



June 15, 2011

Inter-American Commission on Human Rights
1889 F Street, N.W.
Washington, D.C., 20006

Dear Honorable Commissioners,

On November 2, 2010, the Center for Constitutional Rights, the Institute for Justice & Democracy in Haiti, the Bureau des Avocats Internationaux, the International Human Rights Law Clinic at American University's Washington College of Law, and the disaster law center You.Me.We. (collectively "Petitioners") filed a Request for Precautionary Measures ("Request") to the Inter-American Commission on Human Rights ("Commission" or "IACHR") against the Government of Haiti ("GOH") to stop the epidemic of illegal evictions in displacement camps since the January 12, 2010 earthquake. The Request was filed on behalf of residents from five displacement camps. It described the destruction of entire settlements and the terrorization and brutality that accompany threats of forced evictions.

On November 16, 2010, the Commission granted Petitioners' Request and sent a letter to the GOH pursuant to Article 25 of the Commission's Rules of Procedure requesting the adoption of precautionary measures.¹ The Commission further requested a response within 20 days, and on a periodic basis thereafter, with information on compliance with the measures. To our knowledge, the GOH has never responded to the Commission's request in writing. Nor has it made any effort to comply with the precautionary measures.

¹ Precautionary Measures, Inter-Am. C.H.R., Report No. MC-367-10 (November 16, 2010). The measures requested were as follows: (1) adopt a moratorium on evictions of camps of internally displaced persons until a new government is in place; (2) ensure that persons who were illegally evicted from camps are rehoused in locations that meet minimum levels of salubrity and security; (3) guarantee internally displaced persons effective recourse before tribunals and other competent authorities; (4) implement effective security measures to safeguard the physical security of camp residents, guaranteeing special protection to women and children; (5) train law enforcement personnel on the rights of displaced persons, in particular the right to not be forcibly evicted; and (6) ensure international agents of cooperation access to camps of internally displaced persons.

At the same time, forced evictions in Haitian displacement camps are increasing and are usually being carried out with violence, threats of violence or coercion. For example, during the week of May 23, 2011, the Haitian police and agents of a local mayor raided and destroyed at least three displacement camps in the city of Delmas outside of Port-au-Prince in an effort to close the camps. Security forces beat several people and arrested three others. The settlement residents were unlawfully evicted with little to no advance warning and no legal order. Three weeks later, the mayor's inhumane and illegal actions appear to have gone unpunished, and most of the evicted families remain without housing during the current hurricane season. The attack prompted Nigel Fisher, the Humanitarian Coordinator of UN System in Haiti, to call on Martelly's administration to "put an end to the use of force by police, as well as acts of intimidation, coercion and other threats to the displaced."²

These evictions not only threaten the lives and dignity of the hemisphere's poorest people, they also violate Haitian and international law, and the Commission's precautionary measures and recommendations.

The November precautionary measures urged the GOH to adopt a moratorium on evictions of camps of internally displaced persons until a new government is in place. As a new President and Parliament take office in May 2011, Petitioners respectfully request that the Commission renew the precautionary measures against the GOH and all the recommendations. The precautionary measures are a vital legal tool to encourage the Haitian government to engage with the Commission on the forced eviction issue and to be accountable to the Haitian people for its actions. We request that the Commission renew its call on the GOH to implement a moratorium on evictions from displacement camps until a comprehensive return and resettlement plan that protects the human rights of Haitians displaced from the earthquake is adopted and implemented.

Petitioners also request, among other things, that the Commission request the GOH to: (1) identify an agency responsible for implementation of the precautionary measures and (2) educate all relevant actors, including ministry officials, law enforcement and members of the judiciary on the meaning of a forced eviction and why it is illegal. It is also critical to underscore the importance of collaboration between the GOH and the international community to protect displaced persons and strengthen the capacity of the government to respond to forced evictions.

Petitioners further request the Commission to call on the GOH to develop and implement a comprehensive re-housing policy that meets the needs of the IDP population as soon as possible, so that IDPs can voluntarily move out of camps. The already poor conditions of IDP camps³ are worsening now that the mandates of many international humanitarian aid organizations are ending and the current hurricane season is causing a surge in cholera cases in camps.⁴

² Email from Nigel Fisher to Daniel Suppice, Daniel-Gerard Rouzier (May 25, 2011).

³ 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.

⁴ CENTER FOR ECONOMIC AND POLICY RESEARCH, *As Cholera Cases Increase, Statement from 44 Experts Outlines a Possible Way Forward* (June 3, 2011) at <http://www.cepr.net/index.php/blogs/relief-and-reconstruction-watch/as->

I. Factual Update

A. Forced evictions of vulnerable populations in displacement camps continue to occur with impunity

1. As of March 2011, the International Organization of Migration's (IOM) official estimate of the number of people living in displacement camps was 680,000, down from 1 million in November, and 1.5 million in July 2010.⁵ These figures obscure the reality for camp residents. Out of the more than 180,000 residential buildings that were destroyed in the earthquake,⁶ only 4,100 of them had been repaired. Only one-half of the planned temporary housing had been built, including 1,900 new permanent houses.⁷ In other words, while the number of people living in displacement camps may have sharply declined based on the IOM's count, it is likely that many Internally Displaced Persons (IDPs) who left the camps were unable to find sustainable housing and remain homeless.

