

Ref: TIGO IOR 40/2014/26

Ms Kate Fox
Secretary
UN Human Rights Committee
Office of the United Nations
High Commissioner for Human Rights
UNOG-OHCHR
1211 Geneva 10, Switzerland

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INTERNATIONAL**



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Dear Ms Fox,

Re: HAITI - List of Issues – forced evictions of internally displaced persons

I am writing to provide information to the Human Rights Committee (the Committee) in advance of the Committee's preparations to draw up its list of issues for Haiti, at the 110th session of the Committee to be held on 10 – 28 March 2014.

The organization has a number of concerns in relation to Haiti, which it plans to include in a more comprehensive submission in advance of the 112th session, at which Haiti's periodic report will be reviewed by the Committee. At this juncture, Amnesty International takes the opportunity to highlight serious concerns regarding violations of the International Covenant on Civil and Political Rights (the Covenant) that have occurred in the context of forced evictions in Haiti.

Following the devastating earthquake in 2010, hundreds of thousands of people who had been made homeless by the disaster built their shelters wherever they could find some space, including on public squares, pavements and private vacant land. A few months after the earthquake, many internally displaced persons (IDPs) living in makeshift displacement camps started to be forcibly evicted or to be exposed to the threats of evictions. More than 16,000 families – around 60,000 people – have been evicted since the International Organization for Migration began recording evictions in July 2010. The overwhelming majority of such evictions have involved people claiming to own the land or landowners reclaiming possession of properties from displaced people through intimidation and violence. Some, although fewer in number, are connected to planned official projects to restore public spaces, involving local officials and the police.

Amnesty International has documented a pattern of forced evictions of internally displaced families, carried out or condoned by the authorities without legal and procedural safeguards such as genuine consultation with those affected to identify all feasible alternatives to evictions, provision of adequate notice, access to legal remedies, compensation, and alternative housing for those who cannot provide for themselves.

As the Human Rights Committee has stated, forced evictions contravene article 17 of the Covenant, which provides for the right to the protection of the law against arbitrary or unlawful interference with a person's privacy, family or home. In the case of *Liliana Naidenova et al. v. Bulgaria*, the Human Rights Committee found that enforcing an eviction order without ensuring that satisfactory replacement housing was available to the author would violate Article 17.¹

¹ UN Human Rights Committee, Communication No. 2073/2011, Views adopted by the Committee at its 106 session, UN. Doc. CCPR/C/106/D/2073/2011, 14 November 2012, para 15.

Amnesty International takes this opportunity to present some illustrative cases taken from its report, *Nowhere to go: forced evictions in Haiti's camps for displaced people*.² In these cases, individuals affected by forced evictions in Haiti were not provided with adequate alternative accommodation, and did not receive adequate notice or access to appropriate forms of legal or other protection. Forced evictions carried out in this manner constitute unlawful interferences with people's privacy and homes, and in Haiti, this interference goes hand in hand with systematic intimidation, harassment and violence. This submission also seeks to bring to the attention of the Committee a number of specific instances in which other serious violations of the Covenant have occurred during forced evictions carried out with the consent or involvement of State officials, or as the result of the State failure to protect individuals from evictions carried out by private actors.

Examples of forced evictions taken from Amnesty International report, *Nowhere to go*

Sylvio Cator Stadium: repeated forced evictions

In early July 2011, the City Council of Port-au-Prince announced that on Friday 15 July it would evict over 500 families living in a makeshift camp located in the parking lot of Sylvio Cator Stadium in central Port-au-Prince.

On Tuesday, 12 July 2011, the former mayor of Port-au-Prince went to the Sylvio Cator Stadium to inform the 514 families living there that they had to leave before Friday 15 July; no written notice or judicial order as required in Haitian law, was presented. This was the first notification of impending eviction that the families received.

Under pressure from the camp residents, Haitian and international human rights organizations, the municipal authorities sought quickly to find a relocation area. They identified a property less than 2km away, in the courtyard of an abandoned and partially demolished radio station. Only 40 families were able to build new makeshift shelters on the small walled property which was prone to flooding. No further assistance for relocation or rebuilding of shelters or facilities was provided.

Camp Moyazik: forced eviction by municipal authorities

On 4 May 2012, 126 families who lived in Camp Mozayik in Delmas municipality were forcibly evicted by local municipal officials accompanied by armed members from the Delmas' Streets Control Brigade (Brigade de Contrôle des Rues, BRICOR) and officers from the Haitian National Police.

The land where the IDPs had built their makeshift shelters in the wake of the earthquake was set aside for a commercial development. The alleged owners did not initiate any legal proceedings to obtain an eviction order from the courts, as required under national law. They instead regained possession of the property through the involvement of the local municipal authorities and private individuals.

