

“Removing Barriers to Land Security in Haiti”

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I. Introduction

Haiti continues to experience overwhelming urban population growth and scarcity of land, causing increasing numbers of people to live and work in high-risk, low-potential or marginal urban environments. The land tends to be characterized as unplanned and sprawling, on public lands without proper municipal control, or on private land with informal ownership. Over time these settlements become inadequate, lacking infrastructure and direct access. Settlements tend to be situated precariously in inaccessible locations, such as on steep slopes or on outer city rubbish dumps (Overseas Development Institute, 2010). These lands are most attractive because the land rents tend to be much lower, or land is cheaper for people to build their homes – usually illegally. The informal status of housing for many of the urban poor can inhibit productivity, and the fear of eviction prevents people’s willingness to invest in their homes.

Haiti is one of the least developed and least stable countries in the Western Hemisphere. The country has been suffering from long-term political strife and a severely depressed economy. Port Au Prince is a sprawling city due to poor urban planning; however, this is slowly changing due to modern infrastructure development. The city harbors many low-income slums plagued with poverty and violence.

This paper will analyze the demographic, economic and political conditions prior to and after the recent earth quake. The paper will also illustrate how the incompetence's of the national government and institutions have affected the availability of land ownership and housing, and how all of these issues have been exacerbated by the effects of the earthquake. The information and analysis provided will focus primarily on the Haitian capital, Port au Prince, due to the limited information available, and because the recent information has concentrated on the effects of the earthquake to Port au Prince as it was in close proximity to the epicenter. First, the paper will analyze how Haiti's history has created massive instability, economic and social barriers, and uncontrolled development.

II. Historic Context

Between 1982 and 1995 there was an economic crisis which caused a surge of urban population in Port Au Prince, which almost tripled during these years. The crisis made it necessary for people to move from the countryside to the cities, especially the capital, in search of employment. Increasing urban populations amplified the need for shelter, basic services and the demand on land. Government housing schemes failed to supply adequate housing, especially for the poor, who instead built their own dwellings, occupying or renting private or state owned land. The delivery of basic infrastructure and services did not keep up with the rate of urbanization, and the services deteriorated rapidly for the poor living in informal and squatter settlements.

In 1986 there were massive government invasions of public land, and slums started to become consolidated in Port-au-Prince. Ever since 1986 the state has not enforced regulations regarding land use, planning and construction. Following the 1980's, Port-au-Prince became a

more divided city. In one part there was water and sanitation, with formal properties. In another part, rapid urbanization took place without basic services and the plots were illegal or informal, small in size and built on hazardous land such as dump sites or precarious hillsides.

During the last decade increasing numbers of NGOs and international organizations have been working in the slums and poor communities of Port-au-Prince. Between 2004 and 2007 about 33 million dollars was spent on slum upgrading programs in Port-au-Prince. None of these interventions have followed any urban planning or zoning regulations. These efforts lacked coordination, often overlapping each other. Finally, they failed to incorporate local municipalities or other local government (United Nations Human Settlements Program, 2009). Decades of poverty, environmental deprivation, violence, instability and dictatorship have left Haiti as the poorest nation in the Americas. Haiti is considered a fragile state, only further weakened by the 2010 earthquake (European Commission of Humanitarian Aid, 2011).

III. Brief Political Context

Even before the earthquake, the government was weak, leading to a lack of building codes and standards, slow implementation of a national disaster management system, and a lack of support to emergency services. Although the government has long recognized its responsibility for providing services, many basic services in Port-au-Prince were provided by NGOs and the private sector. The Haitian state and national authorities lack the capacity to plan and manage urban areas. Port-au-Prince's is made up of eight municipalities, which share the responsibility of the city's management with numerous central government bodies. These government bodies operate with unclear and overlapping mandates and responsibilities, and no system for coordination (Ansari, 2010).

In addition to the lack of coordination, the municipalities and national authorities lack an educated and trained staff. Many educated Haitians are migrating out of the country due to low salaries and limited opportunities for professional advancement. The ongoing political unrest in Haiti has caused an influx of temporary and well paid emergency jobs that has distorted the labor market for the educated pool of individuals, which central and local authorities are in need of (United Nations Human Settlements Program. 2009).

