Options for Land Tenure Dispute Management in Rural Haiti

Challenges and Opportunities in the Côte Sud

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TABLE OF CONTENTS

ACKNOWLEDGMENTS..... iii
ABBREVATIONS AND ACRONYMS..... iv
EXECUTIVE SUMMARY..... v

1 INTRODUCTION AND BACKGROUND..... 1
1.1 Historical Background..... 1
1.2 Legal Framework..... 2
1.3 Project Background..... 3
1.4 Methodology of Research and Analysis 5

2 KEY FINDINGS AND GAPS..... 5
2.1 Conflict Analysis..... 5
2.2 Formal Resolution Mechanisms 8
2.3 Informal Resolution Mechanisms..... 9
2.4 Professionalization/Specialization..... 10
2.5 Institutional Administrative Uniformity, Awareness and Documentation..... 11
2.6 Community Access, Awareness and Valuing..... 12
2.7 Enforcement 13
2.8 Formal Recognition of Alternative Dispute Resolution Mechanisms..... 14
2.9 Land Use Planning..... 15

3 RECOMMENDATIONS..... 17
3.1 Civic Engagement..... 18
3.2 Legal Training..... 19
3.3 Legal Aid/Counseling..... 20
3.4 Land Tribunals..... 22
3.5 Standardized Domain Modeling..... 23
3.6 Watershed Planning..... 24

4 CONCLUSIONS..... 27

5 ANNEX
ANNEX 1: Framework Utilized for Analysis and Categorization..... a
ANNEX 2: Land Tenure Manual..... e
ANNEX 3: Relevant items from the Rural Code..... g
ANNEX 4: Questionnaire for interviews in Port-à-Piment watershed..... h
ANNEX 5: Questionnaire for interviews in Les Cayes and Port-au-Prince..... k
ANNEX 6: Capstone Project Work Plan (January–May 2012)..... o
ANNEX 7: Works Cited..... p
ANNEX 8: Interviewees in Haiti..... r
ANNEX 9: End Notes..... x

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ABBREVIATIONS AND ACRONYMS

ASEC	Communal Section Administrator
CASEC	Advisor to Communal Section Administrator
CBO	Community-based Organization
CIAT	Inter-ministerial Committee for Territorial Development
CNIGS	National Center for Geo-Spatial Information
CSI	Côte Sud Initiative
DGI	General Directorate of Taxation
EEZ	Economic-ecological zoning
ELI	Environmental Law Institute
FAO	Food and Agriculture Organization of the United Nations
ICLA	Information, Counseling and Legal Aid
INARA	National Institute for the Application of Agrarian Reform
ISO	International Standards Organization
LADM	Land Administration Domain Model
MVP	Millennium Village Project
NGO	Non-Governmental Organization
NRC	Norwegian Refugee Council
OAS	Organization of American States
OFDAN	Organization of Women for Development, Agriculture, and Sustenance
ONACA	National Cadastral Office
PLWG	Property Law Working Group
UN	United Nations
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

The *Millennium Village Project* (MVP) in the Port-à-Piment watershed is a partner of the *Côte Sud Initiative* (CSI) an integrated development program working with 18 communes in southern Haiti to formulate multi-sector planning and intervention strategies in support of long-term sustainable development. In order to facilitate anticipated increases in agricultural productivity, as well as improve land and natural resource management in the MVP and throughout the Côte Sud region, students from Columbia University's School of International and Public Affairs were tasked to investigate the conflict potential of the existing land tenure management system.

Based upon qualitative interviews with key actors, the team analyzed the frequency and intensity of land tenure conflict as well as dispute resolution mechanisms utilized by local citizens in order to formulate recommendations supporting future development initiatives. Gaps were determined through research and interviews with local landowners, lawyers, notaries, surveyors, non-governmental organizations and government agencies. Recommendations were then formulated through a review and analysis of international practices relevant to fragile states.

The following pages provide an overview of Haiti's legal framework and an analysis of circumstances that may cause conflict, as well as formal and informal dispute resolution mechanisms. Interviewees identified that confusion and conflict within the land tenure system was primarily due to: i) lack of professionalization and specialization among judges, lawyers, notaries and surveyors, ii) lack of administrative uniformity, awareness and documentation among government institutions; iii) lack of enforcement of laws and legal rulings on land disputes; iv) limited access, awareness and community valuing of the formal land-tenure system; v) lack of formal government recognition of alternative dispute resolution mechanisms; and vi) lack of land-use planning.

Interviews revealed that while conflicts over land in southwestern Haiti are prevalent, particularly regarding issues of inheritance, this conflict is rarely violent. We expect that as population pressures and land value increase, however, there will also be a rise in land tenure-related conflicts. Consequently, any development strategies or interventions to increase agricultural productivity through improved land and natural resources management are likely to be further hindered by gaps identified in this report.

Given our results and analysis, recommendations seek to assist local implementing agencies respond to pressing land-tenure issues with feasible solutions like: civic engagement to raise local awareness about dispute resolution mechanisms; legal training for local officials; legal aid and counseling for local land owners and users; the development of land tribunals to resolve disputes; standardized domain modeling to develop inventories of land ownership and use; and watershed planning to improve efficiency of land and resource utilization. Even though the proposed recommendations can be pursued independently, an implementation strategy is suggested in order to take advantage of complementarities and scalability of each individual initiative.

Recommendations were formulated to indicate specific and concrete measures that can bridge the gaps identified. Each of the above recommendations should continue to be evaluated in order to determine their effectiveness and adjustments should be made accordingly.

1. INTRODUCTION AND BACKGROUND

1.1 Historical Background

With more than 10 million inhabitants, Haiti is one of the most densely populated countries in the world and its populace is also one of the most socio-economically polarized[1]. Considerable wealth and abject poverty often live side by side in the capital, Port-au-Prince, and also in the rural countryside. Nearly 80 percent of the country's land area is used for agriculture, although 63 percent is considered too steep for production[2]. Population pressures and an absence of land use planning have increasingly strained a poorly managed land tenure system. The high rural population density and deteriorating soil quality are increasing land conflict in many parts of Haiti.

Figure 1: Haiti Development Indicators *(UNDP, 2011; World Bank, 2009; Transparency International, 2011)*

HDI Rank	158 of 187 (0.456)
CPI Rank	175 out of 182 (1.8)
Life Expectancy	62
GDP p/c PPP	$1,200
Youth Unemployment	35%
Subsistence Farmers	66%
Literacy Rate	49%
Population below poverty line	77%
Population density	362.6 people/km2

Map 1: Political Map of Haiti and its Departments.



Land tenure and security has long been an issue for many Haitians. The development of Haiti's formal land management and dispute resolution systems were influenced by the antiquated Napoleonic Code of their colonial predecessors [3]. Communal ownership systems have been discouraged since the early 1800's when post-colonial administrations pursued policies encouraging the shift from a rural agrarian ownership system of large plantations to a system of smaller, divided plots. Upon independence in 1806, the country's new leaders distributed land among friends, relatives, nobility and military leaders. Although there have been numerous attempts towards reform in the past, ongoing political instability and established economic interests have undermined the process. Presently, 95 percent of land in Haiti is private or state private land[4].

Dolisca et al.'s 2007 research on deforestation in Haiti indicates that farmers without a land title or land security are more likely to deforest their land[5]. Agricultural land conversion and charcoal production for fuel in rural areas have also increased deforestation. The last comprehensive data showed that only 2 percent of native forest remained[6], causing soil degradation, erosion and flooding. The combination of

insecure tenure and the absence of a property tax system encourage farmers to maximize the present value of their plots via deforestation for fuel and charcoal. The last 30 years have also seen an increase in fragmentation of rural lands and an expansion of sharecropping and land rental agreements[7]. Clear property rights and enforcement are essential to incentivize responsible land use. Furthermore, in a Post-Disaster Needs Assessment meeting held in March 2010, a group of 21 mayors from diverse regions indicated land ownership as a primary barrier to reconstruction[8].

Adding to the challenge, frequent natural disasters undermine sustained economic growth and limit the execution of strategic planning and development programs. The devastating 7.0 magnitude earthquake that struck Haiti in January 2010 took an estimated 200,000 lives, but also displaced some 1.6 million people in and around the capital, Port-au-Prince. This event shed light on existing challenges of land ownership in Haiti. Immediately following the earthquake, many people fled Port-au-Prince to resettle in rural areas or stay with relatives, although some returned when they heard land and homes would be provided by international aid agencies[9]. Homes cannot be built or rebuilt, however, if land ownership is contested or unknown[10].

1.2 Legal Framework

During the Duvalier dictatorship (1957–1986), several major land tenure changes were made, including the institution of the *Code Rural,* which is still in effect. As in the post-colonial era, the Duvaliers also distributed land among their local enforcement agents, the *Tonton Makout*, whose authority allowed for expropriation of land without question[11]. Haiti's transition to democracy and the ratification of the 1987 Constitution contributed significantly to the land tenure structures still in place today.

The four main components of land tenure systems in Haiti are: i) Legal framework; ii) Adjudication framework, iii) Surveying, registration and record-keeping framework; and iv) Dispute resolution mechanisms and public awareness processes[12]. Additionally, in order to guide agrarian reform, optimize productivity and improve protection and management of land, Article 248 of the 1987 Constitution called for the establishment of the National Institute of Agrarian Reform (INARA)[13]. Figure 2 below outlines legal codes that are directly relevant to land tenure. Additional details are provided in Annex 1 (Land Tenure Manual) and Annex 2 (Rural Code).

Figure 2: Legal Codes Relevant to Land Tenure[14]

CODE	DESCRIPTION
Civil Code (1825)	Laws on property, usufruct, use, habitation, servitude, property acquisition (e.g., lands without owners belong to the state), transference through wills, transactions, leases, mortgages, expropriation and adverse possession
Rural Code (1962)	Laws on rural goods (including property), agricultural goods, soil, water (e.g., irrigation, drainage), forests, surveying in rural Areas and the proof of ownership
Constitution of 1987	Articles 36-39, Section H deal with property in general; Articles 53-57 of Title IV establish limited foreign land ownership; Article 248 established INARA[15]
Presidential Decree of 2010	Expropriation of land and Law of State of Emergency
Other	*Loi du 29 mai* (city control on agricultural lands); Decree of September 22, 1964 (DGI responsibility for state private lands); 1996 Article 24 of the *Loi du 28 mars* (CASEC responsibility to administer state private lands in his/her section under the supervision of the Municipal Counsel)

The Haitian court system serves as the primary formal dispute resolution mechanism. Whether the case is heard at the *Tribunal de Paix* or the *Tribunal Civil* depends on whether the underlying issue arises under penal or civil code, respectively. Decisions of the *Tribunal Civil* can be appealed to the *Parquet* (the office of the *Commissaire*). Likewise, decisions of the *Parquet* can be appealed to the *Cassation* (the highest appellate court) in Port-au-Prince[16].

Given the Haitian Executive's extent of power over budgeting, training and appointment or dismissal of judges, the Judiciary is vastly subordinate to the Executive[17]. However, it is more common for legal disputes in the south, including land tenure issues, to be resolved through customary law or similar informal mechanisms. These non-traditional systems indirectly influence the formal system, like the *Tribunal de Paix,* about 80 percent of the time[18].

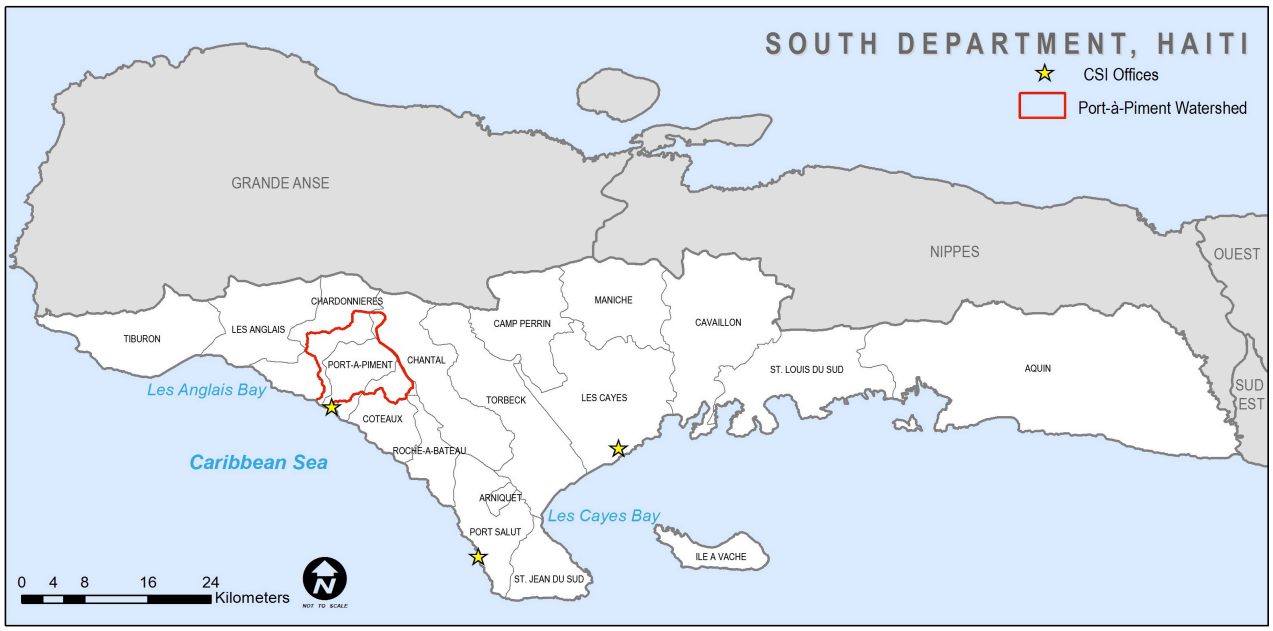
Land ownership in Haiti is classified in three ways: (i) state public land, (ii) state private land or (iii) private land[19]. State private land may be sold and rented by the government; rent is paid to the General Directorate of Taxation (DGI) or through a procurer. Ownership is formally noted through a legal land title (*Certificat d'Immatriculation Cadastrale*), although claims through oral or community history can also play a role. The transfer of title is undertaken when there is a purchase or sale of private land. However, land ownership is often claimed with unofficial or forged documents, a widespread issue which negatively impacts the land tenure system. Land survey documents and the *Sou en prive* (person-to-person non-binding contracts) are also often used to claim land. Land tenure types are further outlined in Annex 2.

