphere minimum humanitarian standards, or international standards for adequate housing.⁵⁰ Though conditions vary widely across existing camps, the situation has deteriorated over time as aid agencies shift attention to other countries and the Government delays in implementing a comprehensive resettlement plan.

23. Inside the camps, IDPs live in tattered tent or make-shift structure strung together from scraps of plastic and other discarded materials. Temperatures inside the tents often exceed 35 degrees during the summer, and knee-deep levels of mud accumulate in the camps after it rains. These hazards are amplified during hurricane season. The United Nations estimates that more than half of all camps face an extreme or high risk of damage from a hurricane.⁵¹

24. Most camps also lack functioning drainage systems and sanitation facilities which are necessary to control the spread of disease.⁵² Residents often face the indignity of having to relieve themselves in public, resulting in human waste that seeps under and into the tents. Furthermore, the majority of the camps lack proper lighting and security, which contributes to an epidemic of rape and sexual assault.⁵³

25. Despite these deplorable conditions, the Government has not adequately responded to the plight of IDPs living in the camps. Participants in a focus group on Haiti's Universal Periodic Review identified lack of transparency, communication and government visibility in the camps and key shortcomings in the Government's response to the post-earthquake housing crisis.⁵⁴

26. The Government has also failed to provide alternative housing options outside of the IDP camps. As of March 2011, only 32,000 transitional shelters had been built.⁵⁵ Moreover, 80% of the people rendered homeless by the earthquake were renters or occupied living space without formal title to the property.⁵⁶ Most of them lost their livelihoods in the earthquake, and cannot afford to pay the high cost of renting a structurally sound apartment. Because there is insufficient alternative shelter for the hundreds of thousands of people who have left the camps, some may be living under conditions that are even more unstable and dangerous than they were before the earthquake, such as in unsound structures that have been deemed uninhabitable due to earthquake damage.

B. Forced Evictions

27. Within weeks of the earthquake, government agents and private individuals began carrying out unlawful evictions against IDPs living in the camps. Since that time, human rights lawyers in Port au Prince have been overwhelmed with requests for assistance from IDPs facing eviction. The United Nation's Protection Cluster estimates that 28,000 people were evicted between March and October 2010, while another 140,000 people faced an imminent threat of eviction.⁵⁷ The UN Office for the Coordination of Humanitarian Affairs voiced "a growing concern" over the rise in forced evictions that now threaten 225,000 IDPs in 169 camps.⁵⁸ These numbers undermine claims that a reduction in the number of people living in the camps is evidence of progress.

28. Despite repeated calls from IDPs, human rights groups, and international actors, the Government of Haiti has steadfastly declined to implement a temporary moratorium on forced evictions since the first moratorium expired in May, or adopt alternative protective measures. To

the contrary, government agents, including members of the Haitian National Police, have actively carried out unlawful evictions, sometimes on behalf of private individuals who have not proven their title to the land.⁵⁹

29. Some of these evictions are exceedingly violent and coercive. The police have beaten and terrorized IDPs in the presence of neighbors, families, and children.⁶⁰ They have arbitrarily arrested IDPs in camps targeted for eviction, held them for extended periods, and denied them access to human rights observers.⁶¹ Two IDPs who complained to the Mayor of Cité Soleil were arrested without being charged and held for several days in prison.⁶² Another IDP who refused to leave his settlement was arrested in a camp outside Port au Prince, and denied access to human rights investigators.⁶³

30. Some evictions have destroyed entire settlements. As documented in a submission to the Inter-American Commission on Human Rights, the police invaded one camp alongside state-run bulldozers and fired their weapons as the machines proceeded to flatten the whole camp.⁶⁴ Days later, after IDPs had collected their scattered belongings and established a new settlement at the far end of the camp, the bulldozers returned and destroyed that settlement. When IDPs erected a third settlement, it too was destroyed. Meanwhile, hundreds of IDPs from a different site were relocated to the camp, and a fence was set up to segregate them from the original camp residents. Humanitarian aid was distributed to the new IDPs who lived on one side of the fence, but denied to the original camp residents who were forced to remain on the other side. Those IDPs went days without eating or drinking. Many were forced to send their children into the streets to hustle for basic survival needs.