Since the 1990s, the donor community has provided assistance directly through countless NGOs (both Haitian and international). Haiti has become known as the “republic of NGOs”. These organizations are too often poorly coordinated, incoherent, and work independently of the national development priorities. State institutions have limited resources to provide services, hindering their ability to develop capacity and meet basic needs of the poor; the overwhelming majority (Ansari, 2010).

IV. Macro Economy

Approximately one million people in Port-au-Prince were unemployed or underemployed; nearly 46 percent of the city’s population (World Factbook, 2011). Most of the poorest people work in the informal sector as daily laborers with low-wage jobs or make money from petty trade. The informal sector is dominant in the country, employing around 70 percent of the total workforce, mostly in agriculture. Unemployment is extensive, especially amongst young people. An estimated 90 percent of the country’s total investments and formal jobs are found in Port au Prince. If the current rate of urbanization continues (3.9 percent annual rate of change (2010-15 est.), more than four million people will live in the metropolitan area within the next

ten years. The pressure on infrastructure, land, housing, and services will continue to increase dramatically (World Factbook, 2011).

V. Demography / Urbanization/ Housing Needs/ Housing Demand Before the Earthquake

Over 2.1 million individuals reside in more than 1,300 spontaneous settlements throughout Haiti. Around 30 percent of Haiti's population lives in metropolitan Port-au-Prince. This city is characterized by wild urbanization. A study done in 1997 discovered that 67 percent of the urban population lived in squatter settlements that covered 22 percent of inhabited land (Bellerive, 2010).

The small hills surrounding Port au Prince are covered with dwellings of different quality on steep slopes, and are in danger of being washed away by natural disaster. Other slum communities located primarily on public land and closer to the center of the city risk flooding due to their proximity to the bottom of the basin of Port-au-Prince. Soil erosion is also a serious problem, exacerbated by the lack of enforcement of the existing building codes and little or no restrictions on construction (United Nations Human Settlements Program, 2009).

VI. The delivery chain: land-infrastructure/services- construction industry-building materials

According to USAID, over 360,000 housing units (out of 1.8 million occupied homes), were sub-standard prior to the earthquake, built with materials such as palm leaves, recycled metal sheets, waste and sticks. The lack of enforcement of building codes and planning standards is however both a benefit and detriment for residents; it allows residents to stay informally, cheaply, and securely in their houses, but also increases the environmental and safety risks associated with unplanned settlements. In Haiti, they have a culture built upon cement powder. The current culture of cement has grown from the fact that forests do not provide the

necessary quantity of wood needed for construction, and that poverty places them in a position where cement is the only affordable, locally produced, and viable material from which to construct their shelter (Christensen, 2010).

VII. Demography / Urbanization/ Housing Needs/ Housing Demand Post Earthquake

The recent earthquake amplified the lack of organization, and exposed the weaknesses of the political class. Haiti's brittle housing supply was shattered by the recent earthquake. About 105,000 homes were totally destroyed and over 208,000 were damaged. Housing is the sector that has been most affected by the earthquake. Overall damage has reached over \$2.3 billion. Losses to the housing sector have been estimated at \$739 million. Since the earthquake, demand has soared, as the more than 1.5 million people who lost their homes are competing for new ones at the bottom end of the market. This has resulted in a shortage of houses as well as financial resources for people to rent the ones still standing. The prices have everyone stuck.

The U.S. and other countries have spent millions in humanitarian aid and on home-assessment teams, but most of the properties which have been deemed relatively safe remain empty. People cannot afford to buy them. Little has been spent on new homes. Resources are being used to provide tarps, tents and the sturdier temporary shelters. The temporary and permanent re-housing of individuals displaced by the earthquake has developed a significant challenge. Rubble continues as a major impediment to recovery in earthquake-affected areas. Only a small percentage of rubble has been removed and disposed. Rubble reduces opportunities to repair “yellow” houses and limits the ability to return to green-tagged structures. Rubble limits access for heavy machinery to demolish unsafe buildings, preventing residents from returning to

safe houses. Rubble is also creating hazards by blocking drainage, roads, and other infrastructure (USAID,2011).

