

HAITI LAND DISPUTE COUNTRY CONDITIONS

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1. **International Crisis Group, Haiti 2009: Stability at Risk (Mar. 3, 2009),**
<http://www.refworld.org/cgi-bin/tehis/vtx/rwmain?page=search&docid=49ae38d62&skip=0&query=land%20insecurity%20&coi=HTI>.

Haiti's land tenure records are poorly organised and mostly unreliable. Disputes are not uncommon, particularly in the Artibonite, the largest rice-producing department. Governments have not given the issue the attention it deserves. Crisis Group interview, political party representative from Gonaïves, Port-au-Prince, 17 October 2008.

2. **U.S. Agency of Int'l Dev., Land Tenure and Property Rights in Haiti (Jan. 2010),**
http://pdf.usaid.gov/pdf_docs/PA00J75K.pdf.

The January 12, 2010, earthquake in Haiti killed an estimated 200,000 people in Port-au-Prince metropolitan area and neighboring zones. As a result of extensive devastation, hundreds of thousands are homeless. The government has announced plans to relocate 400,000 people to camps outside the city.¹ Recent accounts of people fighting over scarce tents² and other forms of shelter foreshadows possible conflicts over land that may arise as the focus shifts from immediate emergencies to long-term relief and recovery. Thousands of residents of Port-au-Prince heading for other cities, seeking undeveloped land in rural areas, or returning to land held by relatives, will increase pressure upon and the potential for conflict over land. An Office of Coordination for Humanitarian Assistance (OCHA) situation map for population movement out of Port-au-Prince (January 24, 2010) indicates areas into which large numbers of people are moving (see below).

Land tenure and property rights issues will increasingly come to the fore as the Haitian government and aid organizations attempt to relocate people onto undeveloped land.

Beyond the immediate acquisition of land for emergency resettlement, the government and donors will need to address land tenure conflict and property rights as large swaths of Port-au-Prince are cleared of rubble and the planning and reconstruction process gets under way and people attempt to return and reclaim their parcels. New and old property claims are up for grabs, land documents related to both urban and rural areas have disappeared under the rubble, and the process of asserting control over land in both earthquake-affected areas and areas into which IDPs are relocating is already underway.

Haiti does not have an effective national cadastre and lacks a comprehensive, functional system for recording land ownership. Prior to the earthquake, customary arrangements and knowledge characterized the tenure of Haiti with only 40% of landowners possessing

documentation such as a legal title or transaction receipt. Registration was more common in Port-au-Prince and other rural areas. Some areas of highly productive land, such as the irrigated zones of the Artibonite Valley and Gonaives Plains, created local cadastres, but they have not been maintained and records are not current. In Haiti, the Direction Generale des Impôts (DGI) has been responsible for maintaining and updating registration records. However, the veracity and accuracy of land records is suspect, and there is widespread distrust of government institutions, including those responsible for documenting, maintaining, and upholding land claims. The current status of documents related to land ownership is unknown. However, the DGI building has been severely damaged, and the current status of land records or efforts to secure them is unknown. Many advocate as a priority the recovery and protection of land records held at the DGI.

POST-EARTHQUAKE RECOVERY, LAND TENURE, AND PROPERTY RIGHTS

A number of issues related to land and other property are already evident, particularly in Port-au-Prince. Massive numbers of people have moved or are being resettled to undeveloped land. The status of prior claims on these lands is not always clear. Temporary homes are springing up amidst the debris of destroyed buildings; it is unclear whether these new structures belong to the original claimants of the land or have been built by new occupants. The massive demolition and removal of debris and recoverable materials also raises the question of ownership claims over the rubble. The potential re-use and resale value of materials (i.e., sheet metal, iron, wood, usable bricks) is likely to be enormous; how will claims to such materials be managed and by whom? . . .

The return of urban people to the countryside may lead to severe land conflicts. Urban returnees will seek land from relatives to settle and farm. As much rural land is owned by those who migrated to cities and the United States, the sudden return of urban dwellers will exacerbate an already complex land tenure situation. Latent tenure conflicts related to contentious inheritance claims may suddenly resurface as prime lands become at once more valuable but also more scarce. As in urban municipalities, the earthquake crisis may open up an opportunity to respond actively to the land tenure ambiguities of rural areas.

Provision of loans to individuals will be essential for reconstruction. However, high interest rates (approximately 33%) and the widespread lack of documentation for proof of ownership may limit the willingness of banks to provide credit and people's ability to acquire it. Given the limited extent of formal titling and concerns regarding the accuracy of existing records, those without formal documentation risk loss of their land or property. Government and aid organizations may not readily extend loans and other reconstruction assistance to those unable to document their claims, further marginalizing those informal settlements or claiming land under customary arrangements.⁶ Relief organizations, donors, and the government should establish a plan and procedures for documenting, registering, and adjudicating both formal and informal property claims. This will provide the basis for compensation and reconstruction aid. Community legal assistance will be an important service to guide people through any claims process. The return of urban people to the countryside presently underway increases pressures on rural land use and may generate severe land conflicts. Urban returnees will seek land from relatives for house

construction and agricultural use. There will also be intense pressures on absentee landholdings, including land owned by those who have emigrated to urban areas and abroad. Latent tenure conflicts related to competing inheritance claims will undoubtedly resurface as prime lands become at once more valuable but also more scarce. As in urban municipalities, the earthquake crisis may require rapid response to increased land tenure conflict in Haiti's smaller cities and rural areas.