Based on the Haitian legal framework, there are two ways to process land acquisitions: i) private buying/selling; and ii) land designation through the national cadaster[20]. The steps to acquire land through private means are as follows; i) after one party agrees to sell land to another, they contact a surveyor to measure and assess the land; ii) a notary is consulted for legal identification and drafts a declaration of sale; and iii) the notary writes a new deed for the buyer. Through the national cadaster, the steps are as follows: i) Haiti's National Cadastral Office (ONACA) and the National Center for Geo-Spatial Information (CNIGS) act as the surveyor and aerial photographer respectively to measure the land; ii) based on this survey, ONACA divides the land based on ecological and national boundaries (also after consultation with the local community); iii) after individual properties are delimited, ONACA provides an *Acte d'arpentage* and allocates land titles and other documentation of ownership; iv) if necessary, lawyers help to resolve competing claims; and v) parcels are provided an official number through an *Immatriculation Cadastrale*.

1.3 Project Background

The Port-à-Piment Millennium Village Project (MVP) was officially launched in 2012 and, modeled after similar initiatives in 14 sites across Africa, is the first integrated development project of its kind in the Western Hemisphere. The MVP works in partnership with the Côte Sud Initiative (CSI) as part of the broader Haiti Regeneration Initiative (HRI) that aims to harmonize donor support and development projects in the region in coordination with the UN Environment Programme (UNEP), the Government of Haiti, the Earth Institute of Columbia University, and locally operating NGOs and CBOs. The interventions and investments planned by the MVP and these other partners are designed to increase agricultural outputs, stimulate local businesses, and gradually improve rural livelihoods.

Map 2: Haiti's South Department, Highlighting the CSI Offices and Port-à-Piment MVP



History has shown that population pressures and increased land values frequently lead to heightened land tenure-related conflicts. Glenn Smucker and Gerald Murray, two academics with experience in the region, have noted the absence of this type of violent conflict in southern Haiti and therefore have declared land tenure system reform unnecessary[21]. In their view, the combination of formal and informal land registration systems are accessible and effective, and thus system-wide reform is a mistaken priority of international development agencies. While these observations were taken into consideration, so were forecasts that increased development may exacerbate conflict due to the factors listed above. Indeed, the FAO recommended incorporating land tenure analysis and reform in rural development projects, noting that informal and formal aspects of land tenure systems are often unable to "adjust sufficiently to rapidly changing circumstances…" increasing the chances of conflict[22]. As development projects continue to increase in Southern Haiti, the importance of understanding the pressures on the land tenure system becomes critical. Thus, this study was commissioned to investigate current levels of conflict while attempting to map their trajectory in the future. Given that governmental reform will require years of political mobilization, it is pertinent to design recommendations for improvement that can be implemented on a decentralized, local level in the short term. Furthermore, while the system as a whole has been analyzed, a more narrow study on the dispute resolution aspect has not been undertaken.

Thus beginning in late 2011, a team of students from Columbia University's School of International and Public Affairs (SIPA) analyzed the land tenure situation in the *Côte Sud* region of southwest Haiti and formulated recommendations in terms of dispute resolution mechanisms therein. The team conducted interviews in the communes of Port-à-Piment, Les Anglais, Chardonnieres, Coteaux, Tiberon, and Port Salut as well as in the South Department capital of Les Cayes and in Port-au-Prince. Although these observations and recommendations focus on the Port-à-Piment watershed and neighboring villages, actions may eventually be replicated and scaled up on a decentralized, sub-national level in order to mitigate land conflict elsewhere in Haiti. Research was conducted in collaboration with CSI, Catholic Relief Services (CRS), UNEP and the Environmental Law Institute (ELI).

1.4 Methodology of Research and Analysis

Gaps were identified and recommendations were made based on a review of international land management-related practices as well as field research conducted in Haiti in March 2012. The initial phase of research involved the identification of international land dispute models and efforts underway in Haiti. These methods were categorized according to USAID's Land Tenure Framework (see Annex 3), examined for applicability to the Haitian context and analyzed for their strengths, weaknesses, opportunities and threats with the aim of determining approaches that could help improve land tenure security and reduce conflict in rural Haitian communities.

Field research involved interviews with actors in land tenure-related conflicts in Haiti, including local land-owning groups, lawyers, notaries, surveyors, NGOs and various land tenure-related government agencies[23] on both the local and national level (questionnaires can be found in Annexes 5 and 6). Interviews aimed to understand gaps between formal and informal land-management practices and to identify sources and causes of conflict in these processes. Key points were extracted from the transcriptions of these interviews and categorized according to the Land Tenure Framework (see Annex 1) to facilitate the synthesis of information and gap analysis.

Based on the gaps detected through field research and analysis of international practices (Section 2), recommendations were crafted to address the most pressing land tenure issues and offer feasible solutions (Section 3). Many aspects of these recommendations were derived from relevant international practices analyzed in the preliminary period of the study. While the gaps analyzed and presented in this report illustrate the weaknesses of the current Haitian land tenure dispute resolution system, the recommendations are directed towards implementing partners (e.g., UNEP, MVP, CSI), although much of the information may be of interest to the Government of Haiti.

2. KEY FINDINGS AND GAPS

2.1 Conflict Analysis

Interviews with community groups and rural government officials revealed that conflict over land tenure in southern Haiti is frequent, but of low intensity and rarely violent. Relative to the high frequency, intensity, and duration of violent conflict in the northern department of Artibonite, community members and officials alike perceive the land tenure problems in the Côte Sud region to be insignificant. The severity of land conflict should not be determined, however, relative to the most severe case in the country, but rather by the degree to which it acts as an impediment to development. Our research indicates that the present level of land tenure insecurity does indeed deter community investments in the land and should be addressed as part of any integrated development approach in the region.

Problems of Inheritance in Practice

A woman's grandmother had owned a piece of land since 1954. She received it from her grandparents, but they did not mention her grandmother in the will. One day the descendants of the original seller decided to go back to the parcel of land, which created a big conflict. In the end, her grandmother managed to obtain good documents.

Agricultural Cooperative (PDA) Member, Les Anglais



Lengthy Legal Process

Cati, from Tiburon, bought land with unofficial documents from a family. After a while, the family reclaimed their land. In order to protest this and claim the land as her own, Cati went to the *Tribunal de Paix*. It has been three years since the case was started and there has still not been any decision made about the conflict.

Focus group of ASECs, Tiburon



The main cause of land conflict in the South relates to systemic flaws in the documentation of land titles, especially given that verbal contracts are not reinforced by official documents. Further, the formal documentation system is not utilized for two main reasons: i) people do not perceive the legal system to be convenient, effective, or essential when dealing with family or community members (i.e. they do not 'value' it); and ii) people lack the means to pay for legal services.

The systemic flaws in documentation are especially acute with regard to land inheritance. Inheritance customs require that owners divide land amongst their children after their death; this division is generally accomplished through verbal agreements, thus official land ownership remains ambiguous. Conflict often arises when one family member decides to sell land without the consensus of the others. This is more likely to happen when heirs have moved away from the family property, thus no longer having direct control over their designated plot[24]. Once land value starts increasing, children that have moved away may return to their family land, increasing the likelihood of conflict[25] [26] [27] [28]. Similarly, in the aftermath of the 2010 earthquake, some community members reported a surge in conflicts due to emigration from urban areas[29].

Unofficial documentation of land ownership impacts not only family land transactions, but also causes disputes over purchased land. People who sell portions of their land often keep the original title deed to the property in its entirety[30] [31]. If a transaction was not registered through a notary and surveyor, the buyer does not legally possess any rights to the purchased land. Even if the buyer obtains a "declaration of sale", they often do not legalize it due to high notary fees[32].

Additionally, people may buy land without realizing that the sellers lack the proper documents[33]. This is facilitated by the ease of accessing false documents and by "blind buying". The practice of "blind buying" refers to occasions when buyers pay for the land before they see and measure it; this typically happens in situations where questioning the word of a neighbor is considered impolite. Meanwhile, the same notaries who produce legal documents may produce false ones, although they are approximately twice as expensive[34] [35]. Cases where two people with official documents claimed the same plot of land were commonly reported in the Côte Sud[36]. Conflicts also arose when the land that the buyer purchased either did not exist or was smaller than initially agreed upon[37].

Other reported sources of conflict include sharecropping arrangements, eminent domain and conflicts over natural resources. In regards to sharecropping, conflict can occur when a sharecropper eats part of the harvest before splitting it with the owner[38]. Eminent domain, according to Haitian law, can only be used to acquire private land for public use as "state public land", but this may not always be the case[39] [40]. In addition, conflict over the legal use of eminent domain can also occur, as is reported in the village of Randel where the church is suing the state over the expropriation of land for Park Macaya[41]. Conflicts over trees on private land are also common, especially in mountainous rural areas where owners of big portions of the land reside far away. Since no one manages the land regularly, local farmers cut down trees and then profit from the sale of charcoal these trees produce [42] [43].

Government Expropriation of Land

The state-owned Parc Macaya, with an area of 5,000 ha, does not have proper documents. It used to be private land, but was expropriated by the government for public use. Now the former owners, who reside in Port-au-Prince, have sued the government.

The Cooperative for Sustainable Agriculture in Randel (COSAR), a cooperative run by the Catholic Church, also owns 679 ha in the park and in the surrounding buffer zone, but since part of this was nationalized, they have taken the government to court. The case has been unresolved for many years.

Fondation Macaya, Randel



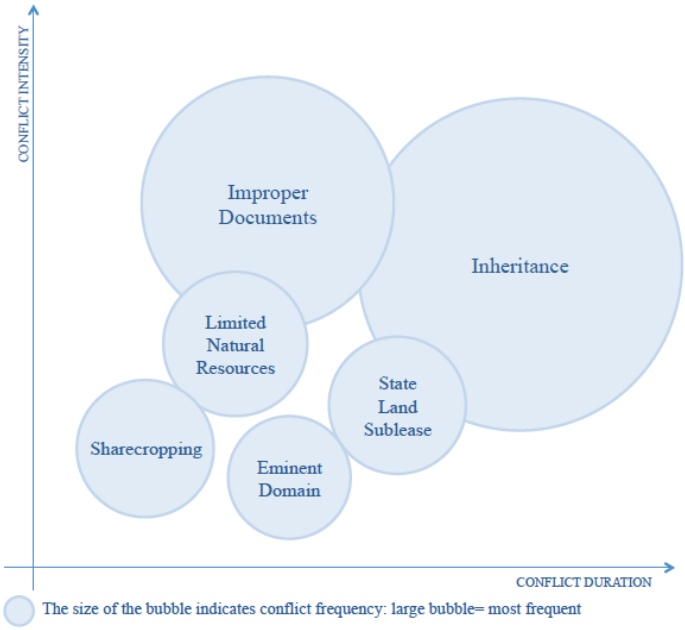
Conflict Escalating to Violence

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

Emilie Rose Marie, Adjunct Mayor, Les Anglais

Interviewees indicated that there is more conflict on private land than state land. Conflicts on private land are also more violent, especially in mountainous areas, due to weak law enforcement[44] [45]. On state land most disputes are between official state lessors and unofficial lessees[46]. The official state lessor pays DGI a fixed amount of 500 gourdes per year to rent state land. Often the lessor sublets this land to another person through a verbal agreement[47]. The most common type of conflict arises when the official state lessors increase the price for the sublease, which can be as much as four times higher than the price the lessor pays to DGI[48].