31. The Government has also failed to protect IDPs from private evictions. A child was killed in one camp when a purported landowner set fire to thirteen tents to force them off the land.⁶⁵ Another purported landowner locked the gates to the camp, and put broken glass and barbed wire on the fence to prevent people from delivering food and water to family members inside.⁶⁶ He beat one camp resident with a stick and crushed another's tent knowing his infant child was inside. The police have also ignored reports that IDPs are being threatened by armed "bandits" carrying guns, machetes, stones, bottles, and other weapons, and that women and girls are being gang raped in the camps.⁶⁷

IV. RECOMMENDATIONS

National Housing Strategy

- Adopt a national housing strategy that is consistent with the requirements of the Convention on Economic, Social and Cultural Rights;
- Establish a social housing program that provides poor people access to housing that meets international standards as articulated by General Comment 4 of the Committee on Economic, Social and Cultural Rights;
- Authorize the EPPLS to administer the National Housing Strategy, and strengthen its capacity to carry out its mandate;

- Ensure that eligibility for housing assistance does not discriminate between landowners, renters, and people who informally occupy open land, in violation of the International Covenant on Civil and Political Rights;

Impediments to Affordable Housing

- Implement mechanisms to control the cost of securing a lease, such as caps on rent or required down-payments;
- Make home ownership available to poor people, including ownership of rental units, through favorable financing mechanisms such as rent-to-own programs, low-interest mortgages, access to credit, and other means;

Durable Solutions to Displacement

- Recognize the *Guiding Principles on Internal Displacement* as providing the operative legal standard on issues relating to reconstruction;
- Prioritize the return, resettlement or restitution of IDPs who are now living in displacement camps, in a manner that is consistent with the *Pinheiro Principles*;
- Ensure the meaningful participation of IDPs, particularly women, the elderly, and disabled, in the search for appropriate durable solutions to displacement;
- Identify renters and people who had an informal right to occupy land or property prior to the earthquake as groups that require special protection, and target assistance to those groups;
- Require rental property owners to accept former tenants on preferential terms as a condition to receiving financial assistance to rebuild or repair their property;
- Establish and enforce mandatory building codes that protect against the devastating effects of natural disasters;

Temporary Solutions to Displacement

- Recognize a right of occupancy for IDPs who live in camps on government land until adequate alternative shelter is provided;
- Take title to private land where IDPs camps are located, and recognize a right of occupancy favoring IDPs until adequate alternative shelter is provided;
- Ensure that any area to be used for resettlement meets international standards in terms of safety, affordability, habitability and accessibility;
- Create and support livelihood opportunities in rural areas that conform to Article 23 of the Universal Declaration of Human Rights to relieve urban overcrowding;

Precautionary Measures

- Demonstrate compliance with the “precautionary measures” issued by the Inter-American Commission on Human Rights by: (1) adopting a moratorium on evictions in displacement camps; (2) ensuring that evicted IDPs are re-housed in locations that fulfill

minimum standards of safety and security; (3) guaranteeing IDPs access to tribunals and other competent authorities to vindicate violations of their rights; (4) implementing effective security measures to safeguard the physical integrity of IDPs, guaranteeing special protection to women, children, the elderly and disabled; (5) training security personnel on the rights of IDPs, including the prohibition on forced evictions; (6) ensuring that international organizations have access to IDP camps;

- Declare, communicate and enforce the moratorium to IDPs, government agents, and relevant stake-holders;
- Investigate and prosecute private individuals and state agents who have participated in illegal evictions;
- Identify and strengthen the capacity of state institutions responsible for responding to unlawful evictions, and widely communicate the service provided by these institutions;

Long-term Security of Tenure

- Recognize occupancy and land use rights of people who do not have formal title to land or property, including renters and disadvantaged people in rural communities;
- Implement a land titling procedure that provides a variety of options based on the needs and customs of the local population, including but not limited to participatory enumeration, low-cost registration and formalization of prescriptive rights; temporary occupation licenses, securing long-term tenure for communities where effective local land management practices are already in place through Community Land Trusts, and community based titles or co-operatives;

Human Rights Accountability

- Recognize a right to legal representation in all matters related to housing rights, and provide access to lawyers for people seeking to enforce those rights;
- Establish an agency on human rights implementation to monitor human rights compliance, and to ensure that recommendations from treaty bodies and other human rights monitors are transmitted to, and implemented by, appropriate domestic agencies.

ANNEX: ENDNOTES

¹ GOVERNMENT OF THE REPUBLIC OF HAITI, ACTION PLAN FOR NATIONAL RECOVERY AND DEVELOPMENT OF HAITI 5 (March 2010), *available at* http://www.haiticonference.org/Haiti_Action_Plan_ENG.pdf [hereinafter HAITI ACTION PLAN].