3. **Disputes Over Land Stall Haiti's Recovery, NewsOne (2010)**

<https://newsone.com/589405/disputes-over-land-stall-haitis-recovery/>.

But this real estate is earmarked for building a new Haiti. Villase had walked into one of the fights over land, rooted in Haiti's history of slavery, occupation and upheaval, that have bedeviled recovery in the six months since the earthquake leveled much of the capital and killed as many as 300,000 people. . . .

"This is where they're sending everyone to live. That's why we're building our tent here," he said.

Who "sent" them? No one can say. But the landowners suspect the government is populating the land with squatters, so it can be taken for the "new Haiti" at a minimum price — or for nothing.

Land ownership has been a sensitive issue since Haiti's 1804 slave revolt, when it was wrested from French planters and distributed among the people, only to fall back under the ownership of a few powerful families — the "grands-hommes" (big men) in Haitian parlance.

The land registry hasn't been updated for decades, and many of the records that did exist were lost in the earthquake.

People who claim to be the landowners say it's worth \$50,000 a hectare (\$20,000 an acre).

"My fair price is a negotiation between the market price and the price the owner declared to the income tax," Voltaire said. "And it's always very low."

Bellerive said landowners will be compensated, but that housing the homeless takes priority.

"If we take the time to resolve it one by one, the people are going to stay on the streets," he said.

He could have a strong ally — Clinton, who has said he'll plunge into the bargaining himself, if necessary.

"I'm not above doing that," Clinton told The Associated Press on a recent visit. "I've been known to make a deal or two in my life."

The landowners say if they're not compensated, the "new Haiti" in Corail-Cesselesse will end up making the violent slums of pre-quake Port-au-Prince look tame. They say if anyone builds there without their consent, they will sue to get the land back. Landowner Jean-Claude Theodore calls the squatters invaders who are attacking private property.

Voltaire has his own response to threats of lawsuits or worse — a government backed by U.N. peacekeepers, the international community and his blueprint.

"What do I say to them?" he said with a smile. "I say, 'Checkmate.'"

Every squatter seems to have had an encounter with gangsters they believe are sent by landowners.

Sadrak Abane, 60, said they beat him with a rifle. He refused to go.

"Any time we pick a spot to build a place there's always the 'grands-hommes' claiming the land is theirs," said Wisner Jerome, 37.

But they believe they have government behind them.

"Don't forget! Don't forget! Don't forget!" said Daniel Paul, a 35-year-old member of a squatters' committee. "The state has declared it is public land. Nobody can go above the state."

It didn't work that way for Menmen Villase. Stripped of tarp and land, she and the children fled to a crumbling concrete cabin in a remote corner of Corail.

4. **Anastasia Moloney, *Unclear land rights hinder Haiti's reconstruction*, ReliefWeb (July 5, 2010)**
<http://reliefweb.int/report/haiti/unclear-land-rights-hinder-haitis-reconstruction>.

Disputes over land ownership, which could take years to resolve, are hampering the rebuilding of Haiti after a devastating earthquake in January and deterring much-needed foreign investment, experts say.

Haiti's government and international aid agencies are racing to build new homes for the one and a half million survivors still living in makeshift camps. But before they can even start, they need to determine who owns what piece of land - a major challenge after the earthquake killed some 16,000 civil servants and destroyed an untold number of title deeds and land registry records.

"The disaster has exacerbated land tenure claims and we will see many more. With around 250,000 people dead, inheritance and sale of land after the earthquake raises all sorts of questions: is the property owner dead? are there children entitled to land?" said Erik

Vittrup, senior officer with the United Nations Human Settlements Programme (UN-HABITAT) based in Rio de Janeiro.

Aid agencies say disputes between landowners and homeless survivors squatting in damaged homes or on private land, school and hospital sites are set to rise, as are forced evictions of squatters. They also fear that the lack of clarity about land ownership opens the door for land grabbing, which was already rampant in the capital's slums before the earthquake hit.

"Land grabbing was something you saw on day one after the earthquake. Some people are returning to their homes only to find that they can't get back into their house because it is being occupied by someone else," Vittrup said.

ZERO PROTECTION

The earthquake has exposed the long-standing problem of ill-defined land rights in Haiti, a result of an inefficient judiciary, years of political instability and a weak government unable to enforce land titles and protect property owners.

"The lack of governance makes the enforcement of land rights very difficult, and legal protection is close to zero," said Vittrup, adding that Haiti's clogged law courts take on average five years to resolve a case.

Less than 5 percent of Haiti's land is officially accounted for in public land records, according to the United Nations, compounding the difficulty in establishing who owns what land.

Even before the earthquake, land ownership was a thorny issue in Haiti, contributing to violence and poverty in a country where land is concentrated in the hands of a few big landowners, known as grandons.

Few Haitians own land titles and there is no proper land registry system, with most land titles passed down orally from one generation to the next.

"With the prevalence of the informal land tenure as well as the contradictory laws and the weak institutions of enforcement, land tenure security is not established," according to a UN-HABITAT report published shortly after the earthquake.