Figure 3: Conflict Analysis



Based on the information collected from 34 interviews in *Côte Sud,* Figure 3 maps the most commonly noted sources of conflict relative to their frequency, intensity, and duration. Frequency, intensity and duration were informed by the number of times that source of conflict was mentioned, along with the corresponding examples of conflict that were reported. These results, then, are qualitative in nature, and are not absolute. Nevertheless, they do provide an interesting view of causes of conflict, from the viewpoints of Haitian citizens, and are thus illustrated here to give insight into what are perceived as the major sources of conflict.

2.2 Formal Resolution Mechanisms

As discussed in section 1.2, the primary source of property law is the Civil Code. At the same time, there are some criminal offences for certain activities relating to land which can result in prison sentences, such as tampering with boundary markers[49] or returning to land that you have been evicted from[50].

The court system is commonly used to address land disputes. As an example, an estimated 10 to 15 land conflicts in the village of Randel (pop: 5,000) are taken to court in Coteaux each year[51]. For some Haitians, the courts are the first port of call whenever a land dispute arises[52] and there is generally a high demand for effective land tenure lawyers[53] [54]. A key factor in selecting dispute resolution channels is cost. Those who can afford to do so are likely to utilize the court system first[55]. However, the cost of accessing the formal justice system is high[56]; lawyers' fees generally require an advance and are often 20 percent of the value of the transaction.[57] In many cases, total legal expenses can be greater than the value of the land[58]. As a result, people of low socio-economic status often settle land disputes through alternative mechanisms (outlined in Section 2.3), which may include violence[59].

However, the judicial system is subject to many weaknesses, enabling individuals to create a profession out of stealing land through the abuse of the legal process, particularly in areas where the value of land is increasing[60] [61]. Stolen land is often sold to poor families, churches, NGOs and the Haitian diaspora, who may lack the knowledge or access to legal services to guard themselves against this risk. These groups suffer the losses when the real owner enforces his or her property rights[62].

A national cadastral system would help to clarify land ownership and mitigate conflicts, but the development of this mechanism in Haiti has been slow. In recent years, the government has not actively pursued land tenure reform, zoning or cadastral planning, largely because of the controversial and highly politicized nature of the process. At present, in 2012, several initiatives to undertake cadastral mapping are in the initial stages and being funded by a diverse set of multi-lateral orgs, including: the Organization of American States (OAS), the World Bank, and the Inter-American Development Bank (IDB). To date,

less than 5 percent of Haitian land is officially accounted for in public records and many land titles have been transferred from one generation to the next via verbal agreements[63].

Our interviews revealed that land administration officials believed rural residents were less familiar with the formal process and generally agreed that there were fewer conflicts in those areas. However, residents in rural areas of Port Salut indicated otherwise. For example, the mayor of Chardonnieres stated, "people know what they need in order to have legal access to land, but in general people are hesitant to pay for the legal procedures"[64].

2.3 Informal Resolution Mechanisms

Without a comprehensive land registry or historical account, land acquisition in Haiti, particularly in rural areas, is often dominated by undocumented or partially documented informal practices. These practices supplement or commonly supplant the formal systems of determining and transferring land ownership, as well as resolving disputes. Informal dispute resolution channels reported included family members, Communal Section Administrators (ASECs)[65], Advisors to Communal Section Administrators (CASECs), NGOs[66] and vodou priests (*hougans*)[67].

Familial Conflict

A member of the women's cooperative (OFDAN) in Les Anglais was evicted from her land in 2011 when another individual came to her home claiming that he had bought the land. It turned out that the women's uncle sold the land to someone else. Since the land was inherited she had no papers to fight the case in court. The members of the family also advised her not to go to the tribunal because he was her uncle. She never claimed her land back.

As previously noted, most conflicts are related to inheritance, thus family meetings are one of the most often utilized mechanisms for informal conflict resolution. Through discussion among family members, many disputes are resolved before they escalate. In general, family members are reluctant to go to the court, even if they feel that a family's decision was unfair.

In cases where families do not reach a solution or if disputing parties are not related, the conflict will be most likely mediated by ASECs or CASECs[68] [69]. Given the high level of respect within their communities, their decisions are generally followed by the disputing parties. Many people prefer this resolution mechanism because it is cheaper. When the parties go to the *Tribunal de Paix*, judges could refer them to civil courts, which would increase costs due to lawyers' fees[70]. Additionally, churches, NGOs or mayors can mediate land conflicts[71] [72]. Disputes over boundaries are sometimes solved by surveyors, although they do not possess the legal authority to do so[73]. Even notaries can be called on for advice regarding land conflict[74].

The Role of *Notables*

The *notables*, an important resource in addressing community issues, were identified by members of the Project Development of Les Anglais (PDA) as:

…older people in the community that we can call and that will give us advice. Usually, both parties agree with the *notable*'s mediation because everyone respects them. If we go to the *Tribunal de Paix* the judge may send us to the civil courts, where we will need to hire a lawyer and spend a lot of money. The *notable* gives good reasoned solutions. *Notables* give advice to both sides because they know that fights over land will not take us anywhere. They know that we will not be here tomorrow but the land will always be here.

Vodou priests may play a role in dispute resolution, but interviewee opinions were mixed about the importance of the priests' role. Many people, especially judges and notaries, claimed that vodou priests were irrelevant. However, the vodou priests interviewed indicated that they did help to solve inheritance problems[75]. The womens' group in Les Anglais confirmed that the vodou priests play a role and that, for example, they may advise someone who has inherited a large piece of land

to distribute it fairly to avoid conflicts[76]. The women also reported that vodou priests might have a role when people are not satisfied with the outcomes of a judicial process, in response to which the losing party may commission a vodou priest to cast a vengeful spell on the winner[77] [78].

2.4 Professionalization/Specialization and Institutional Inefficiency

The current formal land tenure system suffers from both mismanagement and a lack of transparency.[79]. Through interviews with a wide variety of individuals, it became apparent that the integrity of the system is questionable at best; disputes were noted as often starting with the tacit consent and full support of land tenure officials (e.g. surveyors, judges and notaries) who were willing to accept bribes and produce false documents[8081]. Trust in judicial figures is quite low, as they are often perceived as supporting the impunity of land tenure officials, particularly those with significant political clout[82]. To this point, one interviewee reported that if land is seized unlawfully, the rightful owner could sue in court, unless the person seizing the land is a magistrate[83]. The formal land tenure system suffers from widespread inconsistency and a general lack of transparency, which hamper its ability to function properly.

Adding to these debilitating factors are issues of inefficiency, seen most pointedly through the lack of specialization and professionalization amongst officials of the land tenure system[84].
Judges, lawyers, notaries and surveyors were reported to face the shortfalls described in Figure 4.

Figure 4: Reported Shortfalls of Judges, Lawyers, Notaries and Surveyors

Judges: Many Haitian judges are not licensed to practice law; unlicensed judges have reportedly been appointed on the basis of connections rather than merit[85]. Even among the judges who are licensed, few have received training in rural land law[86] [87].

Lawyers: Though demand for lawyers with land tenure experience is high, there are few with such experience[88]. Those with the experience may charge fees higher than the value of the disputed land itself[89], making the official justice system prohibitively expensive for many people. Lawyers have been observed provoking conflicts in the countryside to enhance their incomes[90].

Notaries are nominated by the President and then appointed to specific sites without necessarily receiving training in land law or the local laws of the region they are being placed in[91]. They are noted as often lacking current knowledge of land law, and have been observed creating both false documents as well as providing improperly certified documents[92]

Surveyors' services, like lawyer's fees, are known to be prohibitively expensive. This has led to informal arrangements within families or villages that create unofficial documents that could be challenged successfully in the formal system[93]. Additionally, since professional schools for surveyors were abolished in the 1980s, formal surveyor training and certification does not currently exist[94]. Surveyor aides can become apprentices and often inherit the job at a young age. This is in contrast to the notaries who are required to be older to practice their profession[95].

Other pragmatic issues can also drive inefficiency, including geographic constraints for individuals encountering conflicts in remote areas with limited access to the court system[96]. Additionally, in highly controversial cases, the lack of physical protection for judges[97] can leave them feeling vulnerable, influencing judicial outcomes due to fear for their safety.

The practices noted above make the formal land tenure system increasingly conflict-prone. The lack of land tenure legal training, especially amongst lawyers and surveyors creates inconsistencies that breed confusion and conflict when ownership is challenged. The corruption that has been observed in much of the system influences individuals to utilize informal means to register land and resolve disputes; the clash between formal and informal decisions and registrations is a clear driver of conflict.

2.5 Administrative Uniformity, Awareness and Documentation Among Institutions

The most frequently referenced gap in the Haitian land administration system was the absence of a cadaster[98]. International organizations and donors have emphasized the importance of a modernized cadaster in order to attract foreign investment and increase tax revenues for Haiti's economic recovery[99]. Interviewees felt that a national cadaster system could be established within five years and would reduce land tenure disputes; however, they understood it was an expensive and complicated process[100] [101] [102]. The institution responsible for Haiti's cadaster (ONACA) has only mapped 5 percent of the country since its creation in 1984[103].

In the absence of a cadaster, Haitians rely on a decentralized system of land administration that depends heavily on notaries and surveyors. The estimated 500 notaries in Haiti analyze and verify an existing land title against fraud – through an ad hoc, rudimentary verbal system – along with the alleged owner's identity[104]. Surveyors are ultimately entrusted with personally visiting the property to verify spatial information of the land as well as ownership. Legally, surveyors must consult with neighbors as part of the process, although not all do[105] [106]. In the end, land titles are sent to DGI, which has offices in each commune. DGI then archives the titles in each commune and annually collects them in their central office in Port-Au-Prince.

Inter-agency communication and uniformity in data collection across existing land administration institutions is important to help minimize conflicts[107]. Yet, many interviewees suggested that the government had shown little political will to complete the endeavor; the consistent lack of funding for ONACA was one such example[108].

The current land administration system is managed by ONACA, DGI, CIAT and, in certain contexts, INARA. The absence of a cadaster has left each administrative body with limited resources, information and cross-agency communication, causing duplicity and inefficiency. For example, although ONACA is mandated with the establishment of the national cadaster, CIAT has undertaken pilot cadastral surveys even though it should only serve as a liaison or coordinator between other land management agencies[109] [110]. The result has been divergent methods with little uniformity in the way information is collected or transferred between stakeholders. This exacerbates land insecurity across the country.

Many officials believed that ONACA was obsolete, especially after the dominant political interests that established it were removed from office. Most interviewees mentioned that it was based on the Germanic legal system that is incompatible with Haiti's French (Napoleonic) cadaster[111]. However, ONACA executives stated that their cadastral initiative was not based on the German system; the Germans were only responsible for the initial funding[112]. ONACA has developed forms to organize data collection and produce a formal cadaster, some of which would be valuable resources for development projects[113]. However, given funding shortfalls, ONACA lacks the capacity to cover its mapping and registration responsibilities, even local cadastral offices had been difficult to establish[114] [115].

In general, ONACA, despite regulating surveyors and notaries, does not consider itself as having a role in conflict resolution[116]. This was a perception that other land administration institutions shared, indicating that the legitimate arbiters were the courts; land administration offices' role was only to verify documents. Given the low levels of inter-agency communication the distinction is significant.

One lawyer proclaimed that ONACA could play a much bigger role than to simply form a cadaster. Currently, small parcels of land resulting from inheritance are addressed by INARA rather than ONACA[117]. Instead, it was suggested that all land management and surveying go through ONACA to streamline land administration processes and provide uniformity[118].

The idea that CIAT was formed after ONACA to move toward the French mapping system helps perpetuate the idea that uniformity is an issue[119]. However, a CIAT executive indicated that the agency's role was only the coordination of other land administration state actors[120]. CIAT views its role as mitigating conflict between ministries and, as a result, they had received little resistance from other government bodies[121]. One of CIAT's goals is to electronically scan all of DGI's documents and help make cadaster information available to the public[122]. However, the funding sources for CIAT and ONACA differ, which has a significant effect on how they coordinate their operations. One of their current programs is being funded by France and involves French training teams working in collaboration with CIAT and CNIGS, which uses aerial photography support cadaster development[123]. Although the coordination between CIAT and CNIGS has been praised as successful, ONACA has been marginalized in the process. As a recent OAS report indicated, "Disperse institutional and customary efforts generate confusion, undermine trust, and weaken governance"[124].

The lack of administrative uniformity exacerbates capacity shortfalls in the legal system, leading to less effective formal conflict resolution mechanisms and further diminishes the population's trust in the system. With no mapping system to consult for clarification in legal cases, it is very difficult to resolve conflicts through the justice system; thus the completion of the cadaster was the most frequent recommendation[125].

2.6 Community Access, Awareness and Valuing

Interviews with different stakeholders indicated varying degrees of familiarity and perspectives on the processes and effectiveness of the Haitian land tenure system. Haitians' hesitation to utilize the formal system points to problems of access, although perceptions about the viability of resolving issues through the formal system are also of concern.