2. According to the IOM, there were at least 247 cases of evictions between June 2010 and March 2011, affecting an estimated 50,528 households (233,941 individuals).⁸ An estimated 165,977 people living in camps are currently threatened with eviction, representing 24%, or one in four of all people living in IDP camps.⁹ President Michel Martelly has pledged to close all of Haiti's displacement camps within six months, starting with six camps during his first 100 days in office.¹⁰ Separately, on May 19, 2011, President Martelly personally visited Camp Canaraan on the outskirts of Port-au-Prince, a spontaneous settlement created after the earthquake housing an estimated 100,000 people, to announce that the government would be evicting the camp. He offered that the land will be used to build factories and provide jobs, but did not mention where residents would live in the meantime. We are concerned that the violent trend will worsen.

cholera-cases-increase-statement-from-44-experts-outlines-a-possible-way-forward; Mark Schuller and Mark Snyder, *Rainy Season Exposes Precariousness of Haiti's Homeless Camps*, HUFFINGTON POST (June 10, 2011) at http://www.huffingtonpost.com/mark-schuller/rainy-season-exposes-prec_b_874582.html.

⁵ INTERNATIONAL ORGANIZATION FOR MIGRATION, DISPLACEMENT TRACKING MATRIX V2.0 UPDATE 1 (Mar. 16, 2011) at http://www.ccmhaiti.info/pdf/DTM_V2_Report_15_Mar_English%20_FINAL3.pdf (hereinafter "IOM DTM Report").

⁶ Mike Thomas, *One Year on, Haiti Still in Ruins*, BBC NEWS (Jan. 10, 2011) at <http://www.bbc.co.uk/news/world-12113844>.

⁷ INTER-AGENCY STANDING COMMITTEE: HAITI SHELTER CLUSTER, SHELTER REPORT (Mar. 2011) available at <https://sites.google.com/site/shelterhaiti2010>.

⁸ IOM DTM Report, *supra* note 5, at 13.

⁹ INTERNATIONAL ORGANIZATION FOR MIGRATION, EVICTIONS IN IDP CAMPS REPORT 2 (March 2011) available at http://ijdh.org/wordpress/wp-content/uploads/2011/04/IOM_EVICTION-REPORT-MARCH_2011-ENGLISH-1.pdf.

¹⁰ Jacqueline Charles, *Martelly faces myriad challenges as he begins term as Haiti president*, MIAMI HERALD (May 14, 2011) available at <http://www.miamiherald.com/2011/05/14/2217144/martelly-faces-myriad-challenges.html>.

3. Until recently, there had been no systematic attempt by the Government of Haiti or the international humanitarian aid community in Haiti to monitor where IDPs have gone after leaving the camps. In recent efforts to monitor IDP movement, the IOM found from a random sample of 1,033 IDPs who left their camps, that 34% reported evictions as the main reason for leaving displacement camps, with poor conditions within the site (14%) and poor security (14%) also major reasons for leaving. IOM's survey also finds that as many as half of those who left continue to live in a displacement-like situation, such as in tents near their former homes, with host families, or other temporary arrangements, including unsafe houses.¹¹ According to a study commissioned by USAID, of the houses investigated, 85% of yellow buildings (unsafe to inhabit but repairable), and 64% of red houses (unsafe to enter/damaged beyond repair) were believed to be occupied.¹² Dr. Kit Miyamota of Miyamota International, which collaborated with the Ministry of Public Works, Transport and Communication ("MTPTC"), the United Nations' Office for Project Services and the Pan American Development Foundation to conduct the structural assessment of homes in Port-au-Prince after the earthquake, explained "Occupied yellow and red houses are extremely dangerous since many are a collapse hazard. People occupy these houses despite communications and warnings from MTPTC engineers since they have nowhere to go but the camps. People do not want to stay in these tents. Security is poor and they are exposed to diseases. I see little children sleeping next to the heavily cracked walls every day."¹³

B. Update from five Petitioner IDP camps

4. The named camps in Petitioners' Request continue to either receive threats of evictions or suffer from the evictions they faced. These camps are described below.

1. *Camp* [REDACTED]

5. [REDACTED]

¹¹ IOM DTM Report, *supra* note 5, at 11.

¹² Timothy Schwartz, *BARR Survey Report: Building Assessments and Rubble Removal in Quake-Affected Neighborhoods in Haiti*, USAID HAITI 33 (May 13, 2011) (unpublished draft report) (on file with the Institute for Justice & Democracy in Haiti).