- 5. Options for Land Tenure Dispute Management in Rural Haiti, Earth Institute at Columbia University (May 9, 2012),**
<http://ac4.ei.columbia.edu/files/2011/10/Options-for-Land-Tenure-Dispute-Management-in-Rural-Haiti.pdf>

The main cause of land conflict in the South relates to systemic flaws in the documentation of land titles, especially given that verbal contracts are not reinforced by official documents. Further, the formal documentation system is not utilized for two main reasons: i) people

do not perceive the legal system to be convenient, effective, or essential when dealing with family or community members (i.e. they do not 'value' it); and ii) people lack the means to pay for legal services.

The systemic flaws in documentation are especially acute with regard to land inheritance.

Inheritance customs require that owners divide land amongst their children after their death; this division is generally accomplished through verbal agreements, thus official land ownership remains ambiguous. Conflict often arises when one family member decides to sell land without the consensus of the others. This is more likely to happen when heirs have moved away from the family property, thus no longer having direct control over their designated plot²⁴. Once land value starts increasing, children that have moved away may return to their family land, increasing the likelihood of conflict^{25 26 27 28}. Similarly, in the aftermath of the 2010 earthquake, some community members reported a surge in conflicts due to emigration from urban areas²⁹.

Unofficial documentation of land ownership impacts not only family land transactions, but also causes disputes over purchased land. People who sell portions of their land often keep the original title deed to the property in its entirety^{30 31}. If a transaction was not registered through a notary and surveyor, the buyer does not legally possess any rights to the purchased land. Even if the buyer obtains a "declaration of sale", they often do not legalize it due to high notary fees³².

Additionally, people may buy land without realizing that the sellers lack the proper documents³³. This is facilitated by the ease of accessing false documents and by "blind buying". The practice of "blind buying" refers to occasions when buyers pay for the land before they see and measure it; this typically happens in situations where questioning the word of a neighbor is considered impolite. Meanwhile, the same notaries who produce legal documents may produce false ones, although they are approximately twice as expensive^{34 35}. Cases where two people with official documents claimed the same plot of land were commonly reported in the Côte Sud³⁶. Conflicts also arose when the land that the buyer purchased either did not exist or was smaller than initially agreed upon³⁷.

Other reported sources of conflict include sharecropping arrangements, eminent domain and conflicts over natural resources. In regards to sharecropping, conflict can occur when a sharecropper eats part of the harvest before splitting it with the owner³⁸.

Eminent domain, according to Haitian law, can only be used to acquire private land for public use as "state public land", but this may not always be the case^{39 40}. In addition, conflict over the legal use of eminent domain can also occur, as is reported in the village of Randel where the church is suing the state over the expropriation of land for Park Macaya⁴¹. Conflicts over trees on private land are also common, especially in mountainous rural areas where owners of big portions of the land reside far away. Since no one manages the land regularly, local farmers cut down trees and then profit from the sale of charcoal these trees produce ^{42 43}.

Conflict Escalating to Violence

Recently there was a violent confrontation in the coastal zone, 3ème section, when a family member who sold land to another man in the same family - his cousin. During the transaction, the seller's brother argued that the seller had sold more land than he was entitled to. The brother that was unhappy with the sale of the land attacked his cousin who was working on the land he had bought. The cousin who was attacked wrote the landowner to evict the brother. When the father went to talk to his son, the son had a machete, and injured his father's arm. When they went to the Tribunal, the judge ruled that the brother had not intended to injure his father because if he had, the injury would have been much more severe.

Emilie Rose Marie, Adjunct Mayor, Les Anglais

Interviewees indicated that there is more conflict on private land than state land. Conflicts on private land are also more violent, especially in mountainous areas, due to weak law enforcement^{44 45}. On state land most disputes are between official state lessors and unofficial lessees⁴⁶. The official state lessor pays DGI a fixed amount of 500 gourdes per year to rent state land. Often the lessor sublets this land to another person through a verbal agreement⁴⁷. The most common type of conflict arises when the official state lessors increase the price for the sublease, which can be as much as four times higher than the price the lessor pays to DGI⁴⁸.

6. ***Haiti's road to reconstruction blocked by land tenure disputes***, REUTERS (Jan. 26, 2013), <http://www.reuters.com/article/us-haiti-land-idUSBRE90P0BM20130126>.

Instead, the unfinished road has become a symbol of how efforts to improve Haiti's infrastructure, especially after the devastating 2010 earthquake that killed more than 200,000 people, have run up against the country's land laws.

A practically non-existent land registry, fraudulent land titles, unclear processes for land transfer, and a tangle of bureaucracy have halted the road project and similar major international investments.

Haiti's land laws have delayed completion of a Spanish-funded water treatment facility on the outskirts of the capital Port-au-Prince and prevented the start of construction on a \$26 million public hospital in the city of Gonaives.

The Vatican has shied away from building and re-building churches in this strongly Catholic country, and the U.S. Agency for International Development (USAID) decided to build permanent houses in the far north of Haiti rather than the more legally challenging capital, where most of the earthquake damage occurred. . . .

OAS has said its work was hindered when it ran into occupied parcels of land whose ownership was unclear and residents who had not been paid to vacate.