Interviews with focus groups of women, farmers, and members of land holding cooperatives indicated that most people are aware of the required steps to make a land holding legal. For example, the Adjunct Mayor of Les Anglais asserted that people in the community knew, understood and used the proper channels to buy and sell land[126]. As a landowner, the Adjunct Mayor leases her own land. She explained the process, meeting "first with the notary, then with the *Tribunal de Paix*, then to the judge in Coteaux, and finally with the surveyor" in order to prepare her land to be leased[127]. Additionally, as members of a farmer's cooperative in Les Anglais explained, "to buy land you need to agree with the owner, measure the land and then take the papers to the notary for registration. All people know this. Some may have learned from the mistakes of their parents, but everyone knows we cannot do verbal agreements"[128].

Knowledge, however, does not necessarily translate into appropriate action. A focus group of 23 women in Les Anglais described the legal process for buying and leasing land, describing the trips to the notary, surveyors and possibly DGI. When asked, however, if they had official land-ownership documents, the

women answered that they all had declarations of sale, but these are not official documents. They hadn't paid the notary to verify the papers because it was "too expensive to go through the notary and the surveyor". Some people only go to a notary to make the documents official when they have conflicts[129].

Unauthorized occupation of land was commonly reported as a major consequence of and reason for land insecurity. Even those with resources to take legal action felt this concern. An experienced lawyer indicated that land tenure issues presented a perfect storm where the lack of transparency in the system left both rich and poor vulnerable. People often found empty land and began to build on it with the hope that the owner would sell a portion to them. Once someone begins to live on a piece of land and build a home, eviction is very difficult[130].

The formal process is so convoluted that even some judges expressed frustration with the poor knowledge of land laws and ambiguity in regard to information on where to go for land administration issues. There is significant confusion among stakeholders regarding the authentication of land documents through the formal process. It is also not uncommon for people to pretend to be landowners in order to try and profit from a development project[131]. Prospective vendors and purchasers must often research deeply in order to assure clear land ownership[132]. The confusion prompted the creation of the Property Law Working Group (PLWG), comprising local and international professionals who are developing guidance on current land laws (available May 2012). As a result of ineffectiveness of formal dispute resolution mechanisms and lack of access for marginalized groups, many Haitians tend to address land dispute issues through informal mechanisms to resolve conflicts[133].

2.7 Enforcement

Many stakeholders referred to enforcement, or the lack thereof, during the interviews as a driver of conflict and a major issue on many levels[134]. The first and most consequential level is the lack of enforcement of legal rulings. Conflict over land, when resolved through formal mechanisms, eventually reaches a court where a ruling is made. However, these rulings can reportedly be ignored, especially if the individual/group that is dissatisfied with the ruling has more money or power[135] [136]. The court may also lack the ability or will to intervene and its rulings may go unenforced. At the ground level, tribunals were created that would depend on community support to enforce rulings, but this support was never definite[137]. Due to the failure or nonexistence of official law enforcement, it is reportedly often necessary to hire private security to protect disputed land even in the event of a favorable court ruling; few can afford this luxury and as a result those with greater influence are potentially able to ignore the law[138]. While the frequency of these instances is unknown, their existence further undermines the official land tenure system in Haiti.

Lack of enforcement is also reportedly present within the land taxation system, particularly with regard to the collection of taxes by DGI. The most serious problem is that owners with outstanding debt to DGI are not allowed to sell their property. Consequently, owners who will not or cannot pay this debt will utilize the informal system or attempt to obtain forged documentation, complicating future determinations of ownership[139].

Lastly, the general lack of civil and criminal law enforcement is an issue further exacerbating land tenure-related conflict. As noted by a judge in Coteaux, there are simply too few police to deal with land disputes.

Judges and state officials may neglect legal rulings due to the fear of retaliation and the absence of state security forces to protect them. This fear has the potential to alter rulings in favor of the more powerful actor, and makes conflict resolution more difficult to achieve. In some rural areas, law enforcement responsibility falls upon ASECs or CASECs with questionable abilities to resolve disputes and secure agreements made during resolution[140]. Laws protecting forests are also often ignored, while unauthorized use of state land can go unpunished[141] [142], thus reducing citizens' faith in the justice system[143]. Furthermore, rampant deforestation allowed by this lack of enforcement has increased land conflict by causing many environmental problems, including: erosion, shortage of arable land and destruction of homes due to landslides[144]. As land value and population levels increase, the lack of enforcement is likely to become an ever-greater problem.

2.8 Formal Recognition of Alternative Dispute Resolution Mechanisms

Our field research also revealed a gap in the institutional recognition of informal dispute resolution mechanisms and the role they play within society. They often provide a faster and cheaper alternative, especially in highland rural communities where formal legal means are less accessible[145]. Failure to effectively acknowledge these informal networks has led to information gaps and a missed opportunity to utilize dispute resolution tools that are more established with the local community and could help re-enforce legal networks.

Examples of these alternative mediators include ASECs, CASECs, religious leaders, and other *notables*. Women in the OFDAN group in Les Anglais indicated that it was not common to go to a judge and that most people consulted with *notables* or priests[146]. Despite identification by many interviewees as a common dispute resolution channel, a long-established notary in Les Anglais, quickly dismissed the role of ASECs or CASECs, declaring that they "have no competence and do not play a role in land matters"[147]. However, a CASEC in Les Anglais reported:

> People call us when there is a conflict and we try to hear the truth from both sides. If this is not possible, we refer the conflicting parties to the judge. The CASEC can play the role of the mediator in these conflicts. Sometimes, people will come to us before they go to the judge[148].

Another common mediator or alternative dispute resolution facilitator is the vodou priest or *hougan*. Although focus groups were often not immediately forthcoming with information about the *hougan*, an interview with a women's group revealed that women sometimes avoided accessing the justice system for fear that the person they would face in court might go to a *hougan* and have a curse placed on them[149]. An interview with a vodou priest verified that he often encountered and mediated disputes, occasionally providing people advice as well. One *hougan* disclosed, "Sometimes if the person has no right to land, I tell him that" [150].

Although notaries and other legal officials in Les Cayes indicated that rural people had a lack of knowledge of legal procedures[151], most rural people understand the appropriate procedures, but chose not to follow them due to cost, time and fear of social repercussions[152]. It is important for the formal sector recognize and leverage these existing informal mechanisms through increased training for informal actors to ensure accurate advice is given to citizens, thus empowering these actors in their leadership roles. It could also reduce the number of cases seen in court and improve the likelihood that court cases could be affectively addressed by a *Tribunal de Paix*, provided these justices also receive appropriate training.

2.9 Land Use Planning

The current land tenure system in the Cotê Sud has also contributed to an unsustainable pattern of natural resource exploitation, environmentally destructive farming techniques and land conflicts that has compromised important ecosystem functions, such as soil stability, water supply and biodiversity[153]. The lack of land-use planning at the local, regional and federal level is a pressing issue that exacerbates land-related conflicts and that if addressed, could curb some of Haiti's environmental problems. Land-plot fragmentation due to inheritance and conflicting interests derived from land tenure insecurity are key points regarding land-use sustainability in rural Haiti[154] [155] [156] [157]. Local actors have cited excessive fragmentation of parcels as a critical issue undermining the efficient use of land and natural resources, as well as one of the main reasons constraining farmers from increasing their profits[158].

Small farming parcels have two main implications. First, the limited availability of farmable land creates an incentive for farmers to cultivate as much land as they can in order to maximize productivity. This return maximization strategy will also halt the farmer from using improved farming practices, such as rotation or diversification of crops that can reverse soil erosion and nutrient depletion. Second, small farming parcels limit the land-use planning potential on a larger scale. Since each individual farmer aims to extract as much as possible from their own small parcel, no attention is given to holistic planning at the community level[159]. This perspective leads farmers to disregard any possibility of collective management of natural resources, which could be beneficial to the whole community.

Fragmentation and land tenure insecurity further complicate the way land is managed. Informal sharecropping or leasing contracts, in addition to being a source of conflict, may also cause insecurity over property rights that will influence farmers' land-use planning[160]. In order to cope with the probability of losing access to land in the near future, sharecroppers and leasers often adopt short-term production strategies based on short-cycled crops and overexploitation of natural resources (mainly trees for the production of coal). Landowners, who have greater confidence in terms of future land ownership, often develop long-term production strategies based on higher-value products, such as tree fruits and longer-cycle crops[161]. The informal contracts used to regulate the relationships between landowners and sharecroppers do not address the discrepancies between landowner and sharecropper interests, further compromising the way land and natural resources are managed.

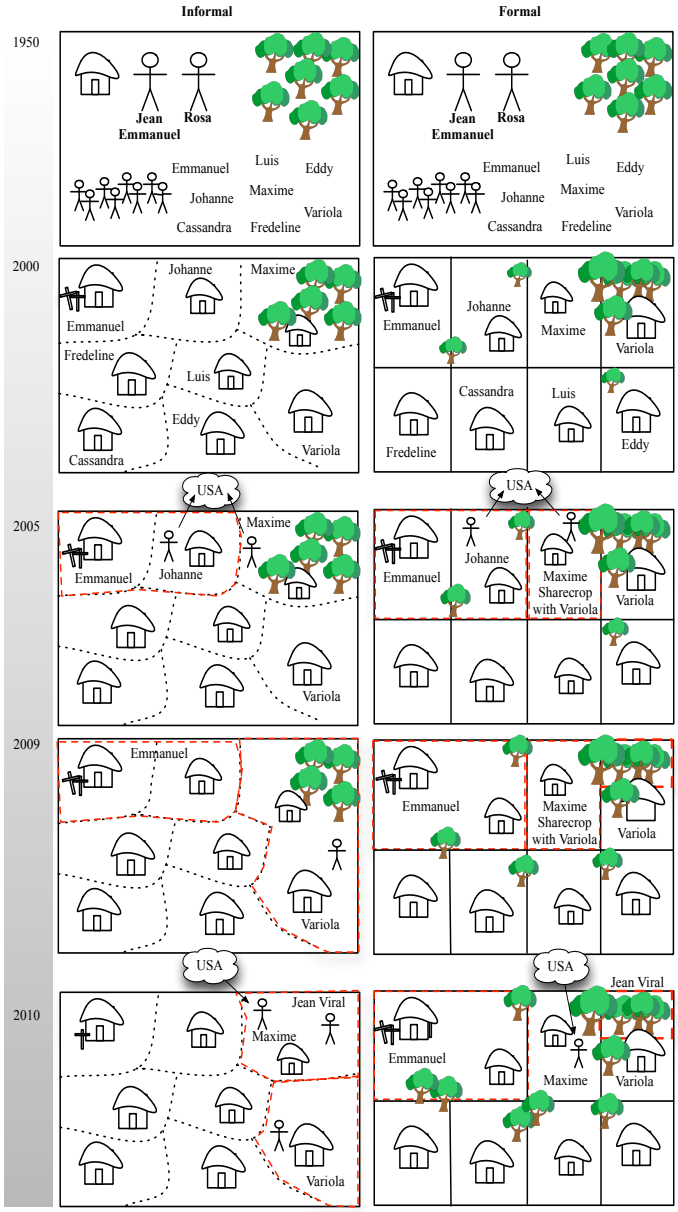
However, there are a few community-based organizations (CBOs) working to minimize the effects of the above-mentioned problems. In the Port-à-Piment watershed, for example, *Fondation Macaya* works with farmers in Randel to increase agricultural yields while protecting the park's biodiversity[162]. Additionally, a local cooperative in Randel has developed a strategy to acquire land, with the support of the Catholic Church, to minimize conflicts and to plan the use of larger portions of land[163]. In Les Anglais, a local women's association (OFDAN) provides technical training to farmers to improve rural productivity[164]. Furthermore, in Tiburon, another women's association and a local NGO, Development Organization Movement of Tiburon (MOD-T), work to improve rural development and natural resource conservation[165] [166]. These institutions show how even small local land-use planning interventions can have significant positive impacts on the environmental and on the way land is collectively managed. Such CBOs are a valuable asset for the region and should be empowered through future rural planning and development initiatives.

Theoretical Land Conflict Exercise and Storyline

The story of a plot of land in Les Anglais, Haiti

In 1950 Jean, grand-grandson of Haitian general Toussaint L'ouverture inherited 8 acres of land in Les Anglais. He married Rossa, and they had 8 children (Johanne, Cassandra, Fredeline, Variola, Maxime, Emmanuel, Eddy and Luis). When the children got older, each one of them built a house on the land. In 2000 Jean and his wife died and his 8 children inherited the land. In 2005 Johanne and Maxime decided to move to the United States. Johanne sold the land to Emmanuel, but Maxime kept the land and gave it to the others to manage it. In 2009 Variola lost her husband and in order to pay for the food, she sold a piece of her land. She sold it to Jean Viral, a farmer from Port-à-Piment. As a result of the financial crisis Maxime returned from United States in 2010. When he arrived on the property he got into dispute with Jean Viral, they were both claiming the right to the same land.

(This hypothetical story presents the observed gaps between customary and legal land tenure practices in Haiti. Even though the story closely represents Haitian reality all the names and events are fictional.)



