

## **I. EXECUTIVE SUMMARY**

1. The housing crisis and related displacement are two of the most pervasive human rights violations in Haiti. A majority of Haitians live in overpopulated urban centers, shanty towns or under-developed villages that fail to meet minimum standards of habitability and lack access to basic necessities such as clean water, sanitation, electricity, and physical security. Moreover, security of tenure in Haiti remains a significant problem, precipitating property disputes and putting many, especially the urban poor, at risk of forced eviction.

2. These conditions pre-date the earthquake that hit Haiti in January 2010, and according to the Government of Haiti's own assessment, exacerbated its effects.<sup>1</sup> While the post-earthquake displaced persons population has been reduced considerably, over 59,720 people still reside in internally displaced persons (IDP) camps.<sup>2</sup> Recent immigration policies in the neighboring Dominican Republic (D.R.) have led to the formation of six large displaced-persons camps populated by nearly 3,000 repatriated Haitians and Dominicans of Haitian descent (on the Haiti side of the shared border).<sup>3</sup>

3. Government progress on the realization and protection of the right to adequate housing has been inconsistent. Despite the completion of a national housing plan in October 2013, government responsibilities for housing-related functions such as land titling, management of social housing, and project construction are diffused across competing government ministries and units, making progress slow.<sup>4</sup> The government has threatened IDP camp closures repeatedly without the provision of durable solutions to residents,<sup>5</sup> and the response to ensure the right to housing for repatriated Haitians at the border has been practically non-existent.

## **II. BACKGROUND AND FRAMEWORK**

### **A. Origins of a Housing Crisis**

3. Housing conditions in Haiti are directly linked to the conditions of extreme poverty. 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 informal economy.<sup>6</sup> Few Haitians could afford to own a home, so the majority lived in low-grade 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.<sup>7</sup> The population of Port-au-Prince increased from 800,000 in 1982 to 2.8 million in 2010.<sup>8</sup> 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. By some estimates, Haiti faced a national housing deficit of 700,000 units even before the January 2010 earthquake<sup>9</sup> that killed up to 250,000 people and displaced an additional two million.<sup>10</sup>

## **B. Housing Conditions in the Immediate Post-Earthquake Period**

5. Inside the area affected by the earthquake, 300,000 residences were destroyed with damage to the housing sector estimated at \$ 2.3 billion.<sup>11</sup> Eighty percent of the people rendered homeless by the earthquake were renters or occupied living space without formal title to the property.<sup>12</sup> Rents for the remaining structures skyrocketed, three-fold in some cases,<sup>13</sup> and landlords continued the customary practice of requiring tenants to advance 12 months of rent to secure a lease.<sup>14</sup> With nowhere else to go, 1.5 million people migrated to displacement camps where they set up tents or makeshift shelters.

6. Camps were generally marked by squalid conditions that fell short of the SPHERE minimum humanitarian standards and international standards for adequate housing.<sup>15</sup> Human rights abuses, including forced evictions<sup>16</sup> and sexual violence were endemic in the camps. In some instances, people who purported to own the land where a camp was located resorted to violence and other coercive measures to force displaced people off the property.<sup>17</sup> Some forced and illegal evictions have destroyed entire settlements and implicated state actors,<sup>18</sup> and in March 2013 the UN Humanitarian Coordinator in Haiti urged the Government not to resort to forced evictions.<sup>19</sup> Women and girls living in camps faced epidemic levels of gender-based violence and sexual harassment, with the results of one major survey showing as many as 22% were victims of sexual violence.<sup>20</sup> The majority of camps lacked proper lighting, security, and sanitation facilities, and women and girls were frequently attacked or raped when accessing remote services.<sup>21</sup> Deficient drainage and sanitation facilities also helped spread cholera upon its outbreak in late 2010.<sup>22</sup>

7. Over six years since the earthquake, the number of people living in the remaining 37 displacement camps<sup>23</sup> is estimated at 59,720.<sup>24</sup> Conditions remain precarious as the provision of services has decreased and funding has shifted over to camp closures.<sup>25</sup> While a dramatic reduction in the number of camp-dwelling individuals has taken place, only 20% of people who have left the camps have benefitted from a durable solution to their displacement such as repairing an old home, rebuilding, or building new homes.<sup>26</sup>