Diagram 1. Transitional Shelters

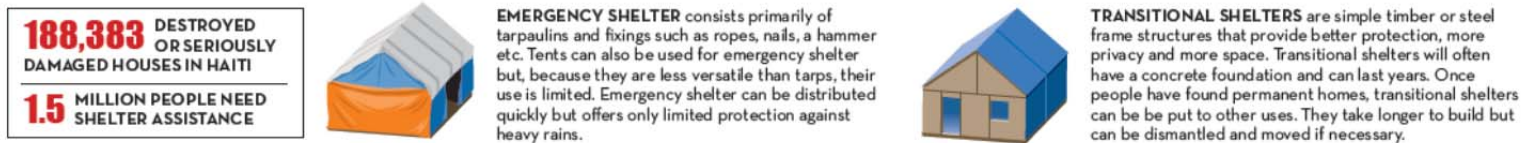


Diagram 2. Earthquake Challenges

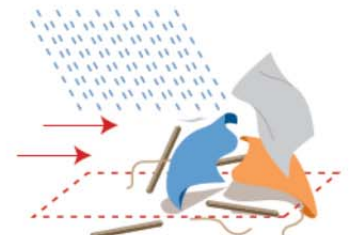
THE WAY FORWARD

The provision of transitional shelters is gaining momentum, particularly in rural areas where more land is available. It is essential that the identification of additional, safe relocation sites, debris removal and the required planning processes are urgently addressed by the authorities to enable the large scale construction of transitional shelters and ultimately the provision of permanent housing solutions.



THE CHALLENGES

Because most people were renters or squatters and don't own land, all aspects of shelter are very complicated. All steps have to be agreed with the tenant and the land owner.



1 OWNERSHIP OF LAND IS OFTEN UNCLEAR BUT OWNERS HAVE TO GIVE PERMISSION BEFORE ANY WORK CAN BE DONE.

2 SITES ARE BLOCKED BY DEBRIS. EVEN WITH HEAVY EQUIPMENT IT WILL TAKE YEARS TO REMOVE IT.

3 MANY ROADS ARE TOO NARROW FOR HEAVY EQUIPMENT. MULTI-FAMILY BUILDINGS CANNOT BE EASILY REPLACED.

4 HURRICANE SEASON: EMERGENCY SHELTERS CAN BE DESTROYED BY HEAVY WIND AND RAIN.

Source: (IASC HAITI SHELTER CLUSTER, 2010)

The images above illustrate the process from the initial emergency shelters provided to those displaced people affected by the earthquake, the current stage of providing transitional shelters and the eventual goal of providing permanent shelter solutions. Historically, temporary and transitional housing is provided after a natural disaster but finally becomes permanent when other solutions never develop. This results in more people claiming land without true legal title. This is primarily due to the ill coordinated efforts by the numerous aid organizations.

VIII. Housing Policies including Infrastructure provision/ Planning and Building Standards / Property Rights/Legal Regime/Subsidies

There is no legally approved master plan for metropolitan Port-au-Prince. Several plans with different geographic scopes have been developed. Most of these plans have been developed with assistance from donors, but they have never been authorized or implemented through regulations. In addition to the absence of a sufficient master plan, local census and basic information of metropolitan Port-au-Prince are scattered and seldom updated. Neither the central government nor the municipalities have registers with up-to-date or reliable information on the numbers of inhabitants, infrastructure, legal status of land, or access to services (Republic of Haiti 2003).

The instability in the government institutions has created barriers to land tenure. Therefore property and land information systems are almost non-existing. The majority of the 2.7 million inhabitants who live in Port au Prince live in informal settlements. Very few residents in Port-au-Prince have legal title to their land. Not only are the poorest populations are affected by insecure tenure.

One issue related to legal land ownership is that there can be several claims to the same property, because cadastre or official register of ownership information doesn't exist. Ownership registration is not provided by local authorities or the legal system and is therefore not fully secured. The lack of adequate registration and updating has made it impossible to understand which records of what land is owned by the state or by an organization or private individual. In the occasion of a dispute of landownership, people are required to bring their case to court, typically a five year process. It is a cumbersome, expensive, and long procedure to legally own