¹³ *Id.*

¹⁴ [REDACTED]

[REDACTED]

6. [REDACTED]

2. *Camp* [REDACTED]

7. [REDACTED]

3. *Camp* [REDACTED]

8. [REDACTED]

¹⁵ *Request for Precautionary Measures for Petitioner A from Camp [---], Petitioner B from Camp [---], Petitioner C from Camp [---], and Petitioner D from Camp [---], on Behalf of Their Respective Communities, and for the Community of Camp [---], filed by the Bureau des Avocats Internationaux et al. before the Inter-American Commission on Human Rights, Nov. 2, 2010, available at http://ijdh.org/wordpress/wp-content/uploads/2011/03/Precautionary-Measures_Final_Redacted.pdf (Redacted) [hereinafter “IACHR Request for Precautionary Measures”].*

¹⁶ [REDACTED]

¹⁷ [REDACTED]

9. Neither landowner at *Camp* [REDACTED] or *Camp* [REDACTED] has shown the residents proof of their title to the land.

4. *Camp* [REDACTED]

10. [REDACTED]

11. [REDACTED]

5. *Camp* [REDACTED]

12. [REDACTED]

C. New cases of forced eviction

13. Haitian public agents continue to play a strong role in cases of forced evictions. Purported landowners are receiving the support of local mayors, the Haitian National Police (HNP) and members of the judiciary (particularly magistrate judges) to either threaten families from tent camps or remove them without any legal mandate.

14. At least three camps, housing approximately 1,000 IDPs, were destroyed by police on May 23rd through 25th in the Delmas suburb of Port-au-Prince, just two weeks after Michel Martelly was sworn in as Haiti's new President. Each of these camps was located on public land

¹⁸ Request for Precautionary Measures, *supra* note 15, at paras. 21-26.

in Delmas. The police came with little or no warning and no legal mandate. They destroyed the camps, slashing tents with machetes, knives and batons.¹⁹

1. *Camp Place Dame at Carrefour Aéroport*

15. On the morning of May 23, 2011, Wilson Jeudy, Mayor of Delmas, entered *Camp Place Dame* at Carrefour Aéroport with the police and his security officers while many of the 150 families residing in the camp were not present. One male resident reported that police shot him in the leg. One female and two male residents reported being beaten by the police with a baton or gun. Another female resident was beaten by police because she was crying over one of the other beatings.

16. Mayor Jeudy told everyone in the camp that President Martelly had sent him. He told residents that they had been there for 18 months and he was retaking the land because they had never paid the mayor for use of the land. He also told everyone that he was giving them money (4,000 Haitian dollars (US \$500)), but the residents never received any money. Residents received no notice or threat of eviction before May 23; this was the only visit they had received from a government officer after January 12, 2010.

17. Since the eviction on May 23rd, people have been sleeping across the street from the former settlement in a public monument called “Avion.” Although it has a roof on each level, it has no walls. The IDPs have no protection against the wind and rain.

2. *Camp Delmas 5*

18. On May 25, 2011, the Mayor and his officers destroyed another displacement camp, *Camp Delmas 5*. *Camp Delmas 5* had eight families (which include seven small children) living in 12 tents. They had never received any threat or notice of evictions. Mayor Jeudy arrived with three or four vehicles of HNP and private security agents. They yelled “leve, leve (get up, get up)” to get people out of the tents before destroying tents with machetes and batons. Residents said that most of their belongings were destroyed and they had little time to collect their things. One male resident reported being hurt on his back by the police.

3. *Camp Assistance Place on Delmas 3*

19. *Camp Assistance Plus* on Delmas 3 was also destroyed in a similar fashion as the others. This camp of approximately 560 families was on open ground, in a public square for the neighborhood. The mayor, several employees representing the mayor, and two trucks of police officers carried out the evictions. In an interview, Mayor Jeudy claimed that he met with the camp residents a week earlier, and determined that all the families had homes and gave them a deadline of May 25 to leave the camp. He said that since they had not left by that date, he had destroyed their tents. When asked if he had a judicial decision authorizing him to carry out this

¹⁹ Beverly Bell, *Haitian Mayor's Office Vows to Destroy All Refugee Camps, Launches Violent Campaign*, OTHER WORLDS ARE POSSIBLE (May 23, 2011) at <http://ijdh.org/archives/18964>; see also Beatrice Lindstrom, *As Hurricane Season Looms, Government Officers Destroy Haiti Tent Camps*, HUFFINGTON POST (June 2, 2011) at http://www.huffingtonpost.com/beatrice-lindstrom/as-hurricane-season-looms_b_868759.html.

eviction, he responded that he is the law and does not need a judicial decision. He also declared that as mayor, he has the power to reclaim public lands.

20. Camp residents stated that agents from the mayor's office had only visited the prior morning and warned that they were going to destroy their tents the next morning. Camp residents also explained that while there may be some families from the camp who had homes to return to, many were left homeless from the eviction.