## **C. Conditions Related to the Dominican/Haitian Migration Crisis**

8. Meanwhile, in 2013, a controversial D.R. Constitutional Court order (TC 168/13) retroactively stripped an estimated 210,000 Dominicans of Haitian ancestry of their citizenship.<sup>27</sup> In addition, according to a 2013 survey, 458,233 undocumented Haitian migrant workers resided in the D.R. and were (also) at risk of deportation.<sup>28</sup> Although the Dominican Government created programs to allow some denationalized Dominicans and foreign-born undocumented migrants to regularize their statuses before the implementation of stricter immigration enforcement, hundreds of thousands were unable to complete these processes.<sup>29</sup> The threat and ultimate increase in deportations by Dominican authorities in the latter-half of 2015 spurred a humanitarian crisis that continues today.<sup>30</sup> Estimates by the UN's Office for the Coordination of Humanitarian Affairs ("OCHA") in September 2015 showed that 2,833 repatriated people erected shelters in six spontaneous camps near the border crossing in Anse-à-Pitres.<sup>31</sup> Conditions were squalid, with residents "lack[ing] food, drinking water and shelter."

Where shelters existed they were “made of pieces of fabric, cardboard, tarps” and “covered with clothes and foliage.”<sup>32</sup> Cholera began spreading in the camps in late October with 200 cases and dozens of deaths over the span of a month.<sup>33</sup>

#### **D. International Obligations**

9. 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.”<sup>34</sup> 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”).<sup>35</sup>

10. The right to adequate housing includes elements of habitability, affordability, physical security, and security of tenure.<sup>36</sup> 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,”<sup>37</sup> 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.<sup>38</sup> 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 International Covenant on Civil and Political Rights (“ICCPR”) (Art. 26) and ICERD (Art. 5) to uphold each individual’s right to equality before the law.

11. The UN’s Guiding Principles on Internal Displacement (“Guiding Principles”) affirm that displaced persons 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.<sup>39</sup> The Guiding Principles reflect and are consistent with human rights and humanitarian law, and have the force of law in Haiti.<sup>40</sup>

12. 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.”<sup>41</sup> 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.

## **E. Domestic Obligations**

13. The Constitution of Haiti recognizes “the right of every citizen to decent housing, education, food and social security.”<sup>42</sup> 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.”<sup>43</sup> Haiti is a party to the IESCR,<sup>44</sup> ICCPR, CEDAW, the Convention on the Rights of the Child (“CRC”), and the Convention on the Rights of Persons with Disabilities (“CRPD”).

14. The Constitution also states that ownership “entails obligations,” and that “uses of property cannot be contrary to the general interest.”<sup>45</sup> The Government has not enforced these limits against private individuals who have violently and illegally evicted displaced people from land they purport to own. Judicial remedies are available under Haitian law to protect a rightful landowner who is wrongfully dispossessed of land, but some landowners have sidestepped judicial mechanisms and obtained assistance from Government agents in perpetrating violent and coercive evictions.<sup>46</sup>

## **III. HOUSING POLICY AFTER THE EARTHQUAKE**

15. Faced with significant challenges, the Haitian Government has taken strides to address the housing situation for displaced persons and the general population, but has struggled to exercise its constitutional authority to protect housing rights that every Haitian citizen is entitled to enjoy and marshal existing institutions’ resources in a way that promotes progress, transparency, and accountability. Indeed, the current situation “shows blockages at all steps in housing delivery, from land procurement, infrastructure provision, availability of quality building materials, capacity in the construction industry and the availability of finance for both the development of housing and to enable end-users to purchase housing or make home improvements.”<sup>47</sup> By the Government’s estimate, there will be a national shortage of 500,000 homes by 2020<sup>48</sup> and significant progress will have to be made to bridge this gap.

### **A. Government Action on Housing Slow and Responsibilities too Diffused**

16. Following the earthquake, decision-making authority on matters related to reconstruction was 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.<sup>49</sup> The IHRC had a responsibility to implement a human rights based approach throughout its activities, which included capacity building, participation, transparency, and accountability. The IHRC’s mandate ended after 18 months without meaningfully engaging with Haitian stakeholders to ensure their participation in decision-making on housing policy.<sup>50</sup>

17. Critically, and counter to international best practice, Haiti lacks a government ministry for housing and urbanization, and responsibilities lie in competing entities scattered across government ministries.<sup>51</sup> Before 2011, national social housing policy was administered by the

Ministry of Social Affairs and Labor through the division of Social Housing Promotion and Planning (“EPPLS”).<sup>52</sup> The Unit for the Construction of Housing and Public Buildings (“UCLBP”) was created in 2011 with the limited mission of building public projects, encouraging private investment to rebuild earthquake-affected neighborhoods, and formulating a housing plan.<sup>53</sup> While UCLBP has carried out a range of activities related to reducing camp populations, building social housing, and improving neighborhood infrastructure, its record has been mixed and has failed to remedy the underlying structural issues paralyzing the housing sector’s development that only a new housing ministry could coordinate.