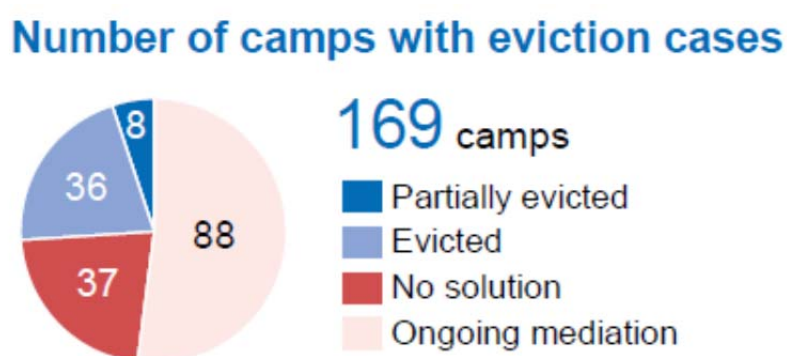
property. The process of obtaining legal land title takes over 11 years and 111 bureaucratic steps involving 32 separate offices and countless forms to be filed. These reasons and others force most people to give up on acquiring land. Instead they choose to lease land where they can then build or rent a house, or they choose to obtain land on the informal market (United Nations Human Settlements Program, 2009).

There are many ways of obtaining informal or illegal tenure in Haiti. The majority of people who obtain illegal land do so through informality in land acquisition and informality in construction on or use of the land. Increasing the confusion regarding tenure and ownership, the owner or leaser of the land tends to be different from the owner or leaser of the structure. It is not only difficult to become a legal property owner, but also to remain one. The process of verifying an existing land title is confirmed through an ad hoc rudimentary verbal system; because tenure records do not reflect the actual owner(s). The system relies on notaries who do some minimal checking of ownership but this kind of proof of ownership generally does not provide sufficient security against contested claims (IHC, 2011). The Office of National Cadastre (ONACA) is an ineffective institution, responsible for enforcing land regulation in the formal land and housing sector. Their incompetency has encouraged people to join the informal sector (United Nations Human Settlements Program, 2009). Closely related to this point is the general lack of awareness on the part of Haitian's of what cadastre is, its purpose, and its uses and benefits. ONACA's has failed to provide a means of communication and information sharing with the general public.

After the earthquake, land issues continue to be the main barrier to reconstruction. Providing permanent homes for people will require secure access to land. The camps where people are receiving temporary housing are located on private land and owners want their land

back (Oxfam America, 2010). Threats of evictions from camps are rising. The International Organization for Migration (IOM) and UN Habitat report that there are 169 camps which are being threatened with eviction. An estimated 74 per cent of the displaced persons are living on private land, and as time passes, and no permanent solutions are developing. Landowners are losing faith about regaining their land. Evictions are predicted to increase, perpetuating the displacement of individuals and increase of squatter settlements.

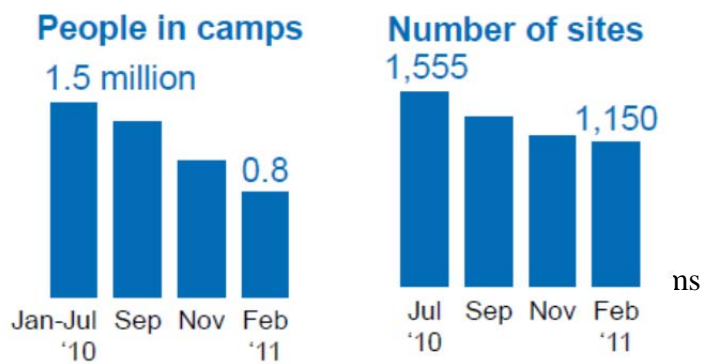
Chart 1. Emergency Shelter Camps Facing Evictions



Source: OCHA, 2011

The chart above illustrates the issues of eviction affecting the temporary camps housing those displaced by the earthquake. The chart below illustrates the decrease in the number of sites and people supported in the temporary camps. This may give the illusion that solutions are being created and the housing issue is being addressed. However, many people are leaving these camps and are relocating in other cities with family and friends. There are also a large number of individuals who have relocated, but their situation is unknown. The number of sites is also diminishing due to the above issue of land evictions (OCHA,2011).

Chart 2. Shelter Eviction Statistics



Haiti's government and international aid agencies are building new homes for the 1.5 million survivors currently living in makeshift camps. Before they can start construction, they need to determine who owns each parcel of land. An unknown number of title deeds and land registry records were destroyed in the earthquake. The result is unorganized land squatting, land grabbing and people returning to their homes only to find someone else living there.

IX. Policy Recommendations

Haiti is plagued with an extremely corrupt government, weak institutions, and failure to develop or enforce appropriate land use regulations. The earthquake has magnified these issues, yet has given even more reason to demand accountability of political officials, require strict land regulations, provide equal opportunity to land and ownership, and enforce cooperation between efforts of the national government and the international aid organizations.