"The process of expropriation took much longer than anticipated," said Gilles Damais, chief of operations for the IADB in Haiti. "One person would receive payment one week, and the following week someone else would come and say, 'No, he's not the owner, another person owns this land.'"

Behind schedule and over budget, OAS stopped work in July and filed a claim against the state for more than \$40 million. When the Haitian government countered with a \$2.7 million claim of its own, both sides dropped their demands in what one state official called "a gentleman's agreement." The OAS contract was formally terminated in December.

News of the abandoned road project disheartened and angered residents of the underdeveloped Grand'Anse area, but nowhere was there greater desolation than in Jérémie, a quaint 'City of Poets' on the tip of Haiti's southern peninsula.

Violent demonstrations rattled the normally quiet city for several days; tires were burned, cars destroyed, and at least one resident was killed. To mitigate the situation, the government promised that another company would take over work by mid-January, but with the project still dormant the people of Jérémie renewed their protests last week.

Government officials have said that it will soon be announced that Dominican construction company Estrella will take over the project. . . .

Haiti's land registry problems can be traced back to its independence in 1804 and revolutionary leader Jean-Jacques Dessalines' push for land reform.

The transfer of a land title involves surveyors, notaries, and the central tax authority. To avoid the expense and bureaucracy, many property owners use informal methods to transfer land making it difficult, if not impossible, to determine a rightful owner.

Title holders may deposit a copy with ONACA, the National Land Registry Office, but they are not obligated to do so.

"The ONACA office is an unwanted child," said its director, Williams Allonce. Since its creation in 1984, the chronically under-funded office has only managed to register 5 percent of Haiti's more than 10,700 square miles.

A second agency, the Inter-Ministerial Committee for Land Planning, is also working on a national registry, and the public works ministry has its own internal commission for land title and expropriation management.

After the earthquake, state and foreign agencies were eager to start rebuilding, but identifying landowners in the midst of chaos was often impossible so relief agencies had to find legal workarounds.

"Literally, no one had the answer for how you buy and sell property in Haiti," said Elizabeth Blake, a vice president at Habitat for Humanity International.

Eighteen months after the earthquake, Blake initiated the Haiti Property Law Working Group. Representatives from foreign and state agencies volunteered to help demystify laws and procedures for purchasing, selling, and formalizing land rights. At the end of 2012, an official how-to guide was published in French, Haiti's national language, and English.

"It's an extremely complex problem, and it could put the brakes on reconstruction if we don't find a way around it," said Alfred Piard, Haiti's director of public works.

On a visit to Haiti in January, former U.S. President Bill Clinton said ownership and tenure security issues had to be addressed if reconstruction was to move forward.

"What I'd like to see done is a renewed emphasis this year on the part of the government in clarifying the land laws ... and doing other things that will basically cut down on the delay and the cost in starting businesses and starting investments," Clinton told Reuters.

Gary Jean, an engineer at the public works ministry, said the state had learned an expensive lesson with the OAS road fiasco. Next time, Jean said, all land must be surveyed, accounted for and expropriated before work begins.

7. **United Nations, *A land conflict in Artibonite mobilizes the humanitarian community*, MINUSTAH (Jan. 13, 2014), <https://minustah.unmissions.org/land-conflict-artibonite-mobilizes-humanitarian-communityartiboniteconflit-terrien-les-humanitaires>**

Nearly 432 families were displaced in late 2013 following a land dispute between the towns of La Couture and Grand Bérard in the first communal section of Dessalines (Artibonite). In order to meet their basic needs, the affected families received food kits at the start of December. ...

Between October 25th and November 2nd, the people of La Couture and Grand Bérard clashed – employing gunfire. Four acres of land are the basis of the conflict. The toll has been heavy: 257 houses were burnt, nearly 300 families were displaced and 70 houses were vandalized or looted. "Following evaluations, we pleaded with humanitarian players to assist needy families," said Ms. Boukary. . . .

Commitments have been made to boost police patrols and, ultimately, the officers of the Direction départementale de la réforme agraire de l' Artibonite (the Departmental Directorate of Agrarian Reform in Artibonite) will carry-out the harvesting of rice on the disputed land.

Land conflicts are common in the Lower Artibonite – and despite the efforts of the constitutional authorities, problems persist.

8. **U.S. Dep't of State, Haiti 2013 Human Rights Report (2014),**
<https://www.state.gov/j/drl/rls/hrrpt/2013/wha/220451.htm>.

In May Mirebailais Justice of the Peace for Saut d'Eau Sauter Floris accused three journalists working for Radio Rezistans FM – Simon Lionel, Israel Roger Claudy, and Rabeau Louis – of defamation for their reporting on a land dispute issue involving Floris. Floris and his lawyers summoned the journalists to demand a public apology, which the journalists refused to provide. Following the incident, the Association of Mirebailais Journalists denounced the official's behavior. . . .

Data on forced evictions from the reports of international organizations working with IDPs suggested that through September, approximately 4.3 percent of IDPs (4,908 persons) leaving camps during the year were forcibly evicted.