## **B. Inadequate Outcomes of the Government’s Housing Response**

18. UCLBP made the final National Housing and Habitat Plan (PLNH) available to the public in August 2014, more than four years after the earthquake. The plan puts the impetus for housing construction on the private sector,<sup>54</sup> but work to develop and encourage necessary financing mechanisms to spur private construction, home purchasing, and home improvements are lacking.<sup>55</sup> Haitian civil society organizations have criticized the Government for failing to consult with community groups and displaced persons associations in the formulation of their housing plan.<sup>56</sup> Women’s rights advocates specifically criticized the policy’s emphasis on private investment and lack of gender safeguards, noting it is likely to lead to further marginalization of the poor in general and women in particular.<sup>57</sup> Haitian civil society has consistently called for the application of international housing standards on safety, habitability, and affordability as well as the designation of public lands on which to build new houses.<sup>58</sup>

19. Reducing the size and number of displaced persons camps without resorting to evictions<sup>59</sup> resulted in the use of rental and repair subsidies to questionable, short-term effect. UCLBP’s “16-6” project aimed to clear six public areas where displacement camps were located and rehabilitate sixteen neighborhoods of origin for families living in those camps at a cost of \$78.9 million.<sup>60</sup> Families were offered \$500 to repair a damaged home, or the same amount as a rental subsidy. However, the majority of displaced families in the targeted camps reported being renters before the earthquake and having no homes to return to. Recipients of the \$500 reported the money as barely enough to rent a two-bedroom apartment in a slum community for one year,<sup>61</sup> falling short of a durable solution. Nevertheless, the program’s model was expanded and adopted by NGOs as a primary means to reduce the post-earthquake displaced population.<sup>62</sup>

20. Government-built homes have been marked by cost-overruns, underutilization, and the overlooking of local expertise. A 1,280-unit housing project in Morne-à-Cabrit,<sup>63</sup> located nine miles from Port-au-Prince, was financed by the Venezuelan Petro-Caribe Fund at a cost of \$44 million. Only a fraction of the total units are occupied.<sup>64</sup> A second project to build 400 homes was developed in Zoranje and paid for by a grant from the Inter-American Development Bank worth \$30 million.<sup>65</sup> These units are situated in remote, undeveloped areas without livelihood-generating opportunities and have mainly been occupied by government employees and those who can pay monthly mortgages at levels beyond what the poor majority can afford.<sup>66</sup> Other criticisms of these projects noted their imported architectural designs, cronyism influencing beneficiary selection, and unnecessarily high construction costs for low-quality units.<sup>67</sup> Haitian civil society organizations have meanwhile gained valuable expertise in repairing existing structures and building houses, though their development models have not been considered by

the Government.<sup>68</sup> While the Government has completed smaller-scale housing projects more recently, international funding priorities have shifted from new home construction to neighborhood-level infrastructure upgrades.<sup>69</sup>

21. Although the Government promulgated building codes in 2013,<sup>70</sup> they remain unenforced. Where private individuals spontaneously build homes, they are not being built to code.<sup>71</sup> The practice of rebuilding without strict adherence to code recreates the same structural deficiencies that caused disproportionate damage and loss of life in the 2010 earthquake.

### C. Inadequate Response to the Border Crisis

22. The protection of the right to housing for repatriated Haitians remains a challenge. The Government's interventions have been limited, confined to providing healthcare through its local hospital, monitoring by the Directorate for Civil Protection, and a departmental delegation,<sup>72</sup> falling far short of the minimum standards found in the SPHERE recommendations and Pinheiro Principles. After eight months of the camps' existence, OCHA announced in February 2016 that funding was secured to relocate individuals to towns and close the camps.<sup>73</sup> Reports from the border indicate that, as of writing, little information has been shared with local organizations about relocation plans. What is known of the plan indicates it will struggle to accommodate the needs of returnees mainly accustomed to rural livelihoods.<sup>74</sup> It remains unclear how the Government will continue to address the shelter and housing needs of newly deported individuals.