² In 2009, Haiti ranked 142nd out of 182 countries listed on the UN's Human Development Index. WALTER KÄLIN, REPRESENTATIVE OF THE SECRETARY-GENERAL ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS, HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS IN HAITI: MEMORANDUM BASED ON A WORKING VISIT TO PORT AU PRINCE 2 (12-16 October 2010), *available at* <http://ijdh.org/archives/15472> [hereinafter KÄLIN MEMORANDUM].

³ KÄLIN MEMORANDUM, *supra* note 2, at 1-3.

⁴ INTERNATIONAL COMMITTEE OF NATIONAL LAWYERS GUILD ET AL., SUBMISSION TO THE UNITED NATIONS PERIODIC REVIEW OF THE UNITED STATES OF AMERICA: THE NEGATIVE IMPACT OF US FOREIGN POLICY ON HUMAN RIGHTS IN COLUMBIA, HAITI AND PUERTO RICO 6 (Nov. 3 – Dec. 22, 2010), *available at*, http://www.ushrnetwork.org/sites/default/files/declaration-treaty/Foreign_Policy_Joint_Report_USA.pdf.

⁵ ACTIONAID, BUILDING FOR THE FUTURE: HOMES AND SECURITY IN HAITI 6 (2011) [hereinafter ACTIONAID REPORT].

⁶ *See generally*, UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME (UN-HABITAT), STRATEGIC CITYWIDE SPATIAL PLANNING: A SITUATIONAL ANALYSIS OF METROPOLITAN PORT-AU-PRINCE, HAITI, 6 (2010) (*prepared by* Åsa Forsman) *available at* <http://www.unhabitat.org/pmss/Publications.aspx?page=ByTheme&categoryID=277>.

⁷ ACTIONAID REPORT, *supra* note 5, at 3.

⁸ KÄLIN MEMORANDUM, *supra* note 2, at 13.

⁹ PROTECTION CLUSTER, HOUSING, LAND AND PROPERTY WORKING GROUP, ISSUE OF RENTERS IN THE POST-DISASTER SCENARIO 2 (2010) [hereinafter PROTECTION CLUSTER REPORT].

¹⁰ Displacement Tracking Matrix V2.0 Update, March 16, 2011; UNITED NATIONS OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, HUMANITARIAN BULLETIN 1 (Feb. 1-17, 2011) [hereinafter OCHA HUMANITARIAN BULLETIN].

¹¹ *Id.* at 1.

¹² Between 70-80% of alleged owners are not able to produce property records that would prove ownership to land. PROTECTION CLUSTER REPORT *supra* note 9, at 2.

¹³ UN-HABITAT ADVISORY GROUP ON FORCED EVICTIONS, FINDING SOLUTIONS TO FORCED EVICTIONS WORLDWIDE: A PRIORITY TO MEET THE MDGs AND IMPLEMENT THE HABITAT AGENDA 4 (April 2007) *available at* <http://www.unhabitat.org/list.asp?typeid=3&catid=282>.

¹⁴ Homelessness has been found to threaten violations of the right to life (Art. 4) and forced evictions have been found to contravene the right to be free from arbitrary or unlawful interference with the home (Art. 17).

¹⁵ Convention on the Rights of the Child art. 27(3) ("State Parties in accordance with national conditions and within their means shall take appropriate measure to assist parents and others responsible for the child to implement this right and shall in the case of need provide material assistance and support programmes, particularly with regards to nutrition, clothing and housing.").

¹⁶ Convention on the Rights of the Disabled art. 28(1) ("States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.").

¹⁷ Convention on the Elimination of All Forms of Discrimination Against Women art. 14(2)(h) ("State Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right... (h) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications."); International Convention on the Elimination of All Forms of Racial Discrimination art. 5(e)(iii) ("In compliance with the fundamental obligations laid down in article 2 of this Convention, State Parties undertake to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin to equality before the law, notably in the enjoyment of the following rights:... (e) in particular... (iii) the right to housing.")