As of September IOM reported 75 percent of remaining IDP camps occupied privately owned land and that landowners, in some cases, acted on their own initiative to forcibly evict IDPs. In several instances, private landowners initiated the illegal forced eviction of IDP camp residents, at times with the participation of local government officials and HNP officers. In April an Amnesty International report concluded that municipal and law enforcement officials often exceeded their authority in forcibly evicting IDP residents from private land. According to the report, the law specifies a complex and time-consuming procedure to initiate a forcible eviction. MINUSTAH sources indicated that since 2010 not a single forced eviction proceeding had been filed in court.

In late April, Minister Delegate Auguste issued a statement questioning the Amnesty International report and claiming that the government was doing all it could to ensure the dignity and protection of the IDP population, specifically through its 16/6 program. Local and international human rights and humanitarian groups noted that the government failed to respond adequately to illegal forced evictions facilitated by public officials and law enforcement during the year.

In April the HNP responded to disturbances triggered by an attempted forced eviction at the Accra IDP camp, allegedly situated on property belonging to Jean Claude Duvalier's lawyer Reynold George. One person died in the violence (see section 1.a.).

In June authorities forcibly evicted approximately 150 families from the Bristou IDP camp in Peguy-Ville. According to witnesses, in April the presumed landowner, Julius Dufresne – a close friend and business partner of President Martelly – threatened the residents and ordered them to leave. Returning on June 4 with other civilians, three HNP vehicles with 14 officers, and Mario Brutus (the husband of the Martelly-appointed mayor of Petionville), Dufresne proceeded with the eviction, which lasted until the next morning and resulted in a tractor destroying 12 IDP tents. According to the reports of UNPOL officers present at the scene, the camp inhabitants fought back, and the HNP arrested 11 persons. The next day, Dufresne and Brutus returned with the same 14 HNP officers, a

tractor, and a garbage truck and destroyed remaining tents and effects. Part of the Bristou property allegedly rested on the site of a government-planned sports park. Government officials similarly noted that many HNP officers participating in forced evictions were likely being paid by municipal council members or private landowners, and were not operating under HNP authority when engaged in these activities. After the Bristou incident, Minister Delegate Auguste contacted both the Secretary of State of Public Security Reginald Delva and the prime minister to demand an investigation and to urge dialogue to prevent further incidents.

9. **Jacob Kushner, *Five Years After the Earthquake, Haiti Remains on Unsteady Ground*, Pulitzer Center (Jan. 12, 2015), <http://pulitzercenter.org/reporting/five-years-after-earthquake-haiti-remains-unsteady-ground>**

Land conflicts continue to plague nearly every sector and threaten to stall progress for years. Little of Haiti's land is officially registered with the government land office, and it's not uncommon to find a half-dozen people with claims to the same plot of land.

This creates major obstacles to attracting local and foreign investment in tourism and other industries requiring land. According to the constitution, Haiti's government can't sell land to foreigners without parliamentary approval. It can only lease it for a term of up to 50 years. For some investors, this isn't a problem: Though they'll never profit from the value of the land, they have half a century to profit from whatever they build on top of it.

But families who depend on land for subsistence farming and shelter are in a much more precarious position. When the earthquake displaced 1.5 million people, many found permanent or semi-permanent housing. But more than 80,000 remain officially displaced.

And if the state decides to expropriate private land, residents may be left homeless still.

Today, thousands of earthquake victims live under tarps north of Port-au-Prince on land that the Haitian government claims as its own but that may in fact still belong to a private landowner.

The government claims to have obtained this land years ago from a private landowner, but reports later indicated the landowner was never paid. If true, the deal may be void, and the landowner may yet have the right to reclaim his land from the families living there.

Already for those families, daily life remains much as it was in the chaotic days after the earthquake.

"We don't have water, we don't have electricity. We don't have anything," said Augustin Mona, who advocates for a group of families who moved to an area called Canaan after their losing their homes in the quake. Only "when we can have land can we stabilize ourselves."

Paul Christian Namphy, a government water engineer who studied this particular case, explains how on two different occasions this group of families was forced off of the land on which they were squatting, once by a government official, another time by a wealthy landowner. The second time, “brute violence was used. There were people who suffered serious injuries,” says Namphy.

He says conflicts like this one over land are the result of a deeply unjust political system in Haiti, especially when it comes to choosing government officials like the ones behind the evictions of those families.

“What they created is a free-for-all where criteria of privilege, of favoritism, of nepotism fills in,” Namphy says. “Whoever has the power decides who gets to be mayor and all the privileges that come with it.”

**10. Jacob Kushner, *Who Owns What In Haiti?*, THE NEW YORKER (Jan. 18, 2015)
<http://www.newyorker.com/business/currency/owns-haiti>.**

Haiti’s tourism ministry contends that in November, 1971, the state renegotiated the agreement, reducing the term of the lease to twenty-five years and reducing the amount of land that it covered. This version of the agreement was ratified by decree of the new President, Jean-Claude (Baby Doc) Duvalier. A year later, the Haitian government accused Pierson’s company of breach of contract, and a court in Port-au-Prince ordered the cancellation of the updated lease. The company’s appeal proved unsuccessful, and, in 1974, Haiti’s Supreme Court upheld the earlier rulings in favor of the Haitian state. Don Pierson contested the legitimacy of these decisions, but his attempts to involve the United States government did not resolve the dispute in his favor. (The 1987 and 2012 Haitian constitutions also establish that all coastal lands belong to the State.)