## IV. RECOMMENDATIONS

### *Create a Ministry of Housing Operationalizing the National Housing Plan*

- **Form a new ministry of housing and urban planning.** A new ministry could cut waste, provide centralized direction, and operationalize the existing national housing plan. Current Haitian government housing and urbanization functions are spread across a number of competing entities that have created inefficiencies and failed to realize the goals of the 2013 national housing plan. Haiti's persistent problems of minimal banking and financing options and slow private-sector response can only be tackled by a higher-level institution with full executive support;
- **Establish a social housing program that provides access to housing for the most marginalized.** This plan should meet international standards as articulated by General Comment 4 of the Committee on Economic, Social and Cultural Rights;
- **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 the most marginalized, 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 IDP and repatriated persons who are still living in displacement camps, in a manner that is consistent with the Pinheiro Principles;
- Ensure the meaningful participation of IDPs and repatriated persons, particularly women, the elderly, and disabled, in the search for appropriate durable solutions to displacement;
- Enforce mandatory building codes that protect against the devastating effects of natural disasters;
- Where appropriate, work to integrate existing camps into proper neighbourhoods;

### ***Temporary Solutions to Displacement in IDP Camps***

- 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;
- Declare, communicate and enforce the moratorium;
- Investigate and prosecute private individuals and state agents who have participated in illegal evictions.

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<sup>1</sup> 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](http://www.haiticonference.org/Haiti_Action_Plan_ENG.pdf) [hereinafter HAITI ACTION PLAN].

<sup>2</sup> INTERNATIONAL ORGANIZATION FOR MIGRATION, DISPLACEMENT TRACKING MATRIX, *available at* <http://www.iomhaitidataportal.info/dtm/index2.aspx>.

<sup>3</sup> OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, HAITI: RETURNEES/DEPORTEES CAMPS IN ANSE-À-PITRES (SEPT. 2015), *available at* [http://reliefweb.int/sites/reliefweb.int/files/resources/haiti\\_returnees\\_deporteescamps\\_anse-a-pitres\\_30092015\\_eng.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/haiti_returnees_deporteescamps_anse-a-pitres_30092015_eng.pdf). [hereinafter ‘HAITI: RETURNEES/DEPORTEES’]

<sup>4</sup> “All stakeholders met during the Special Rapporteur’s visit agreed that there was a lack of cooperation between the actors involved, whether State-driven (at national and municipal levels), non-governmental, humanitarian or development-driven. As a result, urban development is dictated by private/individual initiatives driven either by survival instincts or personal enrichment.” CHALOKA BEYANI, REPORT OF THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS (8 May 2015) at para. 32.

<sup>5</sup> *See* AMNESTY INTERNATIONAL, ‘15 MINUTES TO LEAVE’: DENIAL OF THE RIGHT TO ADEQUATE HOUSING IN POST-QUAKE HAITI (Jan. 2015), <http://www.amnestyusa.org/sites/default/files/amr360012015en.pdf>. [hereinafter ‘15 Minutes to Leave’].

<sup>6</sup> 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) at 1-3, *available at* <http://ijdh.org/archives/15472> [hereinafter KÄLIN MEMORANDUM].

<sup>7</sup> 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](http://www.ushrnetwork.org/sites/default/files/declaration-treaty/Foreign_Policy_Joint_Report_USA.pdf).

<sup>8</sup> RICHARD A. HAGGERTY, ED., HAITI: A COUNTRY STUDY (1989), *available at* <http://countrystudies.us/haiti/21.htm>.

<sup>9</sup> AMNESTY INTERNATIONAL, TEN FACTS ABOUT HAITI’S HOUSING CRISIS (Jan. 12, 2015), *available at* <https://www.amnesty.org/en/latest/news/2015/01/ten-facts-about-haiti-s-housing-crisis/>.

<sup>10</sup> ACTIONAID, BUILDING FOR THE FUTURE: HOMES AND SECURITY IN HAITI 3 (2011).

<sup>11</sup> CENTRE DE RECHERCHE, DE REFLEXION, DE FORMATION ET D’ACTION SOCIALE (CERFAS), OBSERVATORY ON PUBLIC POLICIES AND ON INTERNATIONAL COOPERATION (Jun. 2012), *available at* [http://www.cerfashaiti.org/documents/CERFAS\\_Haiti\\_Observatory\\_English.pdf](http://www.cerfashaiti.org/documents/CERFAS_Haiti_Observatory_English.pdf).

<sup>12</sup> KÄLIN MEMORANDUM, *supra* note 6, at 2.