4. Other camps in Delmas

21. Members of the Haitian judiciary have given undue deference to purported private landowners. A few hundred families fled to a vacant plot of land in Delmas to form *Camp Cité Mosaic* soon after the earthquake. It was common knowledge in the area that ownership over the plot of land had been disputed for years. In March 2011, the lawyer of a person purporting to own the land visited the camp twice, along with police officers and two different magistrate judges, to intimidate the residents into leaving the property immediately. During one of these visits on March 23, 2011, the police officers harassed foreign journalists on site attempting to film the threats against camp residents. On neither occasion did the purported landowner's lawyer provide a judicial decision ordering the removal as required under Haitian law for a legal eviction. The lawyer has not even provided proof that his client owns the property. Instead, the lawyer, in the presence of the magistrate judge, merely offered each family 1,500 Haitian *gourdes* (US \$37.50) to leave the property. The camp residents refused the offer because it was grossly insufficient to assist them in finding housing. The residents are now living in fear that they will be forcibly removed from the camp at any time without any place to go.

22. On April 3, 2011, HNP officers entered a small camp of approximately 20 to 30 families in Delmas, known as *Camp G. Paul*, destroyed all of their shelters, and chased the families out of the camp while making death threats. Many residents left behind their personal belongings in their haste to run from the police's threats and did not return out of fear.

23. In early April 2011, local newspapers reported that staff of the mayor of Delmas visited a camp of 2500 families on Delmas 75 to force the camp off of the land.

5. Other camps in and around Port-au-Prince

24. On April 6, 2011, HNP officers arrived at Sylvio Cator stadium in downtown Port-au-Prince, home to a displacement camp of 2,500 IDPs, after failed negotiations between the IDPs and the local mayor's office regarding the former's relocation. The HNP officers reportedly harassed IDPs and hit at least one man with the back of a rifle. The stadium owners had shut off the water supply to the IDPs to pressure them to leave the stadium. While the IDPs were told that homes were found for 50 families, a reporter found that the location cited for these homes is in a slum area where IDPs are not welcome and as of April 6, no shelters had been built. The rest of the families are at risk of forced eviction.²⁰

²⁰ Ingrid Arnesen and Nicholas Casey, *Haitian Refugees Caught in Stadium Standoff*, WALL STREET JOURNAL (April 6, 2011) available at <http://online.wsj.com/article/SB10001424052748703712504576245213280944284.html>.

25. *Camp Village de Lion*, in Cité Militaire on the outskirts of Port-au-Prince, faces the imminent threat of forced eviction. In April 2011, the camp was visited by six officers of the HNP special unit known as the BIM (Motorized Intervention Brigade) to tell camp residents they need to leave the camp by the following Friday or else the BIM would bring tractors to raze their tents.

26. On the morning of January 10, 2011, following rumors of an impending forced eviction of *Camp Diquini* in the Port-au-Prince suburb of Carrefour, the Mayor of Carrefour visited the displacement camp with two pick-up trucks full of men. The men were not uniformed police officers, but identified themselves as the Mayor's "security agents". The security agents walked through the camp marking tents in no apparent pattern with spray paint. When camp residents inquired into the markings, the security agents explained that they were marking the shelters for destruction. The residents gathered together in the camp near the mayor and his security agents to peacefully demonstrate against the forced eviction. While the mayor left the camp, his security detail stayed and argued with the protestors. One of the camp leaders instrumental in organizing the demonstration was hit over the head with a baton by one of the security agents. The blow caused a laceration above the camp leader's right temple, for which he needed several sutures.

27. There have also been reports of officers from a specialized unit of the HNP, *Compagnie d'Intervention Maintien d'Ordre (CIMO)*, raiding and destroying tents in various camps (Place Dessalines, Place Pétiou, and Place Catherine Flou) all on Champs Mars, a huge public park surrounding the National Palace, under the pretext of looking for criminals.

II. The Government of Haiti's Failure to Implement the Commission's Precautionary Measures

28. The Government of Haiti is obligated to adopt and implement the precautionary measures requested by the IACHR. While the Commission technically requests, not orders, that States take precautionary measures, both the Commission and Inter-American Court of Human Rights have stated that member states are obligated to implement them.

29. In 2001, the Inter-American Court of Human Rights (whose rulings are binding on member states, including Haiti) stated that based on the principles of effectiveness and good faith, States have to implement the Commission's precautionary measure requests as well as the Court's orders of precautionary measures. The Court reasoned that member states must implement precautionary measures because "OAS member states, by creating the Commission and mandating it through the OAS Charter and its Statute to promote the observance and protection of human rights of the American peoples, have implicitly undertaken to implement measures of this nature where they are essential to preserving that mandate."²¹ Most recently, in a March 2005 resolution, the Commission stated it is an international obligation of OAS member States to comply with precautionary measures.²²

²¹ *Beazley v. US*, Inter-Am. Ct. H.R. No. 101/03, ¶¶ 51-52 (Dec. 29, 2003); *James et al. v. Trinidad and Tobago*, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) (Nov. 26, 2001).