Similar uncertainty over land ownership has played out across Haiti as the country attempts to attract foreign investment in tourism, mining, manufacturing, and agriculture—often without clear knowledge of who, precisely, owns what. The country’s present difficulties with land ownership are a function not only of its twentieth-century dictators but of Haiti’s history as a former slave colony. After achieving independence, in 1804, former slaves discovered that the land they had taken from their owners would not be theirs to keep. The country’s revolutionary leaders, Jean-Jacques Dessalines and Toussaint Louverture, thought it best for land to be held in large swathes, by the state. “Having survived the brutality of the slave system and then the violence of the revolution, the ex-slaves strongly believed that the land should be theirs; land ownership would give freedom its full and true meaning,” the historian Laurent Dubois writes in “Haiti: The Aftershocks of History.” But the early debates over who would control Haitian territory “revolved only around the question of which group of elites would profit from Haiti’s new order—not what that order would look like.”

“Now there is a fight between the Haitian bourgeoisie and peasants who want to control the land,” the Haitian sociologist Bernard Etheart told me. The tension played out over the

past two centuries with governments often bequeathing parcels of land to various groups, only sometimes to take them back later, subsequent disputes over territory, and little regard for formal title throughout. Peasants in rural Haiti generally worked the land under an informal system of tenancy, in which they established de-facto ownership over small plots of land, then joined their plots with their neighbors', usually members of their extended families, and farmed the land collectively. The land would typically remain under the name of just one family member—but no records of these arrangements were provided to the state.

Many people have sometimes claimed to own the same parcel of land, while other plots of land had no identifiable owner. Cases in which title could be established are rare (though Etheart traced one going back to Spanish colonial times). A 1997 study, conducted by the U.N. Food and Agriculture Organization and Haiti's agriculture ministry, estimated that ninety-five per cent of all land sales in rural Haiti had been conducted without going through legal formalities.

In the wake of the massive earthquake that struck on January 12, 2010, resolving long-standing land-ownership issues has been a low priority for Haiti's leaders, even as they regard tourism, mining, and other industries affected by questions of title as crucial to the island's economic development. France is helping to fund Haiti's land-management office, but the Haitian government hasn't allocated the resources it would take to create a national cadastre (a survey of the country's land). Joab Thelot, a coordinator for the National Office of the Cadastre, says that it wouldn't take much—just three million dollars a year—to pay the salaries of trained surveyors and buy the vehicles they would need to get around. In recent years, though, Haiti's parliament has allocated his office just a third that amount.

11. Jacob Kushner, Paradise is Overbooked, Foreign Policy (Apr. 15, 2015)

<http://foreignpolicy.com/2015/04/15/paradise-overbooked-haiti-land-earthquake-tourism/>

But just two years after it began, the project has stalled. As of March, not one of the 2,500 hotel rooms anticipated by Haiti's government has appeared. The stoppage is not for lack of commitment from Port-au-Prince: Haiti's annual investment in travel and tourism is estimated to have jumped from 4.3 percent of the national budget in 2013 to 6 percent last year, according to the World Travel and Tourism Council. Rather, the Île-à-Vache project has been stymied by conflict between the government and local residents over ownership of the island's land.

Haiti has a complex, bureaucratic land registry, as well as weak rule of law. It is very difficult for Haitians to prove a viable land title or get due process if their land is seized. On Île-à-Vache, Mesura and his wife are among the many residents who saw their property — land that they thought they owned — expropriated by the state in the initial phase of the development project. Frustrated that they weren't being consulted about the seizures or about the tourism plans in general, residents sought to disrupt the project through a series of protests in December 2013. Since the conflicts over land erupted, private

developers seem hesitant to break ground on the island, according to the mayor and one interested businessman.

The land-ownership issues on Île-à-Vache are not unique. Across Haiti, title conflicts keep poor families from finding a place to live and grow crops, and sometimes even prevent wealthy ones from opening businesses that would boost the country's dismal economy. "The problem is security of tenure," says Leslie Voltaire, an architect and urban planner who served under former President René Préval. Speaking from the perspective of hypothetical developers, he asked: "How do I know that if I build on this land nobody will come and put me out?"

The roots of Haiti's land problems can be traced back centuries. Since Haiti gained independence in 1804, people have transferred land informally. Haitian law does not require landowners to register their titles with Haiti's National Land Registry office (ONACA); since its inception in the mid-1980s, the office reportedly has accounted for only 5 percent of the country's land. What's more, "many of the records that did exist were lost in the earthquake," the Associated Press reported after the catastrophe.

The result is that it's nearly impossible to determine who is the rightful owner of a given plot of land — a fact the state has used to its advantage. In 2011, for example, Haiti's government displaced some 360 families when it appropriated a large swath of farmland on the country's northern coast to make room for an industrial park near the village of Caracol. (The project was intended to create some 65,000 jobs, but as of January it had produced just 4,500, according to a report by ActionAid, an international development NGO.)