<sup>13</sup> KÄLIN MEMORANDUM, *supra* note 6, at 13.

<sup>14</sup> PROTECTION CLUSTER, HOUSING, LAND AND PROPERTY WORKING GROUP, ISSUE OF RENTERS IN THE POST-DISASTER SCENARIO 2 (2010) [hereinafter PROTECTION CLUSTER REPORT].

<sup>15</sup> The SPHERE Project is an initiative of a range of humanitarian agencies to improve the quality of humanitarian assistance and increase accountability for humanitarian actors. The SPHERE Handbook provides a set of common principles and universal minimum standards for humanitarian responses. *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](http://www.sphereproject.org/component/option,com_docman/task,cat_view/gid,70/Itemid,203).

<sup>16</sup> Thirty-four percent of surveyed displaced persons stated that they had been victims of a forced eviction. IOM CCM, CAMP COORDINATION CAMP MANAGEMENT CLUSTER: DISPLACEMENT TRACKING MATRIX 11 (Mar. 16, 2011), *available at* [http://www.eshelter-cccmhaiti.info/pdf/DTM\\_V2\\_Report\\_15\\_Mar\\_English%20\\_FINAL3.pdf](http://www.eshelter-cccmhaiti.info/pdf/DTM_V2_Report_15_Mar_English%20_FINAL3.pdf).

<sup>17</sup> Title is often unclear because a low percentage of land holdings were properly recorded before the earthquake, forgery is rampant, and documents are frequently altered in an attempt to validate land grabs and unlawful transfers perpetrated under the Duvalier dictatorship. Between 70-80% of alleged owners are not able to produce property records that would prove ownership to land. PROTECTION CLUSTER REPORT *supra* note 14, at 2.

<sup>18</sup> 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. *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 [---]* 21-26, 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->



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content/uploads/2011/03/Precautionary-Measures\_Final\_Redacted.pdf (Redacted) [hereinafter IACHR REQUEST FOR PRECAUTIONARY MEASURES].

<sup>19</sup> UN NEWS CENTRE, HAITI: UN HUMANITARIAN OFFICIAL CONCERNED ABOUT GROWING NUMBER OF FORCED EVICTIONS (Mar. 11, 2013), *available at* [http://www.un.org/apps/news/story.asp?NewsID=44343#.VvAGx\\_krKM8](http://www.un.org/apps/news/story.asp?NewsID=44343#.VvAGx_krKM8).

<sup>20</sup> STRUGGLING TO SURVIVE: SEXUAL EXPLOITATION OF DISPLACED WOMEN AND GIRLS IN PORT AU PRINCE, HAITI, *citing* Jennifer Campbell, Security in Haiti Improving, Studies Show, OTTAWA CITIZEN, (Nov. 16, 2011), *available at* <http://www.ottawacitizen.com/news/Security+Haiti+improving+studies+show/5>. Another study by a coalition of legal and women's groups conducted in January 2012 found that at least one member of 14% of all households displaced by the earthquake had been sexually assaulted. Sexual Violence in Haiti's IDP Camps: Results of a Household Survey *in* TECTONIC SHIFTS: HAITI SINCE THE EARTHQUAKE IN STERLING (2012).

<sup>21</sup> 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>.

<sup>22</sup> 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](http://ijdh.org/wordpress/wp-content/uploads/2011/01/Camp-Conditions_Final.pdf).

<sup>23</sup> INTERNATIONAL ORGANIZATION FOR MIGRATION, IOM SEEKS TO END DISPLACEMENT IN HAITI (Jun. 26, 2012), *available at* <http://www.iom.int/jahia/Jahia/media/press-briefing-notes/pbnAM/cache/offonce/lang/en?entryId=31923#>.

<sup>24</sup> HAITI CCCM/E-SHELTER CLUSTER, FACT SHEET (Oct. 2014) 1-2: [http://www.eshelter-cccmhaiti.info/2013/download/EN\\_Factsheet\\_October\\_2014\\_FINAL.pdf](http://www.eshelter-cccmhaiti.info/2013/download/EN_Factsheet_October_2014_FINAL.pdf).

<sup>25</sup> 15 MINUTES TO LEAVE, *supra* note 5, at 8. According to UN's Office for the Coordination of Humanitarian Affairs, most camps had no access to essential services including latrines and waste management. OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, HUMANITARIAN NEEDS OVERVIEW: MID-YEAR OVERVIEW 9 (Jul. 2014), *available at* [https://docs.unocha.org/sites/dms/CAP/HNO\\_2014\\_Haiti-July\\_2014\\_Update.pdf](https://docs.unocha.org/sites/dms/CAP/HNO_2014_Haiti-July_2014_Update.pdf).