²² Inter-Am. Comm'n Res. 1/05, §1 (Mar. 8, 2005).

A. The Government of Haiti lacks a coordinated strategy to respond to forced evictions

30. Two separate fact-finding missions to Haiti in March and April 2011 resulted in meetings with 18 key stakeholders on the issue of evictions in displacement camps, including ministry officials, local government officials and leaders from the international community working in Haiti. (Reports from the two investigative teams are attached hereto as Exhibits A and B). Interviews with stakeholders revealed that the Government of Haiti does not have a coordinated strategy to respond to forced evictions or to implement the precautionary measures. Similarly, coordination is very limited among government institutions and between the Government of Haiti and international aid agencies managing threats of eviction.

31. According to their interviews, the GOH has not delegated any governmental ministries to respond to evictions from IDP camps, nor has any public agency assumed jurisdiction or responsibility for responding to evictions. Similarly, no ministry has been identified as responsible for implementing the Commission's recommendations. Haiti does not have a Housing Ministry, so there is no clear mechanism for the dissemination, analysis or implementation of directives relating to IDPs from international bodies.²³

32. While the judicial division of the Ministry of Foreign Affairs is responsible for collecting and disseminating communications from the Commission to the Government of Haiti and relevant ministries, according to a Foreign Ministry official, the Commission's precautionary measures in response to Petitioners' Request were "probably" disseminated to the Ministry of Justice, the ministry concerned with sanitation, and the police, but the official was not familiar with the measures and said they had probably been "filed" or archived.²⁴

33. According to interviews with officials at the Ministries of Justice and the Interior (Ministère de l'Intérieur et des Collectivités Territoriales ("MoI")), the MoI's Department of Civil Protection (Direction de Protection Civile ("DPC")) responds to complaints of eviction. Along with various mayors' offices in and around Port-au-Prince, the Department of Civil Protection is often called upon to resolve disputes between purported landowners and IDPs. The officials from both the Ministries of Justice and Interior had no apparent knowledge of the Precautionary Measures.²⁵

²³ See Benjamin N. Cardozo School of Law Haiti Social Justice Project Interviews with Haitian government officials and residents of IDP camps, in Port-au-Prince, Haiti (April 15 – 21, 2011) [hereinafter "Exh. A"]; Fordham University School of Law Disaster Relief Network and Center for Constitutional Rights Delegation Interviews with Haitian government officials, international organizations, United Nations agencies, and NGOs, in Port-au-Prince, Haiti (Mar. 13 – 17, 2011) [hereinafter "Exh. B"].

²⁴ Exh. A, *supra* note 23, Interview with Nazaire Altemar, Deuxieme Assistant, Directeur d'Affaires Juridiques, Ministère des Affaires Étrangères, in Port-au-Prince, Haiti (Apr. 21, 2011).

²⁵ Exh. A, *supra* note 23, Interview with Chief Prosecutor Harycidas Auguste, Commissaire de Gouvernement/Port-Au-Prince, in Port-au-Prince, Haiti (Apr. 20, 2011); Interview with Anny-Marie Cantave, Maire-Adjoint, Mairie

34. The Ministry of Social Affairs and Work (Ministère des Affaires Sociales et Travail (“MAST”)) is Haiti’s social support entity and also plays a role in planning solutions to the housing crisis.²⁶ The officials interviewed were familiar with the Precautionary Measures, but were unaware of their details and appeared to only have learned of their existence from residents of a displacement camp facing threats of evictions.²⁷

35. The Public Agency for the Promotion of Social Housing (Enterprise Publique de Promotion de Logements Sociaux (“EPPLS”)) is a division of MAST and charged with building housing as a social service or in response to natural disasters. The EPPLS official was familiar with the Precautionary Measures and stated that a copy of the measures had been circulated to MAST and EPPLS at a meeting in February 2011 after camp leaders at an IDP camp presented it to the landowner claiming protection from eviction under international law. The official did not speak of any intention to implement the Precautionary Measures.

36. While acknowledging that purported landowners have been verbally harassing IDPs, the Ministry of the Interior believes that forced evictions, which they define as those that use weapons or physical force, do not exist. However, the MoI acknowledged that there has been “lots of pressure by landowners” in many cases in the form of verbal harassment. The MAST similarly limits its definition of forced evictions to physical or armed violence and determined that they are not widespread.²⁸ This does not comport with international human rights norms, which does not mention the use of force in its definition of forced eviction: “the permanent or temporary removal against their will of individuals, families, and/or communities from their homes and/or lands, which they occupy without the provision of or access to appropriate forms of legal or other protection.”²⁹

Croix-de-Bouquets, in Croix-de-Bouquets, Haiti (Apr. 18, 2011); Interview with Philippe A. Philius, Directeur Administratif et Financier, Mairie de Delmas, in Delmas, Haiti (Apr. 15, 2011); Interview with Muscadin Jean-Yves Jason, Maire Principal, Port-au-Prince, in Port-au-Prince, Haiti (Apr. 19, 2011); Interview with Clac Erick Louis, Maire-Adjoint, Conseil Municipal de Pétienville, in Pétienville, Haiti (Apr. 20, 2011); Interview with P. Jude Edouard, Directeur General, Mairie de Carrefour, in Carrefour, Haiti (Apr. 19, 2011). Exh. B, *supra* note 23, Interview with Serge Semerzier, Direction Protection Civile, Ministère de l’Intérieur et des Collectivités Territoriales, in Port-au-Prince, Haiti (Mar. 16, 2011).