As with Caracol, Haiti's government is claiming land on Île-à-Vache in the name of economic development. The tourism project began in earnest in January 2013, when the government put out a call for private enterprises to develop the island. In addition to offering a 15-year tax holiday, the government sought to incentivize investment through a series of infrastructure upgrades, including a new \$13 million airport, renovations to the public market, and improved access to drinking water. In May of that year, the government published a decree proclaiming the island's land to be a public utility. Soon after the announcement, seizures began. . . .

A few months later, in March 2014, Tourism Minister Stéphanie Villedrouin stated that 100 families would be relocated and that they would all be compensated. KOPI alleges that throughout 2014, the construction of the airport alone caused hundreds of people to lose their farmland — and thus their livelihoods. As of December, dozens of those affected said they had not received compensation. (The legal office that corresponds with the press on behalf of the Ministry of Tourism did not respond to a request for comment.) As recently as February 2015, residents demonstrated against the Dominican construction company contracted to build the airport.

Joseph Lamy Matelen, 65, who says his son was arrested for protesting, conveyed anger that his own government would turn on him and his family. “For years we’ve paid the state to live here. We’ve paid our taxes to the DGE,” he said, referring to the national General Directorate of Taxes. “What good is it if tourists come to our hotels when we don’t have money to send our kids to school?”

With demonstrations continuing, Île-à-Vache’s future as a tourism destination remains in doubt. Jean-Patrick Lucien, co-founder of Île-à-Vache Development Group — an independent collection of potential developers that predated the government’s project — said in March, “We haven’t seen any signs of anyone making any construction.... The investors are not making the commitment that they said they were going to make. Maybe they’re realizing that the risk is too great.”

The hesitation by developers is easy to understand, says Robert Dietrich, part owner of the 12-year-old Abaka Bay Beach Resort and one of the few pre-existing stakeholders in Île-à-Vache’s tourism sector: “As an informed investor, I would not touch it because there’s no clear land entitlement.” In an open letter he wrote to President Michel Martelly last year, Dietrich mocked the administration’s popular slogan that Haiti is “Open for Business.” He questioned why any investor would have the confidence to invest on the island, given the uncertainty over land.

Lack of land security affects more than tourism investment, however, and extends well beyond Île-à-Vache. After U.N. Secretary-General Ban Ki-Moon made Bill Clinton special envoy to Haiti in 2009, the former U.S. president tried to persuade billionaire George Soros to invest in an industrial park outside of Port-au-Prince, at the site of a former sugar company owned by one of Haiti’s largest landowners, the Mevs family. “Soros said he was going to put \$25 million there,” a former Haitian government official said, speaking on condition of anonymity. “He sent ... three London lawyers to come here, and after one week they came back to Soros and said, ‘We don’t know how to deal with it.’ The lawyers said there is no way that you can have the land for sure.” (A representative from Soros Fund Management, a hedge fund founded by the billionaire, confirmed the anecdote.)

12. U.S. Dep’t of State, Haiti 2015 Human Rights Report (2016),
<https://www.state.gov/documents/organization/253233.pdf>.

There were several highly publicized reports that the government failed to provide proportionate and timely restitution or compensation for governmental confiscation of private property. The government’s program to reconstruct Port-au-Prince’s downtown area raised anger and dissatisfaction over the enforcement of eminent domain laws in the area. Many residents and business owners claimed they did not receive proper notice from government officials to vacate their property prior to demolition. The government asserted its right to exercise eminent domain and claimed all property owners would be compensated at some future date. Residents and business owners whose property was demolished in 2014 were required to submit their property titles to government-appointed

notaries to receive compensation. Despite fulfilling this requirement, a majority had not received compensation as of November.

A slowdown in construction abated tensions somewhat during the year over the implementation of an initiative to develop Ile-a-Vache, a sparsely populated island off the southern coast, for international tourism. During 2014 the project prompted outcries from islanders, who directed protests against the administration for taking private property and the potential environmental and economic damage associated with coconut tree removal and harbor dredging. Some compensation was provided during the year to residents whose homes were relocated as part of the project to enlarge the harbor. Remaining disputes over compensation for land taken involved those who had difficulty proving title to their land or were unsatisfied with potential payouts.

13. **Haiti 6 Years After the Quake – What’s Changed?, VOA News (Jan. 12, 2016)**
<http://www.voanews.com/a/haiti-six-years-after-the-quake/3142191.html>.

Even before the quake, land ownership and unclear land tenure was a thorny issue in Haiti, contributing to violence and poverty in a country where land is concentrated in the hands of a few big landowners. An incomplete national land registry system and unclear land tenure contributes to delays in the building of new homes.

14. **Justin Elliott & Laura Sullivan, *Red Cross Built Exactly 6 Homes For Haiti With Nearly Half a Billion Dollars in Donations*, HUFFINGTON POST (Jun. 30, 2016)**
http://www.huffingtonpost.com/2015/06/04/red-cross-haiti-report_n_7511080.html.

In statements, the Red Cross cited the challenges all groups have faced in post-quake Haiti, including the country’s dysfunctional land title system.

“Like many humanitarian organizations responding in Haiti, the American Red Cross met complications in relation to government coordination delays, disputes over land ownership, delays at Haitian customs, challenges finding qualified staff who were in short supply and high demand, and the cholera outbreak, among other challenges,” the charity said. . . .