At around 4pm on 4 May 2012, without prior notice and without an eviction order, a demolition crew from Delmas municipality accompanied by armed agents from BRICOR started to destroy the makeshift shelters with hammers and machetes. Shelters were torn down before many affected people could retrieve their belongings and were left empty-handed. The families did not receive any compensation or alternative accommodation. All 126 families were left homeless.

Forced eviction from Place Jérémie

Around 130 families (464 people) had built their makeshift shelters in Place Jérémie, the small square located in the neighbourhood of Carrefour Feuilles. Since August 2011, camp residents had been subjected to threats, violence and intimidation from people living near the camp. Leaflets had been distributed in the camp threatening the residents with violence, arson and eviction.

² AMR 36/001/2013, January 2013, <http://www.amnesty.org/en/library/info/AMR36/001/2013/en>

On 21 December 2011, camp residents were woken up in the middle of the night by a group of around 10 men armed with knives, clubs and machetes, accompanied by a group of police officers that arrived in three police vehicles. The men destroyed the shelters, and families were not even given time to collect their belongings. Within four hours, all the families were left homeless and destitute.

The eviction was carried out without a judicial order and without any protection guarantees afforded to those affected. Although it is required by law that judicial authorities be present during an eviction, no Justice of the peace had been seen during that night.

Other violations of the Covenant

Lack of investigation into fires in IDP camps– Articles 2, 6 and 17

On 11 January 2014, a fire tore through the “Comité du peuple progressiste” displacement camp in the Haitian capital, Port-au-Prince. Four people died in the fire, including three young children, whilst around thirty others were hospitalized with burns. All of the makeshift shelters of the 108 families who lived in the camp were completely destroyed, along with their personal belongings.

According to some of the residents, the cause of the fire may have been arson. In the past, a number of families have been the victim of similar fires in different IDP camps in the Haitian capital, whose origin was suspected to be arson. In some cases, the sites were completely cleared out following fires and residents found themselves homeless once again and left without any type of assistance from the authorities.

For example, during the night of Saturday 16 February 2013, residents of ACRA 2 camp in Pétion Ville saw armed men set fire to their camp. The following day, a second fire destroyed the remaining shelters and forced the residents – several hundred families – to abandon the site. According to reports from residents and Haitian human rights organizations, a child died in the fire. Although concerns expressed by different national and international human rights organizations have led certain authorities to promise that there would be an investigation into the fire and the forced eviction which followed, Amnesty International has as yet not received any confirmation that such an investigation has actually been carried out.

Haiti has an obligation under Article 2 of the Covenant to exercise due diligence to prevent, punish, investigate or redress the harm caused by acts of private persons or entities that impair the enjoyment of Covenant rights. However, in the fires both at “Comité du peuple progressiste” displacement camp and at ACRA 2 camp, there is no evidence that investigations have been carried out by the Haitian authorities; no one has been brought to trial, and victims have not received any compensation.

The failure by the government to investigate the deaths, and where appropriate prosecute and provide other remedies such as compensation, combined with the suspicion that fires in the camps were caused by arson, and were intended to clear the camps, is a violation of the State’s due diligence obligations to prevent forced evictions under articles 2, 6 and 17.

<http://www.amnesty.org/en/library/info/AMR36/004/2014/en>

Arbitrary detentions and illegal threats of arrest - Articles 9 and 17

Attempts to evict the residents of Grace Village camp have been ongoing since 2011. Residents reported that they have been subjected to a campaign of harassment perpetrated by security guards in the employ of the individual who claims to own the land on which the camp is located, and by police officers who are allegedly in his pay. In this context, residents have been arbitrarily arrested on several occasions.

On 15 February 2013, residents learned from local police that an arrest warrant had been issued for two residents, one of whom is a camp committee member: a community leader elected or appointed by the residents of the camp to represent their interests. On 18 February, residents reported that police

came to the camp and arrested another camp committee member. She was released without charge the following day and was never given a reason for her arrest. The police subsequently informed camp residents that they had a list of several people from the camp who would be arrested, including other members of the camp committee.

<http://www.amnesty.org/en/library/info/AMR36/005/2013/en>

In 2012 and 2013, residents of the Lanmè Frape area of Canaan, an informal settlement in the municipality of Cabaret, had their simple dwellings repeatedly destroyed by police officers accompanied by armed men. The residents told Amnesty International that they have been the victims of attacks on more than 10 occasions over the last 18 months and several of them have also been arrested and detained on unfounded charges for periods of up to a month.

<http://www.amnesty.org/en/library/info/AMR36/020/2013/en>

The failure to inform the camp committee member in the Grace Village camp of the reason for her arrest constitutes a violation of Article 9(2) of the Covenant. The threats of arrest form part of the intimidation and harassment suffered by residents, which has the ultimate aim of removing the residents from the land on which the camp is located. The experience of residents in the Lanmè Frape area of Canaan of being arrested and detained on unfounded charges for up to a month also demonstrate a prima facie violation of Article 9 of the Covenant.