<sup>26</sup> "Indeed, durable solutions to displacement — namely repairing, rebuilding or building housing — have accounted for less than 20% of the measures provided." 15 MINUTES TO LEAVE, *supra* note 5, at 15.

<sup>27</sup> AMNESTY INTERNATIONAL, "WITHOUT PAPERS, I AM NO ONE": STATELESS PEOPLE IN THE DOMINICAN REPUBLIC (Nov. 19, 2015) 40, *available at* <https://www.amnesty.org/en/documents/amr27/2755/2015/en/>.

<sup>28</sup> OFICINA NACIONAL DE ESTADISTICA, PRIMERA ENCUESTA NACIONAL DE INMIGRANTES EN LA REPÚBLICA DOMINICANA ENI-2012 INFORME GENERAL (Apr. 2013) 63, *available at* [http://media.onu.org.do/ONU\\_DO\\_web/596/sala\\_prensa\\_publicaciones/docs/0565341001372885891.pdf](http://media.onu.org.do/ONU_DO_web/596/sala_prensa_publicaciones/docs/0565341001372885891.pdf).

<sup>29</sup> REPORT GUSTAVO GALLON, REPORT OF THE INDEPENDENT EXPERT ON THE SITUATION OF HUMAN RIGHTS IN HAITI (Feb. 12 2016) 17, *available at* <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/024/42/PDF/G1602442.pdf?OpenElement>.

<sup>30</sup> 69,563 individuals have crossed the border into Haiti according to the International Organization for Migration's monitoring efforts. 42,404 Haitian respondents declared having returned spontaneously to Haiti. According to the notes, these statistics do not purport to represent all border crossings. INTERNATIONAL ORGANIZATION FOR MIGRATION, SITUATION REPORT (Feb. 19, 2016) 1, *available at* <https://drive.google.com/file/d/0Bz3BHCcmXrs-Tkd4UElwS0tCYmhyaTRGQ21hS0Iwb3huNEN3/view>.

<sup>31</sup> HAITI: RETURNEES/DEPORTEES, *supra* note 3.

<sup>32</sup> OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, OCHA HUMANITARIAN BULLETIN HAITI (Sept. 2015) 1, *available at* [https://www.humanitarianresponse.info/en/system/files/documents/files/ocha\\_haiti\\_humanitarian\\_bulletin\\_54\\_-\\_september\\_2015.pdf](https://www.humanitarianresponse.info/en/system/files/documents/files/ocha_haiti_humanitarian_bulletin_54_-_september_2015.pdf).

<sup>33</sup> OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, OCHA HUMANITARIAN BULLETIN HAITI (Nov. 2015) 2, *available at* [http://reliefweb.int/sites/reliefweb.int/files/resources/ocha\\_haiti\\_humanitarian\\_bulletin\\_56\\_-\\_november\\_2015.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/ocha_haiti_humanitarian_bulletin_56_-_november_2015.pdf).

<sup>34</sup> IESCR, Art 25.1

<sup>35</sup> 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

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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.”)

<sup>36</sup> 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’].

<sup>37</sup> *Id.* at ¶18.

<sup>38</sup> 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).

<sup>39</sup> 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](http://www.reliefweb.int/ocha_ol/pub/idp_gp/idp.html).

<sup>40</sup> 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.*

<sup>41</sup> 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](http://www.unhcr.org.ua/main.php?part_id=4&article_id=179).

<sup>42</sup> HAITI CONST. art. 22 (1987).

<sup>43</sup> HAITI CONST. art. 276-2 (1987).

<sup>44</sup> The Government of Haiti should be commended for its ratification of the ICESCR and is urged to submit its initial report to the Committee on Economic, Social and Cultural Rights for review.

<sup>45</sup> HAITI CONST. art. 36-3 (1987).

<sup>46</sup> An eviction order can be obtained in an *action petitoire* in a local court, though it is unclear whether these actions meet substantive and procedural due process standards, in particular, protect occupants from further displacement until adequate alternative solutions are identified.

<sup>47</sup> OXFAM AMERICA, HOUSING DELIVERY AND HOUSING FINANCE IN HAITI: OPERATIONALIZING THE NATIONAL HOUSING POLICY (2013) 10, available at <http://www.oxfamamerica.org/publications/haitihousing-research> [hereinafter OXFAM HOUSING DELIVERY AND HOUSING FINANCE].