But it took more than two and a half years, until August 2013, for the Red Cross just to sign an agreement with USAID on the program, and even that was for only one site. The program was ultimately canceled because of a land dispute.

A Government Accountability Office report attributed the severe delays to problems “in securing land title and because of turnover in Red Cross leadership” in its Haiti program.

Other groups also run into trouble with land titles and other issues. But they also ultimately built 9,000 homes compared to the Red Cross’ six.

Asked about the Red Cross' housing projects in Haiti, David Meltzer, the group's general counsel and chief international officer, said changing conditions forced changes in plans. "If we had said, 'All we're going to do is build new homes,' we'd still be looking for land," he said.

15. **Haiti Libre, *Haiti - Justice : National Forum on Land Security in Haiti* (Dec. 16, 2016),**
<https://landportal.info/news/2016/12/haiti-justice-national-forum-land-security-haiti>

For many years, the land issue has been the basis of many conflicts between individuals in the various jurisdictions of the country. By organizing these assizes on land security, the Ministry, intended to empower the various actors concerned in order to prevent and, where appropriate, suppress any attack on private property.

"I declare open the national National Forum on Land Security which aim to reflect freely on the land regime in Haiti," declared the Minister Édouard, stressing that "the consolidation of the rule of law passes irreversibly through the reform of land security [...] The policy of land security and land-use planning are two sides of the same coin."

While recalling that "less than 5% of land is officially recorded in public land registers" and the need for an effective response "The state must restore public confidence. Land security suffers from an inadequacy of an organized system of evidence, often rights are transmitted orally."

On the other hand, he strongly condemned "[...] any involvement of a State authority in land conflicts", deploring the fact that land conflicts and attacks on private property are neglected by Human Rights "Why the human rights sector does not pronounce on land insecurity in Haiti ? No Right is more important than another !"

16. **Brian Concannon, Jr. Expert Affidavit (Feb. 27, 2017)**
http://www.ijdh.org/wp-content/uploads/2009/12/Concannon_Declaration-Land-Conflicts_2-28.pdf.

The importance of land in Haiti means that a lot is riding on land conflicts. For poor families, it can be a matter of life and death, as even a little land can make the difference between a minimal diet and malnutrition, or mean the ability to buy life-saving medication. As a result, disputes over land can often be violent. The violence included killings, beatings, threats and destructions of houses and crops. The United Nations reported that a single conflict in the municipality of Dessalines in 2014 led to 257 houses burned, 70 looted, and 300 families displaced. All this over four acres of land. The death estimates from the 1987 Jean-Rabel Massacre run from 130 to 1000 killed. In the Piatre Massacre, eleven people were killed and 375 homes destroyed. Families are often central to land conflicts, with conflicts between or within extended families. Land conflict violence is inflicted on both women and men.

The Haitian Government Fails to Protect Against Violent Land Disputes

Haiti's law enforcement and justice systems do not effectively deter or control violence arising out of land conflicts. Haiti's civilian police force, the Police Nationale d'Haiti, ("PNH") is underfunded, underequipped and understaffed. The PNH concentrates its scarce resources in the cities, leaving the countryside, where most land-related violence happens, with little to no police presence.

But even in cities, the PNH, is stretched very thin, and is unable to provide security for people at risk of attack. I have recently worked with lawyers, human rights advocates and grassroots activists under threat who have sought police protection. In some cases, the InterAmerican Commission on Human Rights has ordered the government to provide protection. But there has not, to my knowledge, been any police detail provided in any of the cases.

The PNH's investigation of reports of threats and attacks against individuals is at best uneven. The force does have some good investigators, who do good work on some cases. But most of the people making reports face police stations that lack the personnel, transportation and materials to make an investigation. As a result, many citizens correctly feel that the police will not provide effective help.

Police are particularly reluctant to intervene in land conflicts, because of the history of violence in them, and the amount of participants that are potentially involved. Police officers, surveyors and government officials have been killed for conducting official duties relative to land disputes.

Haiti's justice system does a poor job of processing the arrests that the police do make. Most prosecutors and judges are poorly trained and poorly paid. I believe that almost all are involved in corruption to at least some extent. Criminals with money or connections are routinely freed without trial. Bribes to police, judges and prosecutors are routine, in both civil and criminal proceedings involving land conflicts.

Although many Haitian police are conscientious and law-abiding, many others regularly engage in criminal activity and brutality. Former Police Chief Mario Andresol estimated that a quarter of his officers were engaged in criminal activity. On May 5, 2014, the Miami Herald reported that about a dozen PNH officers had their visas to the U.S. revoked by the Department of Homeland Security because of suspected involvement in drug trafficking and other illegal activity.

The combination of limited police capability, and limited prosecution by the justice system due to corruption and other factors makes it highly unlikely that the PNH would take any effective provisions to protect individuals from land conflict violence.

17. **Joe Mozingo**, *When he won the 2006 presidency, Préval had to come out from Aristide's shadow*, **MIAMI HERALD** (Mar. 3, 2017), <http://www.miamiherald.com/news/nation-world/world/americas/haiti/article136304218.html>.

As president, he built roads and schools, lowered the price of fertilizer for peasants and began to resolve land disputes that had rural towns in bloody feuds.