Before the more complicated issues of land rights and tenure can be addressed in Haiti, several other issues must be resolved. There are many factors limiting the access to land, land rights, legal tenure and housing finance: an extremely uneven distribution of wealth; dominant informal employment sector; government corruption; disorganized political system; incompetent institutions; as well as a labyrinth of ongoing processes to legally obtain and maintain land title.

One factor that is limiting the reconstruction process is the overwhelming amount of rubble and debris that has yet to be cleared from roads, housing sites and community centers. Before individuals can return to their homes and the redevelopment of demolished structures and infrastructure can take place the rubble must be removed.

Several first steps must be taken in order to improve the current inadequate and cumbersome housing and land services in Haiti. The following will propose initial short term solutions to addressing these factors before a more permanent long term solution can be implemented.

Incremental tenure instruments

Incremental approaches may begin to address Haiti's land titling issues and relieve fears related to tenant evictions. Instruments used in Trinidad, India, and Botswana, such as certificates of use or registration of occupancy have helped residents to obtain adequate security. Even a basic step such as establishing numbered house addresses may provide greater security for residents (IHC, 2011). Other instruments that have been successfully implemented are "Certificate of Rights" (COR), which grants rights for the permanent use of a parcel of land. The land holder has a right to develop and use the land as he pleases, however the ultimate owner is the state. The COR-holders agree to pay a monthly service charge, and as long as this is paid, the household can feel secure. It is possible to extend the COR to establish more permanent tenure (the equivalent of a 99-year lease). Private financial institutions view the CORs as temporary and will not lend on that basis but they will lend if the resident upgrades to a lease (IHC, 2011). So the COR can be used as a transitional tool to assist tenants in becoming permanent land holders to gain access to financing and land security.

To address the limited land rights, there must be a modernization of the ONACA by developing a comprehensive plan based on a modern, inclusive, transparent and multipurpose cadastre land rights infrastructure that will serve as the basis for decision making, planning, sustainable development and democratic governance.

The following will propose the long term solutions to addressing the issues of land titling and land tenure.

Develop a database of land information

To address the issue of obsolete land title information, an electronic database should be developed which provides all legal, physical, and personal information for each owned parcel in a common and accurate reference framework. This information will provide the essential information to address the issues linked to property rights and land disputes. In order for this to improve access to land ownership, this information must be publicly available, updated on a regular basis and operated by capable personnel.

Reform of land tenure administration

Most of the problems in the land management institutions could be solved or at least mitigated with capacity building, clarification of roles and responsibilities, and institutional strengthening. To address the current incompetence's of the land management institutions there must be a restructuring of responsibilities of those bodies with the following breakdown: the national tax office will collect taxes for the state; the national land registry office shall deal specifically with property inventory; and the national institute for agrarian reform will deal with solving land-related problems and drafting of an agrarian policy.

A project to improve the law of land cadastre in Belarus determined that barriers to registration of land rights and a national land cadastre can be addressed indirectly. This can be achieved by implementing basic principles:

- Land rights must be registered through a systematic process of delineation of land parcels and adjudication of rights supervised by a government agency under law.
- Basic rights to land registration should include
 - ownership - the rights to possess, use and dispose of the property;
 - lifetime possession - use of the land during the life of the holder and the right to pass the land on to heirs;
 - permanent use - to use the land for its targeted purpose for an undefined period of time;
 - mortgage – right to transfer land plots to mortgage in order to obtain bank credits; and
 - use - restrictions on land or structures should be registered.
- Documents submitted for purposes of registration must contain a reference to the cadastre number of land plots and/or building numbers of structures as assigned by the responsible agencies.
- Registration of rights to a land parcel requires a boundary survey meeting technical standards defined by the responsible agency.
- No subdivision, sale, or mortgage of a portion of a parcel of land defined in the national cadastre may be registered until there has been a formal subdivision process reflected in the cadastre and new cadastre numbers issued (Butler, 1996).

Manage urban growth

To decrease the development of communities on hazardous, unstable land, municipal governments must identify these areas before the redevelopment process begins. Municipal governments will develop a grid plan of the respective urban area, which will indicate plots of land inappropriate for future development. By doing this the municipalities will control where people are allowed to develop within the grid by demarcating subdivisions. The national government must establish a metropolitan planning agency which will implement the grid plan. The planning agency will also be responsible for coordinating institutions with a stake in urban planning and development. Together these bodies will develop planning policies, building and land regulations and legal frameworks, and ensure an efficient execution of organized development and a citywide strategic plan (United Nations Human Settlements Program, 2009).