<sup>48</sup> L’UNITÉ DE CONSTRUCTION DE LOGEMENTS ET DE BÂTIMENTS PUBLICS, POLITIQUE NATIONALE DU LOGEMENT ET DE L’HABITAT (PNLH) RESUME EXECUTIF (Oct. 2013) 4, available at <http://uclbp.gouv.ht/download/pnlh-resume-executif.pdf>.

<sup>49</sup> Order of the President, Rene Preval, (Apr. 21, 2010), available at <http://www.cirh.ht/sites/ihr/en/About%20Us/Pages/default.aspx>.

<sup>50</sup> “The IHRC lacked a consultation mechanism that would allow IDPs, the primary stakeholders in the [*Neighborhood Return and Housing Reconstruction Framework*, hereinafter, ‘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.” CAMP BENEDICTION ET AL., RIGHT TO HOUSING SUBMISSION TO THE UNITED NATIONS UNIVERSAL PERIODIC REVIEW (2011) 4, available at <http://ijdh.org/wordpress/wp-content/uploads/2011/03/Haiti-UPR-Housing-Report-Final-English.pdf>.

<sup>51</sup> See OXFAM HOUSING DELIVERY AND HOUSING FINANCE, *supra* note 47, at 19-23.

<sup>52</sup> 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.” Information Provided by the Government of Haiti to the United Nations Commission on Sustainable Development (April 1997) 7-25, available at <http://www.un.org/esa/agenda21/natinfo/countr/haiti/social.htm>.

<sup>53</sup> Although not a formal legal entity, international bodies including UN-HABITAT and UNDP supported the UCLBP in the formation of a national housing plan. OXFAM HOUSING DELIVERY AND HOUSING FINANCE, *supra* note

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41, at 13. *See also* L'UNITÉ DE CONSTRUCTION DE LOGEMENTS ET DE BÂTIMENTS PUBLICS, MISSION ET APPROCHE D'INTERVENTIONS, *available at* <http://uclbp.gouv.ht/pages/2-mission-et-approche-d-interventions.php>.

<sup>54</sup> “Haiti's private sector is not tackling urban redevelopment at scale or speed matching the national emergency, and will not do so without support and risk mitigation from the government.” OXFAM HOUSING DELIVERY AND HOUSING FINANCE, *supra* note 47, at 12.

<sup>55</sup> *Id.* at 10.

<sup>56</sup> HAITI ADVOCACY WORKING GROUP, FOOLING THE SUN, NOT FOOLING THE RAIN: HOUSING IN HAITI FIVE YEARS AFTER THE EARTHQUAKE CONFERENCE (2014), *videos available at* <http://www.haitihousingdc.org>. [hereinafter ‘FOOLING THE SUN’]

<sup>57</sup> GENDER ACTION, HAITI’S NATIONAL HOUSING POLICY: WILL IT WORK FOR WOMEN? ASSESSING THE WORLD BANK-FINANCED PLAN FOR HOUSING RECONSTRUCTION (Sept. 2012) 2, *available at* <http://www.genderaction.org/publications/haitihousing.pdf>.

<sup>58</sup> Noting that governmental neglect of housing for the country’s poorest long predated the earthquake, Haitian civil society organizations GARR, ITECA, SSID, Defenders of the Oppressed, and FRAKKA called for rights-based, community-driven, housing models that preserve the dignity and culture of the Haitian people while providing security, space, lighting, hurricane- and earthquake-proof infrastructure that is near to social amenities, schools and other services. FOOLING THE SUN, *supra* note 56.

<sup>59</sup> Of note, many camp residents considered camp relocation plans such as 16/6 tantamount to an eviction.

<sup>60</sup> The project was financed by the Haiti Reconstruction Fund and implemented by the Government, International Office of Migration (IOM), UN Development Program, UNOPS, and the International Labor Organization (ILO). HAITI RECONSTRUCTION FUND, \$30 MILLION RESERVED FOR PRESIDENT’S RECONSTRUCTION PROGRAM, *available at* <http://www.haitireconstructionfund.org/hrf/node/57>.