The reliance of the State on these tactics, rather than on fulfilling its obligations to provide adequate notice of evictions and the use of the legal processes for evictions set out by Haiti's Code of Civil Procedures, also constitute a violation of Article 17 of the Covenant.

Excessive use of force during evictions and in response to protests against evictions– Articles 2, 6, 7 and 17

On 15 February 2013, 150 families were forcibly evicted from the Gaston Magwon camp in the Port-au-Prince municipality of Carrefour by police officers and a group of men carrying machetes and knives who were accompanied by a local justice of the peace. The armed men began destroying the families' shelters, while some people were still inside, and attacked individuals that attempted to stop them. The police also shot their firearms into the air to intimidate the families. One infant was reported to have suffered injuries when armed men and police damaged a shelter with the child still inside. The men reportedly threatened to burn down the entire camp and to kill the children of families who did not move.

<http://www.amnesty.org/en/library/info/AMR36/006/2013/en>

More than 200 families were forcibly evicted between 7 and 10 December 2013 from Mozayik, a sector of an informal settlement known as Canaan, located on the outskirts of Port-au-Prince. A justice of peace (*juge de paix*) from the municipality of Croix-des-Bouquets carried out the eviction, accompanied by police officers and a group of armed men. The police reportedly used tear gas grenades and fired shots into the air to intimidate residents who tried to resist the operation. According to the residents, a dozen people were assaulted, including a woman who was four months pregnant. The armed men also torn down the residents' dwellings without allowing them time to collect their belongings. The eviction reportedly occurred in execution of a court order issued in June. However, residents stated that they were never notified of the order nor received notice for the eviction.

<http://www.amnesty.org/en/library/info/AMR36/023/2013/en>

<http://www.amnesty.org/en/library/info/AMR36/022/2013/en>

The same justice of peace returned to the area on the morning of 30 January 2014. He was accompanied by police officers and a group of men armed with machetes and sticks who proceeded to forcibly evict approximately 100 families from a neighbouring area known as Village Grâce de Dieu. Residents said that the police fired their guns into the air and also used tear gas against them. At least three people are reported to have been injured, including a 4 year-old child and an 84 year-old man. A makeshift structure which was being used as a school was torn down and a water tank which served

thousands of people was also destroyed. Residents stated they were given no notice of the eviction and that the justice of peace claimed he was completing the eviction process which started in Mozayik on 7 December, which was based on a court order issued in June. The court order apparently only mentions 10 of the Mozayk residents, while over 300 families have been evicted from Mozayik and Village Grâce de Dieu. Residents of the latter stated that they were not given prior notification.

The police returned at 5am on 3 February 2014 and reportedly fired their guns into the air once more. In order to stop further forced evictions, the residents blocked the highway which runs between their community and the Caribbean Sea. The police used tear gas to try to disperse them and there are reports of two people requiring hospitalization after having been beaten by the police. No further evictions were reported.

<http://www.amnesty.org/en/library/info/AMR36/005/2014/en>

On 15 April 2013, police officers beat Civil Merius so brutally that he died of his injuries in police custody. Civil Merius was one member of a group of residents of the Acra Adoquin camp in the locality of Delmas 33, who were protesting against police inactivity following threats of forced eviction made by a man claiming to own part of the land on which the camp is located and an attempt to burn down the camp by a group of men on motorcycles two days earlier. Darlin Lexima was also arrested, and reported that he had been beaten in police custody. Amnesty International has received information that suggests that the investigations into the death of Civil Merius and the beating of Darlin Lexima have stalled. There is no indication that investigations into the arson attack in the Acra Adoquin camp and the threats of forced eviction which preceded the attack and the protests were undertaken.

<http://www.amnesty.org/en/library/info/AMR36/008/2013/en>

The actions of the police officers in firing into the air and using tear gas during these evictions appears to be a disproportionate use of force, and an investigation into the police operations must be carried out to determine whether the force used by security forces was proportionate in the circumstances. The lack of adequate notice in the Mozayik and Village Grâce de Dieu cases also calls into question the legality of the eviction. In addition to this, the attacks carried out by armed men on people's homes and on camp residents occurred in the presence of police officers, which again points to a violation of the State obligation to prevent private actors from causing harm to others which impair their enjoyment of Covenant rights. The death of Civil Merius and the beating of Darlin Lexima during a protest seems to point at excessive use of force by police, which may even have reached the threshold of arbitrary deprivation of life.

The Haitian authorities must investigate each of these incidents, in order to determine whether violations of these Covenant rights have occurred, to hold those responsible to account and to guarantee redress for the victims and their families.