Coordination and information campaign

In order to address the information gap between Haitians and the information which the ONACA is responsible for providing about land registration, this office must develop a communication department within the institution, with accessible personnel to assist with inquiries and provide accurate information. This could occur along with a strategy that includes programs for university students which will train the future leaders and workers for the national land registry office, and improve the knowledge base of future land owners.

Strengthen urban real estate security

To address the unorganized and extensive process of settling discrepancies in situations where there are multiple claims to ownership or request for possession of legal ownership, the ONACA must develop a mechanism for solving these real estate disputes. The legal process

must not continue to deter participation in formal land registry. The ONACA will utilize the updated land registry to solve disputes and require all unregistered occupants to become compliant within one year of its implementation; otherwise those households will be unable to claim ownership.

The following are long term goals which must be continually achieved and developed to remove barriers to land security.

Reducing Informal Employment Sector

An estimated 70 percent of the Haitian population is working in the informal sector. Not only is this contributing to increasing number of individuals below the poverty line, it also creates barriers to housing and land finance. With more formal incomes, people can provide for their own needs, such as food, rent, and school expenses. Programs must be developed which provide cash grants to small business owners and entrepreneurs, to help them restart their operations. The national government must also implement a job-creation plan for so many which are without work. Many jobs can currently be created for removing rubble, rebuilding homes and buildings, fixing roads, formally delineating property lines, as well as re-connecting and putting in new utilities ((United Nations Human Settlements Program, 2009).

Rebuilding Haiti does not mean returning to the situation that prevailed before the earthquake. It means addressing all these areas of vulnerability. The following will propose solutions to these areas.

Institutional, political and legal reforms

To address title problems, there needs to be a community land trust, which simplifies the title process by allowing homeowners to own land collectively. The majority of the population

which is living well below the poverty line will be unable to afford a plot of land independently. A new legal reform must provide a financing system that could include vouchers, rent-to-own, and down payment assistance which can be customized to the local banking system. Systems must also allow land owners to gain access to financing without proof of formal employment. To gain legal title to land, proof of income should be required, but there must be other methods such as proof of personal bank account with regular deposits. Banks must reduce the down payment requirement from 30 percent to a sum that matches the applicant's financial situation or available collateral.

Increasing access to housing finance

Addressing the affordability and construction of over 1 million homes in Haiti will require the ongoing coordination of the national government, private sector developers, public agencies, Haitian universities, banks for construction materials, international donors and the Haitian diaspora. While government and donor funding should support rebuilding of infrastructure (roads, utility networks, water systems, community centers) a portion of these funds should go towards the development of housing programs. New financing models should be created which harness the enormous amount of financing flows into Haiti in the form of remittances, an estimated 1.5 billion dollars per year. This is an important source of financing which could be utilized at the household level to complement government funding.

There are several financing models which exist and need to be applied to construction financing of new homes and legal land purchasing. A designated fund should be established for the reconstruction of low-income housing, with long-term repayment. The fund should be designed with several options for repayment (e.g., long-term loans, incremental loans, sweat

equity, loans as form of social insurance). These types of loans will provide access to the very low income households. A condition must be put on the location of future development and loans should be made available only for reconstruction outside of hazardous zones (Thompson, 2010).

Long term redevelopment strategy

An overall strategy must be developed that provides coherence in legal and regulatory frameworks at national and municipal levels. Flexible processes must be developed for property registration which allow for temporary titling with a stepped process of formalization. The current land titling institutions do not have the administrative capacity or the financial resources for a more hurried method. When selecting locations for future development sites and providing permanent housing solutions for the displaced, government must choose sites with access to good transport links to jobs, and they must protect these sites for both middle income and low income housing development to meet all tenure demands (Thompson, 2010).

Conclusion

The earthquake has caused devastating effects to an already challenged country; however this is an opportunity to start anew. Recovery will not possible without providing assistance to the poor, otherwise the past is sure to repeat itself. The national government must develop new processes which provide land to all people. Land is the critical path by which to deliver housing, infrastructure, and service at scale. By providing equitable access to land, governments are able to give citizens tenure security, accommodate decent housing and services, and improve the overall quality of life of urban dwellers.

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