<sup>61</sup> In a survey of recipients of rental subsidies, only 51% continued to live in the same home after the program ended and, of these, 61% had not been able to continue paying their rent. *See* INSTITUTE FOR JUSTICE AND DEMOCRACY IN HAITI, SUMMARY OF FINDINGS IN LONG-TERM ASSESSMENT OF HAITIAN GOVERNMENT’S 16/6 HOUSING PLAN FOR EARTHQUAKE VICTIMS (Jan. 6, 2014), *available at* <http://www.ijdh.org/wp-content/uploads/2014/01/Haitis-Housing-Crisis-Jan-2014-fact-sheet.pdf>.

<sup>62</sup> COMITÉ DE COORDINATION DS ONGS, OPERATIONALIZING THE NATIONAL HOUSING POLICY (Jun. 2013) 1, *available at* [http://www.ccoayiti.org/IMG/pdf/position\\_paper\\_operationalizing\\_the\\_pnl\\_june\\_2013.pdf](http://www.ccoayiti.org/IMG/pdf/position_paper_operationalizing_the_pnl_june_2013.pdf).

<sup>63</sup> L'UNITÉ DE CONSTRUCTION DE LOGEMENTS ET DE BÂTIMENTS PUBLICS, *available at* <http://www.uclbp.gouv.ht/pages/58-logement.php>.

<sup>64</sup> 15 MINUTES TO LEAVE, *supra* note 5, at 19.

<sup>65</sup> HAITI LIBRE, HAITI-RECONSTRUCTION: THE FAES DISTRIBUTES THIRTY HOUSES IN ZORANJE (Aug. 8 2012), *available at* <http://www.haitilibre.com/en/news-6502-haiti-reconstruction-the-faes-distributes-thirty-houses-in-zoranje.html>.

<sup>66</sup> HAITI GRASSROOTS WATCH, QUESTIONS ABOUT THE RECONSTRUCTIONS’ HOUSING PROJECTS (Jan. 8, 2014), *available at* <http://haitigrassrootswatch.squarespace.com/haiti-grassroots-watch-engli/2014/1/8/questions-about-the-reconstructions-housing-projects.html>.

<sup>67</sup> Milfort Milo with Haiti Grassroots Watch/Ayiti Kale Je, FOOLING THE SUN, *supra* note 56.

<sup>68</sup> In separate presentations by ITECA, GARR, Defenders of the Oppressed at FOOLING THE SUN, *supra* note 56, Haitian civil society organizations argued their housing models are more suited for the country, use locally sourced materials, community labor, and Haitian construction expertise, as well as involve community consultation and full participation of displaced persons throughout design and construction phase.

<sup>69</sup> THE WORLD BANK, REHABILITATING NEIGHBORHOODS AND PROVIDING SAFE HOUSING FOR DISPLACED PEOPLE FROM THE HAITI EARTHQUAKE (Nov. 25, 2013), *available at* <http://www.worldbank.org/en/results/2013/11/25/rehabilitating-neighborhoods-and-providing-safe-housing-for-displaced-people-from-the-haiti-earthquake>.

<sup>70</sup> MINISTÈRE DES TRAVAUX PUBLICS, TRANSPORTS ET COMMUNICATIONS, CODE NATIONAL DU BÂTIMENT D’HAÏTI (2012), *available at* [http://www.mtpc.gouv.ht/media/upload/doc/publications/CNBH\\_fusion.pdf](http://www.mtpc.gouv.ht/media/upload/doc/publications/CNBH_fusion.pdf).

<sup>71</sup> For example, the unplanned settlement collectively known as Canaan is home to an estimated 150,000-200,000 people who took up residence after the area including 8.8 square miles of land was declared a public utility by the Government post-earthquake. Residents have spent an estimated \$100 million to invest and build their homes, all without urban planning and unaccording to code. U.S. NEWS & WORLD REPORT, THE PROMISED LAND: 5 YEARS LATER, HAITIANS FIND HOPE IN CANAAN (Jan. 12, 2015), *available at*

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<http://www.usnews.com/news/articles/2015/01/12/5-years-later-haitians-find-hope-in-canaan-after-the-2010-earthquake>.

<sup>72</sup> See HAITI: RETURNEES/DEPORTEES, *supra* note 3.

<sup>73</sup> LE NOUVELLISTE, L'ÉLIMINATION DES CAMPS DE RÉFUGIÉS À ANSE-À-PITRE SE CONCRÉTISE (Feb. 16, 2016), available at <http://lenouvelliste.com/lenouvelliste/article/155515/Lelimination-des-camps-de-refugies-a-Anse-a-Pitre-se-concretise>.

<sup>74</sup> Observations of Haitian Civil Society delegation visit to Anse-à-Pitres border camps, February 18-19, 2016.