The Story From a Customary Perspective

When Jean and his wife died in 2000, the children verbally divided land around their houses. In 2005 when Johanne sold the land to Emmanuel the transaction was oral and no papers were signed. Before leaving, Maxime gave his land to others to manage it hence Variola slowly started to plant crops on his land. When Variola's husband died in 2009, she sold part of Maxim's land to Jean Viral. Before selling it, she cut down all the threes growing on that parcel. Jean Viral paid her with bags of flower. Once Maxime returned from the Unites States in 2010 he was furious to find a foreign man working on his land. The family gathered at the reunion. Variola explained to Maxime her reasons for selling the land and Maxime understood her suffering and decided not to take her to the court, at the end of the day she was his sister. However, the family decided Maxime should still claim his land on the court since Jean Viral had no legal ownership title. A week later Maxime presented the legal documents at the *Tribunal de Paix* in Les Anglais. In the meantime Jean Viral found out about the intent of the family and visited his friend, the notary of Port- à-Piment, to procure a fake land title. He then presented his title at the Les Anglais *Tribual de Paix*. The tribunal of Les Anglais suspected that the documents Jean Viral presented were fraud and they sent the case to the court of Coteaux. After Jean Viral realized he will lose the case on the court, he visited the voodoo priest and put a spell on the entire L'ouverture family. Due to the long list of cases and sickness of the judges the case was finally solved in favor of Maxime after 1 year.

The Story from a Legal Perspective

After the death of the parents in 2000, one of the children visited the local notary to obtain permission to have the land surveyed and split into eight plots. The surveyor consulted with the neighbors, attended the site and drew up a map. The surveyor provided the children with a copy of his map and kept the original in his office. The children visited the notary to have the titles amended to official records. The notary performed those services at a cost of 5,000 gourdes. The transaction took two months. The notary submitted the title amendments to the DGI office for their records as well. This process took another year to be finalized. When Johanne and Emmanuel decided to immigrate to United States in 2005 they visited the local notary to obtain permission to have the land surveyed and followed the same legal procedure described above. Johanne and Emmanuel visited the notary to have the title amended to record that Emmanuel was the owner. Maximme on the other hand, obtained legal advice to draw up a lease agreement. Maxime took the lease agreement to the notary and payed 5,000 gourdes to have the agreement notarized. The notary registered the document and sent a copy of the transaction to the DGI. This transaction was complete in one month. In 2009 in order to sell the land to Jean Viral Variola visited the local notary to obtain permission to have the land surveyed and she followed the legal procedures. Variola and Jean Viral visited the notary to have the title amended to record that Jean Viral is the owner. In 2010 when Maxime returned from the United States and claimed his land, Maxime and Jean Viral took their documents to their lawyers. The lawyers consulted relevant surveyors and notaries and sent a surveyor to assess the land. Maxime and Jean Viral went to court to resolve the issue, represented by their lawyers. Maxime's claim was proven to be without merit. He was obligated to pay the court fees. Both Maxime and Jean Viral paid legal fees of 20 percent of the land value to their lawyers. The resolution of this dispute took between two to four years.

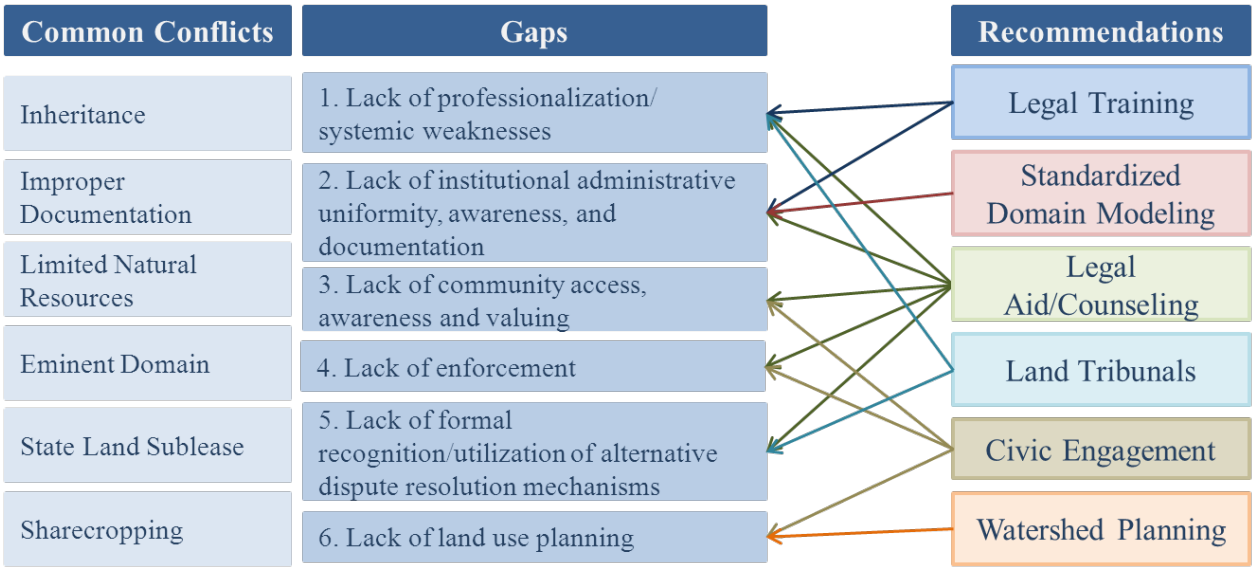
3. RECOMMENDATIONS

Over the last 10-20 years, there has been significant investigation and innovation on the topic of land tenure in fragile states around the world. Practices utilized in these fragile states to reduce conflict and improve efficiency in land tenure management could similarly be implemented in Haiti to address the most pressing gaps in its land tenure system, as outlined above. Having reviewed, categorized, and weighed the strengths and weaknesses of a variety of practices, a short list of interventions applicable to the context of rural Haiti has been developed and is included below.

These recommendations would supplement, not replace, government-led land tenure reform, highlighting short-term, locally implementable measures that can provide grassroots-based steps with potential to be expanded throughout Haiti, if successful. For this reason, the report presents only a limited discussion of trends and challenges in governance, land taxation or production of a computerized national cadaster system. While addressing such large-scale issues is essential to Haiti's future development, it is beyond the scope of this report and the capacity of implementing partners.

Each country and region is influenced by diverse socio-cultural contexts, thus no single intervention or combination thereof will provide a 'silver bullet solution' to Haiti's complex land tenure-related problems. Nevertheless, the following recommendations together provide an effective framework for improving Haiti's land tenure system to help reduce and better resolve current and future instances of conflict.

Figure 5: Linkages Between Gaps and Recommendations



3.1 Civic Engagement

Civic Engagement	Category
Technical Expertise Required	low
Required Collaboration/Partnerships	medium
Cost Estimate**	low
Implementation Time Frame*	near-term
Targeted Beneficiaries	gerenral rural population
Potencial Lead Organization	CSI + Local/Community Radio Stations

*Time-frame: near-term medium-term long-term (imidiate implementation - 2yr)
**Cost: low medium and high (comparative analisys between recommendations)

Many of the gaps identified in this report (namely, those presented in Sections 2.6, 2.7, and 2.8) relate to issues in communication, both horizontally across communities and vertically up the chain of private and public institutions. To assist in the dissemination of information and raise awareness about land tenure dispute mechanisms, civic engagement programs that promote participation, dialogue, and reflection should be integrated into all of the recommendations presented in this report. Such programs could range from consultations within households, to public outreach events, to region-wide campaigns incorporating entertainment-education on radio or television. In addition to securing community buy-in, implementing partners such as CSI or the Port-à-Piment MVP, should prioritize partnership with government on these initiatives in order to strengthen the role of the formal system in dispute management and build local governance capacity.

Although civic engagement is most often used to describe electoral or political participation, it more broadly describes the involvement of citizens in community affairs. In this sense, civic engagement should function not unilaterally, whereby citizens are expected to conform to the state system, but collaboratively, incorporating customary systems and inciting discussion to create a collective stake in land and natural resource management. In Haiti, this would entail increased interaction between land administration officials and citizens, outside of the courts.

As an example of communication issues encountered through this study, many interviewees reported knowledge of the formal process to register their land, but often opted out either because they perceived the formal system to be ineffective, prohibitively expensive, or that use thereof might antagonize a familial relationship. Through community outreach campaigns, CSI in partnership with government representatives could hold a series of weekend workshops in popular congregation sites such as churches, marketplaces, or town squares. Workshops could provide opportunities for organizers to explain the formal titling process step-by-step, field questions, and debunk myths.

An additional project could involve training and empowering youth to convey important messages about land tenure security via a volunteer program in partnership with local universities. Not only would this provide students with valuable field experience, but also it could facilitate open dialogue as residents might feel more comfortable speaking candidly to familiar members of their communities. Direct consultation with residents is likely to increase their comprehension and appreciation- or 'valuing'- of the formal process[167].

Other examples of civic engagement programming have utilized media technology such as mobile phones and radios. Text messages have been used in a various ways to get information out to citizens from

emergency response to electoral politics. The use of television and radio broadcasts has also been a popular technique used to engage residents. These broadcast programs can provide entertaining storylines that are also educational. The stories mirror the realities experienced by residents and can portray conflicts and solutions that residents can model. Currently running in 15 countries in the Caribbean, the program *My Island, My Community* uses a radio magazine format that includes drama as well as call-in shows to stimulate dialogue and raise awareness on issues of climate change adaptation and disaster preparedness; indicators from the mid-term evaluation showed significant growth in awareness in these areas[168]. This demonstrates tremendous potential for a similar program that could model land-tenure related conflicts and resolution approaches, providing a common, but fictional basis for instructional conversations on the topic.

Levels of success in these programs can be challenging to gauge but are typically measured when citizens self-report improved awareness of an issue, planned action, or an action taken after the intervention. Regarding land tenure, implementers would want to develop indicators that reflect increased knowledge or understanding of the land tenure system, increased likelihood of securing proper documents, and increased comfort in discussing land tenure affairs with relevant actors, among others. Because many of the mechanisms for implementing civic engagement programs already exist, this intervention represents a low-hanging fruit. Implementation would be relatively low cost and could be rolled out with minimal lead time. The key challenge rests in reinforcing, and maintaining the linkages between partner organizations, government, and citizens so that lines of communication remain open. Establishing new roles, behaviors, and norms around any set of practices can be a slow and organic process, but it is greatly facilitated by community sensitization campaigns. Building a collective stake in land management is an important first step for all other interventions in the region.

3.2 Legal Training

Legal Training	Category
Technical Expertise Required	**high**
Required Collaboration/Partnerships	**medium**
Cost Estimate**	**medium**
Implementation Time Frame*	**medium-term**
Targeted Beneficiaries	Notaries, Surveyors, Lawyers, Judges, DGIs
Potencial Lead Organization	EI + Property Law Working Group (PLWG)

*Time-frame: near-term medium-term long-term (imidiate implementation - 2yr)
**Cost: low medium and high (comparative analisys between recommendations)

Increased legal training on land law is recommended in order to refresh the knowledge of acting officers, prepare newly appointed personnel for their duties, guarantee greater uniformity and predictability of decisions, and update personnel on new methods, laws and cross-cutting areas of knowledge required for their work[169]. Legal training should aim to increase the ability of land tenure officials to arbitrate, in cases of discrepancy with regard to documentation[170]. Such training should thus also include "red flags" to help identify falsified documents and titles. In addition, training should improve local awareness of law and clarity of the proper roles of land tenure officials and other stakeholders. Increased legal training on land law would help address the problem of lacking professionalization and specialization of many land tenure officials. Further, where this training is provided to multiple levels of the land tenure system, including officials of government agencies, uniformity of practice and transparency of proper procedure would be greatly improved. Accordingly, this recommendation would primarily address the gaps discussed in

sections 2.4 and 2.5, increasing the land tenure system's efficiency and reducing conflict stemming from the lack thereof.

Projects to increase the transparency, uniformity and awareness of land law are already underway. The PLWG (composed of ONACA, DGI, lawyers, notaries, USAID and UNDP, among others) has been developing an instructional manual on property acquisition and sale that is scheduled to be available in May 2012[171]. The manual will inform the development of legal training initiatives by addressing the lack of clarity that exists about property laws. In particular, the manual will clarify the following subjects: buying and selling between private individuals and the government; government-to-private leases; and transactions between individuals, firms and international buyers. The manual will be useful in providing clarity and training on property law, as well as including "red flags" to help international and local NGOs recognize and validate land documents in their project-implementation areas[172]. In the long run, the manual should facilitate the improvement of current policies and development initiatives. Similar projects on additional aspects of land law would be both useful and beneficial.

Going even further toward improving the effectiveness of the system, ELI has been conducting successful trainings on legal frameworks and land tenure reform since October 2010[173].While ELI's trainings have focused on environmental protection and land law related thereto, similarly structured trainings could more broadly focused on general rural land law and the application thereof. Replications of such trainings could reach out to judicial personnel, lawyers and notaries throughout the Côte Sud and Port-à-Piment watershed, helping them to become more familiar with both the current formal and customary legal frameworks. Training should also disseminate updates on new laws and policies to improve uniformity and consistency in the formal legal system.