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- ¹⁸ Committee on Economic, Social and Cultural Rights, General Comment 4, The Right to Adequate Housing, U.N.Doc.E/1992/23 (Dec. 13, 1991) [hereinafter Comment 4”].
- ¹⁹ *Id.* at ¶18.
- ²⁰ Committee on Economic, Social and Cultural Rights, General Comment 7, The Right to Adequate Housing: Forced Evictions, ¶15, U.N.Doc. E/1998/22 (May 20, 1997).
- ²¹ Special Advisor for the Prevention of Genocide and Mass Atrocities, *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission on Human Rights resolution 1997/39, Addendum: Guiding Principles on Internal Displacement*, Commission on Human Rights, Introduction, U.N. Doc. E/CN.4/1998/53/Add.2 (Feb. 11, 1998) available at, http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html.
- ²² *Id.* at Principle 6(1).
- ²³ *Id.* at Principle 6(2)(d).
- ²⁴ The Guiding Principles have the force of law in Haiti through Haiti’s ratification of the American Convention on Human Rights. The Inter-American Commission on Human Rights, one of two bodies charged with interpreting State Parties’ obligations under the American Convention, adopted the Guiding Principles on Internal Displacement as the authoritative instrument when interpreting human rights law as applied to communities of displaced persons. Inter-Am. [Comm’n on Human Rights](#), Third Report on the Human Rights Situation in Colombia, ¶10, [OEA/Ser.L/V/II.102 \(Feb. 26, 1999\)](#). Moreover, the Guiding Principles “reflect and are consistent with international human rights law and international humanitarian law and to a large extent thus codify and make explicit guarantees protecting internally persons that are inherent in these bodies of law.” *Id.*
- ²⁵ United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons, Principle 8, U.N. Doc. E/CN.4/Sub.2/2005/17 (June 28, 2005), available at, http://www.unhcr.org.ua/main.php?part_id=4&article_id=179.
- ²⁶ *Id.* at Principle 5.4.
- ²⁷ HAITI CONST. art. 22 (1987).
- ²⁸ HAITI CONST. art. 276-2 (1987).
- ²⁹ HAITI CONST. art. 36-3 (1987).
- ³⁰ An eviction order can be obtained in an *action pétitoire* in a local court, though it is unclear whether these actions meet substantive and procedural due process standards, an in particular, protect occupants from further displacement until adequate alternative solutions are identified.
- ³¹ HAITI CONST. art. 36-1 (1987).
- ³² See e.g., La Loi sur les reprises des biens donnés à bail ou indument occupés par les particuliers, 28 juillet 1927; La Loi établissant des règles spéciales relatives à l’habitation et à l’aménagement des villes et campagnes en vue de développer l’urbanisme, 29 mai 1963 adaptant celle du 22 juillet 1937 ; La Loi sur la déclaration d’Utilité Publique et les servitudes, 3 septembre 1979 ; La Loi accordant à l’État le droit de pénétrer provisoirement sur les propriétés en vue de faciliter l’exécution de certains travaux urgents d’intérêt général, 5 septembre 1979 ; La Loi sur l’expropriation pour cause d’Utilité Publique, 5 septembre 1979 ; l’Arrêté déclarant d’Utilité Publique la zone d’extension Nord de Port-au-Prince, 10 février 1998 ; et le Décret sur la gestion de l’environnement, 12 octobre 2005.
- ³³ See, *Arrêté déclarant d’Utilité Publique les propriétés*, LE MONITEUR at 165ème Année No. 21, March 22, 2010, and Frances Robles, *Bill Clinton, George W. Bush Visit Haiti, Vow to Help*, MIAMI HERALD, March 22, 2010, available at <http://www.miamiherald.com/2010/03/22/1542467/bill-clinton-george-w-bush-visit.html>.
- ³⁴ Kathie Klarreich, *Haiti Relief: Refugees Move to Drier Higher Ground as Rainy Season Begins*, CHRISTIAN SCIENCE MONITOR, April 15, 2010, available at <http://www.csmonitor.com/World/Americas/2010/0415/Haiti-relief-Refugees-move-to-higher-drier-ground-as-rainy-season-begins>; ACTIONAID REPORT, *supra* note 5, at 9-10.
- ³⁵ KÄLIN MEMORANDUM, *supra* note 2, at 5.
- ³⁶ REFUGEES INTERNATIONAL, HAITI: STILL TRAPPED IN THE EMERGENCY PHASE 3 (Oct. 2010).
- ³⁷ Order of the President, Rene Preval, (April 21, 2010), available at, <http://www.cirh.ht/sites/ihrc/en/About%20Us/Pages/default.aspx>.
- ³⁸ HAITI ACTION PLAN, *supra* note 1.
- ³⁹ GOVERNMENT OF HAITI AND INTERIM HAITI RECOVERY COMMISSION, NEIGHBORHOOD RETURN AND HOUSING RECONSTRUCTION FRAMEWORK: A RECOVERY PLAN FOR HAITIAN FAMILIES 4 (2011).
- ⁴⁰ See e.g., Walter Kaelin, “Framework on Durable Solutions for Internally Displaced Persons”, February 9, 2010, U.N. Doc. A/HRC/13/21/Add.4 available at http://www.brookings.edu/~media/Files/rc/reports/2010/0305_internal_displacement/0305_internal_displacement.pdf.