Discrimination against people living in IDP camps and lack of equality before the law – Article 2, 14, and 26

As a party to the Covenant, Haiti is required to ensure that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. Amnesty International is seriously concerned at the differential treatment of people living in IDP camps in Haiti. In the overwhelming majority of cases, victims of forced evictions are internally displaced people living in poverty or even extreme poverty whose livelihoods were devastated and whose access to adequate housing was extremely adversely affected as the result of the earthquake. Women heads of households interviewed by Amnesty International stressed how forced evictions pulled to pieces what they and their families had arduously built up over months, destroying their means of earning a living and pushing them even further into poverty. On the other hand, perpetrators of evictions are often members of influential and affluent families.

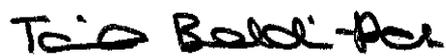
Haiti's Code of Civil Procedures sets out clear parameters for landowners seeking to assert ownership rights or possession of private property. It also defines the powers of various judicial officials. The law, therefore, allows landowners to seek the legal eviction of the displaced people occupying their properties. Yet in practice, people claiming to be landowners often avoid legal processes to seek

evictions in IDP camps. Many forced evictions are therefore carried out through the use of threats, intimidation, and violence rather than through the use of legal means. IDPs are de facto denied their legal rights and remedies. They are discriminated against on the basis of their poverty, and the law excludes them of the rights and remedies prescribed by Haiti's Code of Civil Procedures. Whilst Haiti fails to provide the adequate safeguards that prevent private persons from conducting evictions without notice in IDP camps, it is failing to guarantee to their residents the equal protection of the law.

In addition to this, residents of IDP camps frequently do not receive adequate notice of evictions, and do not have access to legal aid to assist them in bringing claims for redress. These issues present further barriers to access to justice. Without adequate notice, they cannot challenge their evictions in a fair and public hearing by a competent, independent and impartial tribunal, as is their right under Article 14. Without access to legal aid, they cannot obtain judicial redress for the consequences of the multiple violations they have suffered.

Further information is available in the documents that are being sent with this letter. However, please do not hesitate to contact me should you need any further information.

Yours sincerely,



Tania Baldwin-Pask
International Advocacy Programme

Enclosures

Reports

Date: 23 April 2013

Name: **Haiti: 'Nowhere to go': Forced evictions in Haiti's displacement camps**

Link: <http://www.amnesty.org/en/library/info/AMR36/001/2013/en>

Urgent Actions

Date: 04 February 2014

NAME: **Haiti: Thousands more at risk of forced eviction**

LINK: [HTTP://WWW.AMNESTY.ORG/EN/LIBRARY/INFO/AMR36/005/2014/EN](http://www.amnesty.org/en/library/info/AMR36/005/2014/en)

Date: 18 December 2013

NAME: **Haiti: Further information: 200 families evicted, more at imminent risk**

Link: <http://www.amnesty.org/en/library/info/AMR36/023/2013/en>

Date: 09 December 2013

NAME: **Haiti: Families forcibly evicted, 100 more at risk**

Link: <http://www.amnesty.org/en/library/info/AMR36/022/2013/en>

Date: 18 October 2013

NAME: **Haiti: Hundreds face violent forced eviction**

Link: <http://www.amnesty.org/en/library/info/AMR36/020/2013/en>

Date: 18 April 2013

NAME: **Haiti: Hundreds of families risk forced eviction**

Link: <http://www.amnesty.org/en/library/info/AMR36/009/2013/en>

Date: 17 April 2013
NAME: **Haiti: Families attacked, risk forced eviction**
Link: <http://www.amnesty.org/en/library/info/AMR36/008/2013/en>

Date: 22 March 2013
NAME: **Haiti: Displaced families face forced eviction in Haiti**
Link: <http://www.amnesty.org/en/library/info/AMR36/006/2013/en>

Date: 6 March 2013
NAME: **Haiti: Further information: Displaced people face arbitrary arrest**
Link: <http://www.amnesty.org/en/library/info/AMR36/005/2013/en>

Date: 30 January 2013
NAME: **Haiti: Families forcibly evicted from camps in Haiti**
Link: <http://www.amnesty.org/en/library/info/AMR36/003/2013/en>

Date: 15 June 2012
NAME: **Haiti: Haitian families again facing forced eviction**
Link: <http://www.amnesty.org/en/library/info/AMR36/006/2012/en>

Annual reports on Haiti

Date: May 2013
Name: Annual report 2013
Link: <http://www.amnesty.org/en/region/haiti/report-2013>

Date: May 2012
Name: Annual report 2012
Link: <http://www.amnesty.org/en/region/haiti/report-2012>

Date: May 2011
Name: Annual report 2011
Link: <http://www.amnesty.org/en/region/haiti/report-2011>