²⁶ Exh. B, *supra* note 23, Interview with Serge Semerzier, Direction Protection Civile, Ministère de l’Intérieur et des Collectivités Territoriales, in Port-au-Prince, Haiti (Mar. 16, 2011); Interview with Ministère des Affaires Sociales et Travail, in Port-au-Prince, Haiti (Mar. 15, 2011); Interview with Elonge Othélot, Directeur Général, Enterprise Publique de Promotion de Logements Sociaux, Ministère des Affaires Sociales et Travail, in Delmas, Haiti (Mar. 17, 2011).

²⁷ Exh. B, *supra* note 23, Interview with Elonge Othélot, Directeur Général, Enterprise Publique de Promotion de Logements Sociaux, Ministère des Affaires Sociales et Travail, in Delmas, Haiti (Mar. 17, 2011).

²⁸ Exh. B, *supra* note 23, Interview with Serge Semerzier, Direction Protection Civile, Ministère de l’Intérieur et des Collectivités Territoriales, in Port-au-Prince, Haiti (Mar. 16, 2011); Interview with Ministère des Affaires Sociales et Travail, in Port-au-Prince, Haiti (Mar. 15, 2011).

²⁹ Committee on Economic, Social and Cultural Rights, General Comment 7, The Right to Adequate Housing: Forced Evictions, ¶3, U.N.Doc. E/1998/22 (May 20, 1997).

37. An assistant to the Mayor of Delmas, responsible for the forced evictions currently taking place throughout Delmas, and an assistant to the Mayor of Pétionville, who began a program to pay small sums of money for IDPs to leave camps in Pétionville’s public parks, have both denied the existence of forced evictions.³⁰

B. The Government of Haiti’s strategy of paying IDPs to leave camps without offering alternative housing is a form of economic coercion and is not a “durable solution” required by the UN Guiding Principles on Internal Displacement and the Pinheiro Principles

38. The GOH’s only apparent strategy to address the housing crisis is to offer small sums of money to IDPs living in camps on public land, such as public parks, to encourage them to leave settlements. In Pétionville, a suburb of Port-au-Prince, the local mayor’s office instituted a program offering 20,000 *gourdes* (US \$500) in “financial assistance” to residents of IDP camps on public land to relocate. The office received this money through the Central Government, local government, and private donors. According to the Pétionville mayor, approximately 600 families living in *Camp Place St. Pierre* have received money to leave the camp since November 2010.³¹ The mayor of Delmas has expressed interest in replicating the Pétionville program.³² Commenting on programs similar to the Pétionville program, a Foreign Ministry official expressed the belief that when individuals are paid to leave land they are living on, it is a “voluntary displacement” and therefore does not violate any international or domestic legal obligations binding on the Haitian government.³³

39. Many of the families who accepted the money remain displaced and homeless. Government officials admit that the price of rent has increased dramatically since the earthquake following the influx of aid workers and limited availability of housing and that the US \$500 offered to IDPs on average is insufficient to rent a home suitable for a family of five in the Port-au-Prince metropolitan area.³⁴ We have heard similar reports from camp residents.

³⁰ Exh. A, *supra* note 23, Interview with Philippe A. Philius, Directeur Administratif et Financier, Mairie de Delmas, in Delmas, Haiti (Apr. 15, 2011); Interview with Clac Erick Louis, Maire-Adjoint, Conseil Municipal de Pétionville, in Pétionville, Haiti (Apr. 20, 2011).

³¹ Exh. A, *supra* note 23, Interview with Clac Erick Louis, Maire-Adjoint, Conseil Municipal de Pétionville, in Pétionville, Haiti (Apr. 20, 2011).

³² Exh. A, *supra* note 23, Interview with Philippe A. Philius, Directeur Administratif et Financier, Mairie de Delmas, in Delmas, Haiti (Apr. 15, 2011).

³³ Exh. A, *supra* note 23, Interview with Nazaire Altemar, Deuxieme Assistant, Directeur d’Affaires Juridiques, Ministère des Affaires Étrangères, in Port-au-Prince, Haiti (Apr. 21, 2011).

³⁴ Exh. A, *supra* note 23, Interview with Philippe A. Philius, Directeur Administratif et Financier, Mairie de Delmas, in Delmas, Haiti (Apr. 15, 2011); Interview with Clac Erick Louis, Maire-Adjoint, Conseil Municipal de Pétionville, in Pétionville, Haiti (Apr. 20, 2011).