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- ⁴¹ Jane Regan, *Haiti Resettlement Plan Excludes Almost 200,000 Families*, INTERNATIONAL PRESS SERVICE (Feb. 14, 2010).
- ⁴² See UPR Submission on the Right to Food, Water and Sanitation and the Rights Based Approach to Assistance for an explanation of the rights based approach.
- ⁴³ Information Provided by the Government of Haiti to the United Nations Commission on Sustainable Development, 7-25 April 1997, *available at* <http://www.un.org/esa/agenda21/natinfo/countr/haiti/social.htm>.
- ⁴⁴ According to actors in the U.N. Shelter Cluster, there are no current plans to make the building codes enforceable.
- ⁴⁵ KÄLIN MEMORANDUM, *supra* note 2, at 5.
- ⁴⁶ INTERIM HAITI RECOVERY COMMISSION, HAITI ONE YEAR LATER: THE PROGRESS TO DATE AND THE PATH FORWARD 3 (January 12, 2010); *see also*, United Nations Development Project, *Rebecca Grynspan: Remarks on the Situation in Haiti*, March 9, 2011, <http://content.undp.org/go/newsroom/2011/march/rebeca-grynspan-remarks-on-the-situation-in-haiti.en> (last visited March 20, 2011).
- ⁴⁷ ACTIONAID REPORT, *supra* note 5, at 8.
- ⁴⁸ KÄLIN MEMORANDUM, *supra* note 2, at 10-11.
- ⁴⁹ Precautionary Measures, Inter-Am. C.H.R., Report No. MC-367-10 (November 16, 2010).
- ⁵⁰ See The SPHERE Project, Humanitarian Charter and Minimum Standards in Humanitarian Response, *available at*, http://www.sphereproject.org/component/option,com_docman/task,cat_view/gid,70/Itemid,203
- ⁵¹ KÄLIN MEMORANDUM, *supra* note 2, at 3.
- ⁵² See Beverly Bell, *The Right to Housing For Internally Displaced Haitians*, DAILY KOS, Feb. 4, 2011, *available at*, <http://www.dailykos.com/story/2011/02/04/941224/-The-Right-to-Housing-for-Internally-Displaced-Haitians>; INSTITUTE FOR JUSTICE AND DEMOCRACY IN HAITI, ONE YEAR AFTER THE EARTHQUAKE: HAITIANS STILL LIVING IN CRISIS (2011), *available at* http://ijdh.org/wordpress/wp-content/uploads/2011/01/Camp-Conditions_Final.pdf.
- ⁵³ See INSTITUTE FOR JUSTICE AND DEMOCRACY IN HAITI, OUR BODIES ARE STILL TREMBLING: HAITIAN WOMEN CONTINUE TO FIGHT AGAINST RAPE (2011), *available at*, <http://ijdh.org/wordpress/wp-content/uploads/2011/03/1-Year-GBV-2011.pdf>.
- ⁵⁴ This was voiced as a priority concern during a UPR focus group discussion in January 2011 concerning the Government's response to the housing crisis.
- ⁵⁵ ACTIONAID REPORT, *supra* note 5, at 3.
- ⁵⁶ KÄLIN MEMORANDUM, *supra* note 2, at 2.
- ⁵⁷ *Id.* at 10.
- ⁵⁸ OCHA HUMANITARIAN BULLETIN, *supra* note 10, at 1.
- ⁵⁹ The forced evictions described in this section are described more fully in the *Request for Precautionary Measures for Petitioner A from Camp [---], Petitioner B from Camp [---], Petitioner C from Camp [---], and Petitioner D from Camp [---], on Behalf of Their Respective Communities, and for the Community of Camp [---]*, filed by the Bureau des Avocats Internationaux et al. before the Inter-American Commission on Human Rights, Nov. 2, 2010, *available at* http://ijdh.org/wordpress/wp-content/uploads/2011/03/Precautionary-Measures_Final_Redacted.pdf (Redacted) [hereinafter "IACHR Request for Precautionary Measures"].
- ⁶⁰ *Id.* at ¶ 45-49.
- ⁶¹ *Id.*
- ⁶² *Id.* at ¶¶ 38-41.
- ⁶³ *Id.* at ¶¶ 21-26.
- ⁶⁴ *Id.*
- ⁶⁵ REFUGEE INTERNATIONAL, HAITI: STILL TRAPPED IN THE EMERGENCY PHASE 3 (Oct. 6, 2010).
- ⁶⁶ IACHR Request for Precautionary Measures, *supra* note 59, at ¶¶ 33-37.
- ⁶⁷ *Id.* at ¶¶ 43-50.