3.3 Legal Aid/Counseling

Legal Aid/Counseling.	Category
Technical Expertise Required	high
Required Collaboration/Partnerships	high
Cost Estimate**	high
Implementation Time Frame*	medium-term
Targeted Beneficiaries	Notaries, Surveyors, Lawyers, Judges, DGIs
Potencial Lead Organization	EI + Property Law Working Group (PLWG)

*Time-frame: near-term medium-term long-term (imidiate implementation - 2yr)
**Cost: low medium and high (comparative analisys between recommendations)

Legal training in the Port-à-Piment watershed could target lawyers, judges, notaries, surveyors and local community leaders. Based on similar trainings conducted in other fragile states, effectual components of these trainings can include: i) on- and off-site training for both central and remote regions; ii) encouragement of voluntary and compulsory training; iii) utilization of specialized trainers, experts and peers especially judicial personnel in Justice of the Peace Courts; and iv) formal academic instruction through efforts from a local university[174]. Trainings and training manuals like those outlined above, could be facilitated through CSI or other NGO partners working in the region. Designing these measures could be done in tandem with the PLWG to ensure that information being disseminated is both accurate and current. By organizing these trainings, transparency and systemic efficiency will likely increase significantly, reducing the catalysts for conflict created by confusion and corruption.

In order to decrease barriers to accessing the legal system while furthering the improvement of the services provided by it, legal aid and legal counseling could be provided to rural citizens. Helping to overcome the gaps discussed in sections 2.4 and 2.6, these measures could empower local citizens and help prevent their exploitation.

The Information, Counseling and Legal Aid (ICLA) programs run by the Norwegian Refugee Council (NRC) can inform the development of such a framework in Haiti. The effectiveness of NRC's ICLA program has been recognized especially in Afghanistan where Afghan nationals were employed as legal specialists and counselors to help those entitled to land regain and properly register their property[175]. Implementation of this type of program could involve subsidies for trained lawyers and paralegals to advise individuals who are unable to access the formal legal system. In Haiti, similar legal specialists and counselors could be identified and/or trained with the support of several legal experts and placed in local community centers where locals could seek their guidance on land law-related questions. Organizations like CSI, ELI, and other NGOs working the region could be tapped to implement such programs. The approach has also had positive results in Liberia, Pakistan, Palestine and other countries with weak governance capacity[176], and can help address corruption, document falsification and the lack of specialization as well as helping to clarify oft-confused formal procedures—issues that commonly increase the likelihood of land-related conflict.

NRC's ICLA programs have strengthened civil society and held authorities publicly accountable, increasing effectiveness in mobilizing locally available resources (e.g., community groups) to resolve land disputes[177]. This system functions well in fragile states such as Haiti where official legal services have little or no capacity. In addition, these programs complement the formal system and can encourage regularization of titles. Moreover, ICLA gives marginalized groups a chance to express their grievances, which may encourage more groups to pursue justice (even against parties perceived to have advantaged access), thus promoting enhanced rule of law overall.

Legal aid need not be limited to these community centers; training could also be extended to community leaders to engage communities and open further avenues for dialogue. This idea was pursued successfully by CARE in Ecuador where its "Sustainable Use of Biological Resources" (SUBIR) program, extended legal system training to educate and empower community leaders as paralegals who then served as educators and communicators spreading messages about community land rights[178]. The benefits were not only a decentralized process that endorsed local systems, but also an increasingly effective dissemination system for a whole host of community awareness campaigns. Such a program would thus complement the other recommendations presented in this study quite well. By utilizing community members with status and legitimacy, this type of program can increase awareness of local citizens and grant further value to the formal land registration system, complimenting Civic Engagement, as discussed in Section 3.1.

Despite the positive impact of such programs on land dispute resolution in weak states with minimal capacity, they should not be considered a permanent substitute for an effective official justice system based on the rule of law and human rights. Further, there is a risk that governments may resist these programs because they can foster changes in local power dynamics. These programs are not financially self-sustainable because they are dependent on external financial aid and could drive certain agents, such lawyers, to abuse the system. Nevertheless, as long as these potential pitfalls and downsides are taken

considered carefully, the implementation of legal aid programs could have a very positive impact in Haiti, helping to increase consistency, transparency and awareness.

3.4 Land Tribunals and Informal Dispute Resolution Bodies

Land Tribunals	Category
Technical Expertise Required	high
Required Collaboration/Partnerships	medium
Cost Estimate**	high
Implementation Time Frame*	medium-term
Targeted Beneficiaries	ASECs, CASECs, Les Notables, general rural population
Potencial Lead Organization	EI + CSI + CRS, Property Law Working Group (PLWG), judges, lawyers

*Time-frame: near-term medium-term long-term (imidiate implementation - 2yr)
**Cost: low medium and high (comparative analisys between recommendations)

In order to help address the need for a judicial system that is more familiar with land law and thus with arbitrating over land-related disputes, a further recommendation is to establish alternative dispute resolution forums, referred to as land tribunals. The establishment of these tribunals would help alleviate the lack of land law specialization discussed in Section 2.4, as well as promoting the formal recognition of alternative dispute resolution mechanisms, a gap discussed in Section 2.8.

Land tribunals have previously been used in Haiti; in 1986, the *Tribunal Terrien de la plaine de l'Artibonite* was established by government decree. The jurisdiction of the tribunal covered all disputes concerning land within a specified area, relieving such cases from the normal judicial system. It has improved the speed and efficiency by which land disputes are resolved in the area, providing landowners with a relatively informed and consistent mechanism within which their disputes may be resolved. [179] Further tribunals in the Haitian context would have to be executed with the consent and blessing of the Haitian government so as to avoid competition with the regular legal system. CSI and other stakeholder groups would work with the Haitian government to organize the resources and structure of the tribunals, supporting with resources, logistics and programmatic planning. These tribunals could be established at the commune level, functioning as the first port of call for land disputes and providing mediation to reach mutual agreements. They could be composed of some of the customary community leaders who already informally serve as mediators and arbitrators, such as ASECs, CASECs, notables, or religious leaders, thus validating these positions. Should the parties fail to reach agreement, the tribunal would then have the legal authority to make specified legal decisions with respect to the dispute, thus functioning as an arbitrator. Parties to the dispute would also have limited appeal rights to take the case to the *Court de Paix* or the *Tribunal Civil*. Benefits of such land tribunals include lower costs, greater expediency and less acrimoniousness[180], as well as leveraging of the existing potential of community-level institutions.

Where partnership in implementation and support from the government is absent or lacking, there are numerous international examples of similar land conflict dispute resolution bodies of an informal nature. Some unofficial versions of these projects have been implemented in Haiti by NGOs, outside the formal system, with promising results[181]. This type of decentralized mediation initiative has also been utilized in Guatemala, Mexico and the Philippines with varying degrees of success[182].

To be sure, these mechanisms can suffer from many of the same ailments as the existing judicial system. For example, the *lok adalat* (people's court) in India has been criticized as failing to possess any of the

characteristics of speediness, fairness or protection for the poor[183]. In Cambodia, the Cadastral Commission, established in 2003 as an alternative resolution mechanism, has had mixed success[184]. Land tribunals are far from a cure-all; they do not address the gaps in the existing judicial system, but provide one route to get around them. For that reason, the necessary government cooperation might be difficult to secure. That said, the government has approved its own tribunals in the past, and may be amenable to more of this type. An essential component of realizing their potential will be to design the tribunals so that they are informed by local knowledge[185] and harness the social, political and institutional capital available at the local level[186]. Further research in this regard will be essential to inform project design.

3.5 Standardized Domain Modeling

Standardized Domain Modeling	Category
Technical Expertise Required	medium
Required Collaboration/Partnerships	medium
Cost Estimate**	low
Implementation Time Frame*	medium-term
Targeted Beneficiaries	Notaries, Surveyors, Lawyers, Judges, DGIs, ASECs CASECs, general rural population
Potencial Lead Organization	EI + CSI

*Time-frame: near-term medium-term long-term (imidiate implementation - 2yr)
**Cost: low medium and high (comparative analisys between recommendations)

Given the largely informal land tenure structure in Haiti, an internationally recognized modeling system could significantly increase awareness about land rights and provide vital information to advise any future developments in legal frameworks or land-rights formalization. With ownership mapping and the publication of informal land registration procedures, such a modeling system would greatly increase awareness and uniformity, helping to mitigate the issues noted in Section 2.5. Further, such a system would empower and inform land use planners on both the regional and local level, alleviating many of the negative effects of the current lack of land use planning as described in Section 2.9.

One of the most effective examples of this type of modeling system is the Land Administration Domain Model (LADM),an internationally recognized standard by the International Standards Organization (ISO/DIS 19152)[187]. LADM provides a basis for the development and refinement of land administration systems, enabling stakeholders to share descriptions of formal or informal practices and procedures in different contexts. Each community is empowered to record their own ownership patterns and informal land registration practices into the LADM where they are registered electronically. In doing so, the new LADM serves as a mechanism to inform individuals, land tenure system officials, and judges of the registration practices utilized in certain communities, including identifying registered owners of land, recognized by that particular community. In theory, the LADM can accommodate any legal framework, allowing flexibility in describing the persons and places involved and in the systematic recording of rights that are not title-based, as well as claims that may need adjudication. LADM is also useful in merging formal and informal land registration records into one data environment, which has been useful in preventing and mitigating conflicts in fragile countries such as Afghanistan[188].

One of the main advantages of LADM is that it could be implemented and maintained by one or multiple organizations at a local level and later scaled up to a national level[189]. Thus, CSI and other partner organizations in the region could implement LADM mechanisms in the communities in which they are most strongly connected and established. LADM would facilitate extensive information collection on land

use and rights that would not be apparent in official documents/titles and thus bridge the information gap between existing records and local realities. The use of LADM could allow standardization of mapping activities between ONACA and NGOs and help with information sharing to facilitate the development of the national cadaster. While a lack of political will has halted ONACA's execution of a similar framework in building a national cadaster, LADM would be a bottom-up approach that would only require the consent of communities rather than the national government. As the number of communities utilizing LADM increases in spread and number, efforts could be made to share this information across regions, and eventually nationally.

The main disadvantage of an LADM system is its complexity. Such an extensive information-collection initiative may require significant amounts of labor and time that government agencies or NGOs are unwilling to invest. On the other hand, some land users may be hesitant to reveal information for various reasons, while attempts to determine and record land rights may provoke conflict. In the end the success of the model depends on the buy-in from organizing NGOs and the communities in which implementation would occur. If all parties involved can be convinced of the benefits of such a system via Civic Engagement, the resulting increases in transparency and uniformity will play a large role in reducing land tenure-related conflict.

3.6 Watershed Planning

Watershed Planning	Category
Technical Expertise Required	**high**
Required Collaboration/Partnerships	**high**
Cost Estimate**	**high**
Implementation Time Frame*	**medium-term**
Targeted Beneficiaries	Notaries, Surveyors, Lawyers, Judges, DGIs, Mayors, general rural population
Potencial Lead Organization	EI + CSI

*Time-frame: near-term medium-term long-term (imidiate implementation - 2yr)
**Cost: low medium and high (comparative analisys between recommendations)

In order to address the previously mentioned environmental degradation and land fragmentation problems, a participatory planning process based on land-use zoning at a regional scale is also recommended. This regional planning process should acknowledge: i) the characteristics and constraints of the different ecosystems[190]; ii) the importance of CBOs working with rural development[191]; iii) the diverse set of land property schemes; iv) the necessity to improve the economic benefits from rural activities; and v) the existing scientific knowledge held by national and international NGO's working in the region.

This participatory land-use planning process should first target the stabilization and recovery of important environmental functions that have been compromised due to improper land-use and resource extraction strategies. Second, it must be financially feasible and locally beneficial to farmers. Third, a watershed planning exercise should also improve the way rural development investments from different sources are made in the region. And finally, since a participatory planning process will necessarily promote collective agreements regarding land use, it should also improve the land tenure system by strengthening alternative land-management practices and minimizing land-related conflicts. Building on the current work being done by the existing CBOs is also important to enhance local capacity and to assure that the outcome of this participatory process is relevant at the local level.

There are several planning methodologies that have been used internationally that should be considered when designing a regional planning process suited to Haiti. The FAO's Agro-Ecological Zoning Guidelines are well-established methodology in which the purpose of zoning, as carried out for rural land-use planning, is used to identify areas with similar sets of potentials and constraints for development[192].

An additional component should also be added to this planning process, which incorporates socio-economic regional differences. In the Port-à-Piment watershed, for example, different farming practices and land tenure schemes exist in the mountains (near Park Macaya) and along the coast (near Port-à-Piment). The economic-ecological zoning (EEZ) approach aims to ensure that the different interests, opportunities and constraints of each stakeholder are properly evaluated and incorporated into the zoning process. The EEZ has been widely used in Brazil to improve the occupation of the Amazon biome and to minimize negative anthropogenic impacts on the forest.

In recent years however, this methodology has incorporated the use of software and GIS data that has increased the complexity of and requirement for detailed environmental information[193]. The requirements for scientific and technical data versus the agility of implementation of the planning process must be assessed to assure community participation, minimize frustration of stakeholders and increase buy-in from communities and local governments. The process must also integrate and involve a wide spectrum of stakeholders, including local governments, community leaders, CBOs, cooperatives, NGOs and other development stakeholders.