40. Given the slow pace of reconstruction, human rights advocates and aid workers believe the initiative will lead people to move to other camps, precarious ravines, or back to houses damaged by the earthquake. In fact, limited investigations following IDPs who were recipients in the Pétionville program have shown that given the desperate conditions in which IDPs are living, some camp residents spent the money offered on healthcare and other urgent needs, and moved into other camps or pitched tents amongst the rubble of houses destroyed by the earthquake.³⁵ These sorts of displacements pose an even greater threat to the security of IDPs in the current hurricane season and fears of further earthquakes.

41. Small payments to displaced families that are not tied to any comprehensive housing assistance program risk further violations of IDPs' rights. The payments fail to conform with the "durable solutions to displacement" required by the United Nations' Guiding Principles on Internal Displacement³⁶ ("Guiding Principles") and the requirement to provide "alternative housing" when an eviction is necessary as articulated by both the Guiding Principles³⁷ and the Pinheiro Principles on housing and property restitution for refugees and displaced persons.³⁸

42. IDPs offered such payments report feeling harassed by public officials to leave the camp. They believe they have no choice because they will either be kicked out by force without any money or they can leave with the money. The payments are a type of economic coercion, not a durable housing solution. A population suffering without access to healthcare, potable water and other services will accept the money in the short-term out of desperation, rather than insisting on sustainable solutions.

43. The Government's strategy is also inconsistent with the Commission's recommendations in the Precautionary Measures. Not only did the government fail to cease all evictions of internally displaced persons, it initiated evictions on public land without ensuring that persons evicted were re-housed at locations that met minimum levels of salubrity and security. We anticipate that the new government will continue to carry out this relocation strategy. Haiti's new President, Michel Martelly, has pledged to relocate earthquake victims living in six highly

³⁵ Trenton Daniel, *Many leaving Haiti's earthquake settlement camps*, ASSOCIATED PRESS (Apr. 1, 2011) available at <http://www.cbsnews.com/stories/2011/04/01/ap/latinamerica/main20049774.shtml>.

³⁶ Walter Kaelin, "Framework on Durable Solutions for Internally Displaced Persons", February 9, 2010, U.N. Doc. A/HRC/13/21/Add.4 available at http://www.brookings.edu/~media/Files/rc/reports/2010/0305_internal_displacement/0305_internal_displacement.pdf.

³⁷ Representative of the Secretary-General, *Report on the Guiding Principles on Internal Displacement, delivered to the Commission on Human Rights*, U.N. Doc. E/CN.4/1998/53/Add.2, principle 7(2) (June 2001) ("The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated").

³⁸ Special Rapporteur on Housing and Property Restitution, *Final Report on the Principles on Housing and Property Restitution for Refugees and Displaced Persons*, U.N. Doc. E/CN.4/Sub.2/2005/17, principle 17(3) (June 28, 2005) (by Paulo Pinheiro) ("In cases where evictions of secondary occupants are justifiable and unavoidable, States should take positive measures to protect those who do not have the means to access any other adequate housing other than that which they are currently occupying from homelessness and other violations of their right to housing.")

visible camps during his first 100 days in office, including *Camps Place St. Pierre* and *Place Boyer* in Petionville, which are a part of the Pétionville Mayor's compensation program.³⁹

C. The Government of Haiti must be more involved in the response to forced evictions cases and should not rely on the international community to solve the displacement crisis

44. Because of their role in providing services to camps, international actors, including UN agencies, the IOM, and international non-governmental organizations, have had varying levels of involvement in cases of forced evictions. While the relevant international actors have worked together to develop standard operating procedures to follow in cases of threats of eviction, government actors figure minimally in their approach to resolving such issues. As a result, Haitian government officials have easily pointed to their own lack of capacity and resources and the comparatively high level of capacity and resources of international actors to relieve the government of any responsibility in cases of evictions. For example, Ministry of Interior officials often demonstrate their dependency on the IOM to respond to disputes between purported landowners and IDPs.⁴⁰ However, the Government of Haiti is the primary duty-bearer in respecting, protecting and fulfilling the human rights of its IDPs, and as such, the government cannot outsource these responsibilities to international actors.⁴¹

45. Recent interviews reveal that international actors involved in addressing the forced evictions issue in and around Port-au-Prince are generally frustrated. International agencies express that their strategies are constrained by the landowners' power in light of an absent government role in IDP camps. Governmental officials commonly have political ties to the landowners forcing the evictions, and many of the landowners acquired the land through informal political means or have questionable title claims. Accordingly, determining the legitimacy of title is a difficult question that officials tend to not want to question.⁴² As a result, individuals purporting to own land occupied by an IDP camp are neither required to show proof of ownership nor obtain a court order, despite the requirement for one under Haitian law.⁴³

³⁹Jacqueline Charles, *supra* note 10.