3.7 Proposed Implementation Strategy of the Recommendations

The recommendations described above are responses to the gaps identified by the research team. Figure 6 maps their relevance to the land conflict resolution and expected impact, based on the knowledge of previous implementations and current situation in *Côte Sud*. These recommendations do not require a specific sequence of implementation. Each of the proposed interventions can be implemented independently. However, taking into consideration complexity, cost, and duration of each individual recommendation, we suggest the implementation strategy presented in Figure 7 to optimize the effectiveness of these interventions.

Figure 6: Relative Relevance and Impact of Recommendations

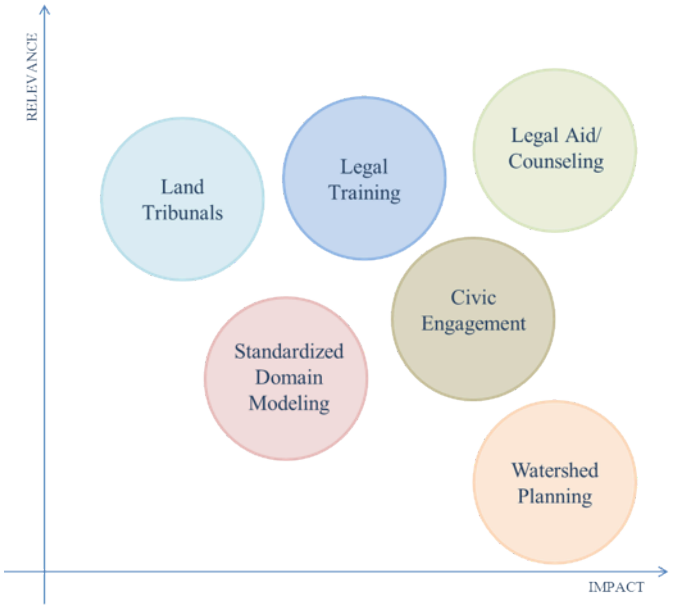
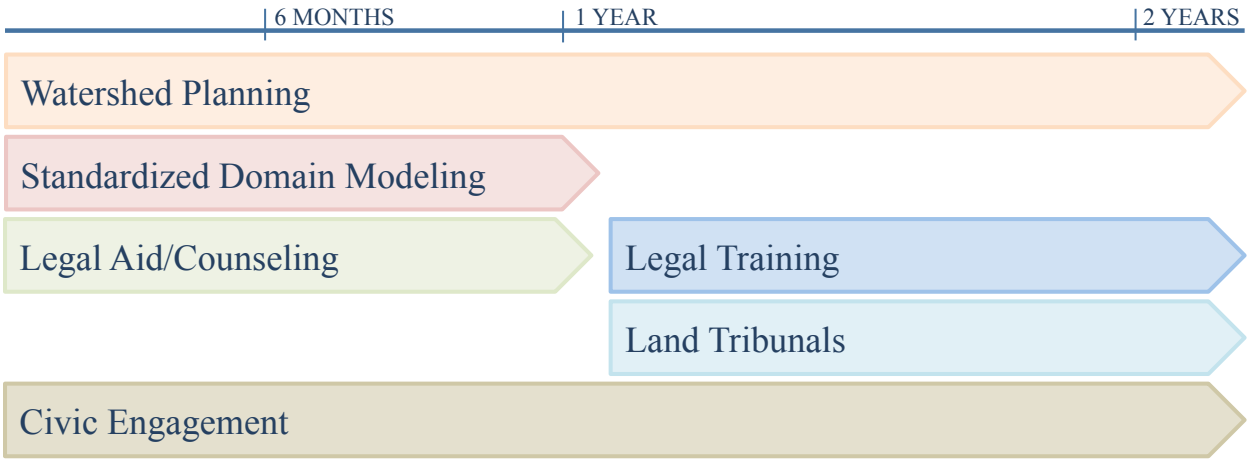


Figure 7: Recommendations Sequence



In order to minimize current sources of land tenure conflicts the first proposed interventions is the Legal Aid/Counseling. Next, the Legal Training and the Land Tribunals could be implemented simultaneously, leveraging the legal expertise necessary for one initiative to implement the Land Tribunals. The Standardized Domain Modeling and the Watershed Planning recommendations are structuring initiatives that should be implemented as soon as possible since they will provide valuable insights regarding the other recommendations. Finally, the Civic Engagement initiative should be used to increase public awareness and to engage the wider public in the processes and services generated by all other initiatives. Figure 8 provides a summary of the recommendations, relative weighted significance of various factors, targeted beneficiaries and potential lead organizations for consideration of implementation.

Figure 8: Prioritization of Recommendations

RECOMMENDATIONS	Technical Expertise Required	Required Collaboration/ Partnerships	Cost Estimate**	Implementation Time Frame*	Targeted Beneficiaries	Potential Lead Organization
Civic Engagement	Low	Medium	Low	Near-term	General Rural Population	CSI + Local/Community Radio Stations
Legal Training	High	Medium	Medium	Medium-term	Notaries, Surveyors, Lawyers, Judges, DGIs	EI + Property Law Working Group (PLWG)
Standardized Domain Modeling	Medium	Medium	Low	Medium-term	Notaries, Surveyors, Lawyers, Judges, DGIs, ASECs CASECs, General Rural Population	EI + CSI
Legal Aid/Counseling.	High	High	High	Medium-term	Notaries, Surveyors, Lawyers, Judges, DGIs	EI + CSI + CRS, Property Law Working Group (PLWG), judges, lawyers
Land Tribunals	High	Medium	High	Medium-term	ASECs, CASECs, Les Notables, General Rural Population	EI + CSI + CRS, Property Law Working Group (PLWG), judges, lawyers
Watershed Planning	High	High	High	Medium-term	Notaries, Surveyors, Lawyers, Judges, DGIs, Mayors, General Rural Population	EI + CSI
Use of Upcoming Household Survey	Low	Low	Low	Near-term	NGOs, General Rural Population	EI + CSI

4. CONCLUSION

Violent conflict over land is not currently a serious concern, as articulated by the inhabitants of Haiti's *Côte Sud*. The project's research has concluded, however, that land ownership and boundaries are a common source of dispute and that communities are frequently unsuccessful in resolving their land tenure conflicts. In this context, population pressures, natural resource depletion and increasing property values due to capital and agricultural investment will likely increase the likelihood of conflict.

While all of the recommendations outlined in this report could be pursued simultaneously, implementing them in the order in which they are presented here would be the most effective and logical approach. The effects of foundational interventions like civic engagement will help build support for more complex and planning-intensive initiatives like LADM. Furthermore, former recommendations are of more dire need than latter recommendations in consideration of their ability to address the gaps laid out in Section 2. Recommendations like civic engagement, legal aid and counseling, and legal training will likely have greater impact and face less resistance than land tribunals, LADM, and land planning. In the end, the recommendations that are enacted should be done in consideration of the levels and nature of land conflict present at time of implementation.

This analysis has identified the most consequential and detrimental gaps in the current Haitian land tenure system, focusing on the aspects of the system that have the highest impact on resolving and creating conflict. Noting these gaps, possible interventions have been proposed that can collectively help reinforce the linkages between formal and informal dispute resolution, preventing and mitigating land tenure-related conflict. These recommendations are focused not on bringing in entirely new practices from foreign contexts, but rather, supporting and improving existing systems. For each of these recommendations, additional assessments should be conducted to better scale methods of implementation within the Haitian context and to determine the most appropriate response, beneficiaries and partner stakeholders. While the formal land tenure system works to build up enough political will for reform, these concrete measures can be taken to improve efficiency, increase awareness and transparency, and reduce conflict related to land tenure in *Côte Sud*; change can begin on the sub-national, grassroots level.

ANNEX

ANNEX 1: Land Tenure Manual

The notion of selling – Reference: Sales Act and Article 1367 of the Civil Code

- Convention by which a person referred to as a "seller" assigns its rights and claims on his property to another person named the "buyer" on payment of an agreed price.
- Haitian law recognizes only two types of sales: the sale and selling authentic sub-private seal.

The sale of forms and strengths of evidence

1. Bona fide sale: Reference: Theory of Evidence, Volume II (Civil Code)

A sale is a genuine transfer of ownership if done before a judicial officer, the notary, who has obeyed formal regulations. A "Deed of Sale" is drawn up by a public notary under the conditions of funding and through the completion of legally required law. Once drafted and signed, the document must be transcribed and filed by the Registration Service of the General Taxation Directorate (DGI).

2. Sale under private seal: Reference: Theory of Evidence, Volume II (Civil Code)

This refers to a private sale that is done informally. It is a simple act of proving the parties' agreement on the sale of a good or service in exchange for an agreed amount. In order for seals to be valid to third parties, the Registration Service at DGI must transcribe the documents.

3. Evidence forces

Both of the above-mentioned transactions are valid under law, but deeds from notaries provide a legal guarantee of the transaction. The Deed of Sale provides full credibility to the agreement between parties to a transaction. The Deed of Sale is officially dated the day that it is signed by the parties, whereas the official date for Private Seals is recorded based on the date of registration.

Parties to sale contract and the notion of talks

1. Individuals: If the seller/buyer is a Haitian citizen, they must provide as applicable their identity card or number tax, their national identification card, their marital status (e.g., certificates of marriage, divorce, or death in case of widows) and their affidavit of inheritance.

2. Corporations: If the seller/buyer is a Haitian company, foundation or association, and must submit proof of public or legal registration, a report authorizing an individual to sign for the transfer of ownership on behalf of the corporation and a copy of the license and tax registration card for the corporation.

3. Haitian expats living abroad: Absentee owners must appoint an attorney to represent them in the sale. This can be done in two ways: i) a mandate from a Haitian Consulate notarized by the Ministry of Foreign Affairs; or ii) a warrant from a foreign notary legalized by the Haitian Consulate and the Ministry of Foreign Affairs.

4. Haitian government: In the case of Private State Property (not for community use), the sale of this property must be authorized by Parliament (they must pass legislation authorizing the sale); once authorized, the Director of DGI has the sole authority to sign this act on behalf of the state (according to the Act of July 29, 1927). Under current Haitian law, Municipal Assembly must be consulted for the sale of state land (according to Article 74 of the 1987 Constitution). Farmers renting state land for more than five years have the right to property. The state may also expropriate private land for sale to a private party, as long as the expropriation provides benefits for the public (e.g., for hotels to promote tourism), however such an action cannot be ordered by presidential decree.

   In the case of Public State Property (e.g., coastal land, water and underground resources, according to Article 36-5 of the 1987 Constitution), this property is appropriated to public use to serve the entire population, thus it must remain public land.

Exceptional conditions for foreigners

1. Foreign individuals: must provide Resident Permits, Authorization from the Ministry of Justice, their Civil Status and appropriate mandate.

2. Foreign corporations: must provide legal documentation proving their registration in their country of origin and authorization from the company allowing an individual to sign on behalf of the company. For both documents, originals and French translations must be provided. These documents must be legalized by the Ministry of Foreign Affairs in Haiti or, where appropriate, a Haitian Consulate. Foreign corporations must also obtain authorization from the Haitian Ministry of Interior to acquire property (according to the Act of June 16, 1975 and modification by the Act of September 20, 1979).

3. Exceptions to the law: If foreigners already own property and would like to enlarge this property through acquisition of additional property, they can simply send a request to the Ministry of Interior, which is authorized to grant such permission. Foreigners may also form companies in Haiti as long as a sole shareholder of Haitian nationality participates, holding a minimum of one share in capital.

The notion of talks and sale agreements

A preliminary agreement of sale, or "promise to sell", can be made while the completion of legal and administrative tasks are pending. With a "promise to sell", if either party stops the transaction during this pending period, the agreement entitles the other party to compensation for a breach of the agreement.

Intervention of legal professionals

1. Surveyor and the report of survey: the procedures for surveying are as follows.
   - Submission of original title and identity card
   - Submission of dossier to the prosecutor and the Court of First Instance for permission to survey
   - Inform neighbors once authorization is received
   - Record and transcribe the report (IMB)

b

- Issue the minutes of surveying including the path, survey plan and mentions of recording and transcription.
- File the original document signed by all parties (the minute) in the surveyor's archives.

During the survey, a third party may prevent the surveying operation through "opposition". To respond to an opposition and continue surveying, parties must go to the Peace Court within eight days, upon which the judge may dismiss the opposition and order continuation of the operation or accept the opposition and order the parties to bring an action for recovery.

2. Notary: The notary provides authentic character and date certification, as well as filing original minutes, to issue authoritative documents known as dispatch. The notary receives the title of the seller, seeks information on the mortgage status of the property, verifies the authenticity of documents submitted by the seller, determines the ability of parties to buy or sell, observes the transfer of title, undertakes the recording and transcription of transactions for DGI and ensures payment of taxes related to transactions. Proceedings before the notary include analysis of Award of Deeds, request of other necessary documents for transaction, "Agreement to Sell" (optional), determination of mortgage situation, development of the Bill of Sale and Receipt of the value of transaction costs, sign and transmit documents bearing the seal of the Notary service Recording and Transcription, payment of taxes to DGI and provision of recovery receipts, and delivery of the deed to the purchaser with the following items:
    - Former title (initialed);
    - Minutes of survey;
    - In the case of sale of structures, proof of payment of electricity bills and receipts for payment of tax on developed property for the current and previous five years; and
    - Old titles or survey.