⁴⁰ General observations from individual cases of forced evictions; Exh. B, *supra* note 23, Interview with Serge Semerzier, Direction Protection Civile, Ministère de l'Intérieur et des Collectivités Territoriales, in Port-au-Prince, Haiti (Mar. 16, 2011).

⁴¹ Representative of the Secretary-General, *Report on the Guiding Principles on Internal Displacement, delivered to the Commission on Human Rights*, U.N. Doc. E/CN.4/1998/53/Add.2, principle 3 (June 2001) ("National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.").

⁴² Exh. B, *supra* note 23, Interview with Lilianne Fan, Darlens Hyppolite United Nations Human Settlements Programme, in Tabarre, Haiti (Mar. 14, 2011); Interview with Vincent Briard, United Nations High Commissioner for Refugees, in Tabarre, Haiti (Mar. 14, 2011); Interview with Maria Rosaria Bruno, Office for the Coordination of Humanitarian Affairs, in Tabarre, Haiti (Mar. 14, 2011); Interview with Emmett Fitzgerald, International Organization for Migration, in Tabarre, Haiti (Mar. 14, 2011).

⁴³ General observations from individual cases of forced evictions.

46. Without an advocate for the rights of the IDPs in the camps, the landowners continue to have the upper hand influencing negotiations in their favor. International actors' individual efforts will remain stifled without incorporation of government ministries. Silence on the part of the Haitian government to end forced evictions is tantamount to support for private landowners.

III. Conclusion and Recommendations

47. The facts and arguments above demonstrate an ongoing serious and urgent situation that continues to cause irreparable harm to Petitioners and IDPs in similar situations since the Commission issued Precautionary Measures against the Government of Haiti in November 2010. IDPs in Haiti face an ongoing threat of violence, harassment, economic coercion and other strong-arm tactics that result in prolonged periods of displacement, adverse health consequences, the loss of property and personal belongings, and the inability to access resources essential for their survival.

48. The Government of Haiti does not appear to have adopted or implemented the Commission's recommendations, or even designated a public agency to oversee implementation. To the contrary, the GOH continues to execute a pattern of forced evictions, on both public and private land, and to participate in or fail to prevent evictions by private individuals.

49. For the foregoing reasons, we respectfully request that this Honorable Commission renew and reissue Precautionary Measures against the Government of Haiti on behalf of the Petitioners and all similarly-situated camp residents who were displaced from their homes as a result of the January 12th earthquake, especially the call to the GOH to implement a moratorium on evictions from displacement camps. As a result of action undertaken by the Government of Haiti, thousands of IDPs have been and continue to face serious and irreparable harmed by forced evictions. The security risks are not improving under the new government. A moratorium on evictions from IDP camps is critical to protect IDPs until a comprehensive return and resettlement plan is adopted and implemented that protects the human rights of Haitians displaced from the earthquake.

50. In reissuing and renewing the Precautionary Measures, Petitioners specifically request that the Commission recommend that the Government of Haiti:

- (1) adopt and publicize a moratorium on evictions of camps of internally displaced persons until a comprehensive return and resettlement plan is adopted and implemented that protects the human rights of Haitians displaced following the earthquake;
- (2) ensure that persons who were illegally evicted from camps are re-housed at locations that meet minimum levels of salubrity and security;
- (3) guarantee internally displaced persons effective recourse before tribunals and other competent authorities;

- (4) implement effective security measures to safeguard the physical security of camp residents, guaranteeing special protection to women and children;
- (5) train law enforcement personnel on the rights of displaced persons, in particular the right to not be forcibly evicted;
- (6) ensure international agents of cooperation access to camps of internally displaced persons by supporting ongoing communication between international humanitarian aid actors and the responsible government agency;
- (7) educate government ministry officials, mayors, judges, and the police on the meaning of a forced eviction as defined in General Comment 7 by the United Nations Committee on Economic, Social and Cultural Rights, why they are illegal, to not carry out evictions until displaced persons are returned and resettled in adequate housing, and to follow the United Nations Guiding Principles on Internal Displacement, particularly Principle 7 concerning the secondary displacement of IDPs ;
- (8) work with the international community to build the capacity of the government to protect internally displaced persons, including seeking resources and technical expertise as needed;
- (9) encourage government and international agencies responsible for rubble removal and housing repair and creation to work expeditiously to resolve the housing crisis and build the capacity of the EPPLS to ensure the housing needs of IDPs are met; and
- (10) identify an agency responsible for implementation of the precautionary measures and recommendations, including the responsibility to educate government actors at the local and national level on the precautionary measures.

We thank you for considering this communication.

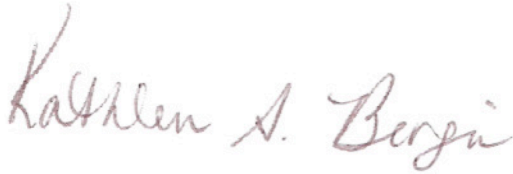
Sincerely,



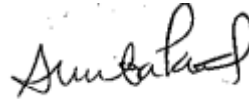
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