The original Bill of Sale signed by the parties to the transaction will remain in the notary's archives.

Legal guarantees of sale

1. Guarantees: an individual can seek justice regarding a building they claim as theirs, even without formal title, to stop a disorder caused by another person (according to Section 39 of the Code of Civil Procedure). Such possessory action is done through the local Court of Peace, with exception of the cities of Gonaives and St Mark.

   Affirmative action to claim allows a true owner to recover property in the event their title is challenged. This action is taken before the Court of First Instance; judges assess the validity of information regarding the origin of property based on the dates of recording and transcription by DGI (according to the Haitian Civil Code of 1836.

2. Questioning of legal professionals
    - *Disciplinary measures*: if doubt persists on the accuracy of an act, the prosecutor may summon the notary for questioning on procedures to determine that procedures were correctly followed. The prosecutor may also summon surveyors.
    - *Liability*: in the event that a notary or surveyor is found guilty of failure to comply with procedures, they may be removed from their position and the affected party may demand compensation for losses incurred as a consequence of such discrepancies (according to section 11168 of the Civil Code: "Legislation on Notaries and Surveying").

c

Costs of action

1. Surveyor: cost depends on the size of the property in terms of square meters, which may be 10,000 gourdes for areas below 500 m^2, 15,000 gourdes for areas between 500 m^2 and 1,000 m^2, and 50,000 gourdes for one "tile earth" (according to the Decree of February 26, 1975: "Fee schedule and surveyors").

2. Notary: Fees to the buyer can range from 1.5 to 2.5 percent of the amount of the sale (generally it is 2 percent, but complex sales may increase rates); additional charges may apply if further documentation is required for the transaction. There is no charge for the seller unless the case is complex; a flat fee not to exceed 0.75 percent of the transaction amount is charged.

Fiscal costs

1. Seller: A gain tax (no fixed scale) on profits incurred through the sale is required based on a set of criteria for the previous acquisition, the number of years the seller owned the property and changes to the land (according to Act Gain Taxes decree of October 5, 2005, Article 100). In the event of a sale by individuals who inherited land, an additional "transfer fee" tax is applied which varies between 3 and 9 percent of the sale amount, depending on the relationship between the deceased and the heirs (according to the Act of September 28, 1977). An additional 1 percent of the transaction value must be added as an overhead charge for DGI.

2. Buyer: The buyer must pay a registration fee (3 percent), the right of transcription (1 percent), the write permission (6 gourdes), the right of proportional selling price (0.2 percent), stamps (17.50 gourdes), and one percent of the sale price (according to the Decree of September 28, 1977). However, public utility organizations recognized by the Haitian government are exempt from registration; they are only required to pay the transcription right service to the Land Conservation. An example of such exemptions includes religions organizations.

d

ANNEX 2: Relevant Items From the "Rural Code"

This section provides an overview of laws, as well as penalties, applicable to the Haitian Rural Code, as summarized by Jean Vandal. The Rural Code was adopted on May 24, 1962, which updated the earlier code of 1864 and aimed to promote economic, social and moral progress of rural populations in line with the Constitution of 1957. The following sections are relevant to land tenure.

Law IV (p. 41): Agricultural/Rural Property/Goods

Chapter I - Rural Property

- Article 20: Rural property is regulated by the Civil Code.
- Article 21: The landowner is obliged to cultivate, exploit and protect the land in accordance with the current code on farming (code des cultures) as well as the agricultural law.
- Land can be developed as farms, planted fields or a garden (no farmhouses, barns etc are permitted).
- Article 27: The rural property belonging to farmers (peasants) cannot be sold with 'buy back' and cannot be mortgaged with an option to settle out of court in case of default.

Chapter II – Obtaining the right of improvement on the land

- The "Accession Right" extends ownership of the land to include that which is built on it, improves it and/or arises from its cultivation.

Chapter III – Usufruct

- Article 31 (also regulated by the Civil Code): The person using the property (the person holding "usufruct") can claim the costs of improvements to the land, unless otherwise stipulated or if the usufruct is more than 20 years old.

Chapter IV – Servitude (Obligations of the Owner)

- The Civil Code regulations related to servitudes/obligations are also applicable to rural/agricultural land/goods.
    - Example 1: Owners can't cut/stop the flow of water to properties downstream. If the owner of a downstream property needs access to an upstream property to improve water flow and if the two owners cannot agree, they must go to court.
    - Example 2: Neighbors share the cost of fencing.

Law V (p. 44): Cultivation, exploitation/development & protection of the earth

- Article 41: Cultivation and protection of the earth is a social function.
- Article 42: Freedom to work the land is under the control of and ensured with the assistance of the state, the Communes and the Councils of the Administration and the Rural Sections.
- Article 43: All individuals, entities and collectives having ownership or use of agricultural land are responsible for the development and use of that land.
- Article 44: Collectives have special rights/protections when they are dedicated to cultivation/exploitation or the protection of the earth.

e

- Article 63: It is illegal to deforest or clear any land with a slope of more than 30 degrees (in an arid zone) 40 degrees (in a semi-arid zone) and 50 degrees (in a wet zone). The Presidential Decree on the Protection of Trees also addresses this on p. 111 in the appendix.
- This section covers regulations regarding what kind of land can be deforested and for which reasons.

Chapter II – Agricultural Cooperatives (p. 51)

- In each Rural Section the Council of Administration will promote the formation of agricultural cooperatives.
- A non-exhaustive list of kinds of cooperatives is available on page 51.
- The national government will offer financial and technical aid to cooperatives, including tax exoneration and state credits.

Law VII – Bodies of water, irrigation and drainage

Chapter I – Surface Water

- Natural bodies of water belong to the state but owners of land on which they are found have use rights under certain conditions. This includes underground sources of water, irrigation and drainage.

Chapter II – Reserved Forests

- Forests are reserved if they protect water catchment areas or mountaintops and their slopes are greater than 60 degrees.

Law XIX (page 83): Conventions

- Agricultural Land Leases will be regulated through the Civil Code, the Rural Code and local custom.
- Lease durations and conditions are covered in this section.

Law XVII (page 89): Boundaries and proof of ownership

- Boundaries, staking and general land markers can be undertaken if needed with the help of the Administrative Council of the Rural Section.
- This law also covers the resolution of disputes.

APPENDIX : Eminent Domain (p. 216–232)

- Eminent Domain can only be exercised for public purpose and must provide fair compensation.
- Causes of and declaration of public use/interest are listed on pp 219-220.

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ANNEX 3: Framework Utilized for Analysis and Categorization of Land Tenure Topics[194]

TENURE TYPES

Forms of land/resource holding

- Private ownership
- Collective ownership
- Common ownership
- Customary and informal tenure
- Concession
- Leasehold
- Use right
- Squatting
- Marital property

Pattern of land/resource holding

- Landlessness
- Ownership/access by women (within a household and as head)
- Ownership/access by marginalized groups
- Ownership/access by commercial interests
- Ownership/access by foreign interests

Means of acquiring land/resources

- Purchase
- Inheritance
- Distribution programs
- Regularization
- Restitution
- Privatization
- Leasehold
- Individualization
- Customary access rights
- Adverse possession
- Squatting

Changes in landholding patterns

- Land/agrarian reform
- Farm restructuring
- Individualization
- Involuntary resettlement
- Land allocation
- Land redistribution
- Market assisted land reform
- Privatization
- Urbanization

(continued)

Intra-household Changes

- Marriage
- Divorce
- Birth
- Polygamy
- Death

Rights, access, and management of natural resources

- Water
- Forests
- Pastureland
- Wetlands
- Sub-soil resources
- Reserves
- State lands

LEGAL FRAMEWORK

Laws

- Constitution
- Civil Code
- Land laws and regulations
- Land policy
- Inheritance laws
- Marital property laws
- Family law
- Land transfer/lease laws
- Mortgage laws
- Registration/titling laws
- Expropriation laws
- Forest laws
- Land taxation laws
- Land surveying and mapping laws
- City or town planning laws
- Condominium laws
- Protected areas laws
- Zoning laws
- Pastureland laws
- Environmental laws
- Land use regulations

Legal pluralism

- Religious law
- Customary law

Dispute resolution

- Judiciary
- Land/resource dispute bodies
- Customary dispute resolution bodies
- Arbitration and mediation

LAND AND NATURAL RESOURCE INSTITUTIONS

Institutions

- Land and natural resources-related ministries or departments
- Decentralized/local land and natural resources-related bodies
- Customary land tenure and natural resources allocation bodies
- Land administration
- Formal/informal recognition of land rights
- Registration/titling system
- Cadastre

Civil Society

- Legal aid
- Democracy and governance NGOs
- Land NGOs
- Women's NGOs
- Natural resources management NGOs

Private sector

- Private sector professional associations (lawyers, surveyors, valuers, real estate agents, bankers, and moneylenders)

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ANNEX 4: Questionnaire for Interviews in Port-à-Piment Watershed

QUESTION	STAKEHOLDERS						
INTRODUCTION	Community Groups	Religious Leaders	Asecs/ Casecs	NGOs	Surveyors	Magistrates/ Lawyers	Government Leaders
1. Name? Where are you from in Haiti? How long have you held this position?	X	X	X	X	X	X	X
2. Give us a brief description of what your organization does. What do you do on a day-to-day basis?	X	X	X	X	X	X	X
3. Do issues of land come to play in your work?	X	X	X	X	X	X	
STRUCTURE							
1. What are the different ways that people access land? Purchase? Lease? Inheritance? Informal arrangements?	X	X	X	X	X	X	X
2. What families, groups or institutions own most of the land?							
a. What percentage of land is owned by women? Are their rights as secure as men?							
3. Who uses land? What is land primarily used for in this region?							
4. What are the formal procedures for accessing, buying, selling and leasing land? Who does it?			X	X	X	X	X
a. Is the community familiar with the formal system of transfer of land rights?	X	X	X				
5. What are the informal ways in which land is acquired, accessed or transferred (without notaries, surveyors, government)?	X	X	X	X	X	X	X
a. Is it more common to follow formal procedures or informal means of land acquisition?	X	X	X	X	X	X	X
b. Which groups of people are more likely to use which means?							
6. What is the procedure for transfer of land ownership/rights by inheritance?	X	X	X	X	X	X	X
ISSUES							

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1. Are there arguments over land ownership? Are they common?	X	X	X	X	X	X	X
a. If so, in what ways has these arguments manifested? Tension? People not speaking to one another? Theft? Violence?	X	X	X	X	X		
b. How many parties are typically involved?	X	X	X	X	X		
c. Have there been any such conflicts since you have been in your position?	X	X	X	X	X		
2. Can you describe the most recent land dispute?	X	X	X	X	X		
a. Where did it occur? How long did it last? (Place on a timeline/ decision tree) How many parties were involved?	X	X	X	X	X	X	X
b. How was it resolved?	X	X	X	X	X	X	X
3. Can you describe the most violent (or most parties involved) dispute over land you can remember?	X	X	X	X	X	X	X
a. Where did it occur? How long did it last?	X	X	X	X	X	X	X
b. How was it resolved?	X	X	X	X	X	X	X
4. What are the most common causes of land disputes?	X	X	X	X	X	X	X
a. Inheritance, overlapping rights, access to natural resources, arbitrary taking of land	X	X	X	X	X	X	X
b. What happens in the event of a family breakup or a disagreement amongst family over land?	X	X	X	X	X		
5. In your view, are conflicts more likely to be on land that is owned, leased, or shared?	X	X	X	X	X	X	X
6. In your experience, what has worked best to resolve conflicts?	X	X	X	X	X	X	X
a. Do people come to local government to resolve land tenure disputes?	X	X	X	X	X	X	
7. Are land disputes ever resolved according to custom, including mediation by elders or traditional leaders?	X	X	X				X
a. Can you describe an example of how this happens?	X	X	X				X
8. What happens when there is a dispute between officially recorded land and customary land?	X	X	X	X	X	X	X

9. In your view, have the nature or frequency of conflicts changed in the last few years? If so, why do you think this is the case?	X	X	X	X	X	X	X
MOVING FORWARD							
1. What do you see are the major changes that need to take place with regard to land tenure?							
2. Do you foresee changes in land ownership/access/use in the near future?			X				X
b. If so, how would those changes be communicated to you and how would you communicate them to the communities?			X				X
3. What else would you like to know about land tenure?	X	X	X	X	X	X	X
4. Is there anything else you'd like us to know?	X	X	X	X	X	X	X
INFORMAL QUESTIONS TO ASK							
Who are the primary landholders in this area? (Ask informally)							
Are there requirements for land property in order to be eligible for development assistance (funding, technical support for infrastructure)?							
What is your relationship to these players?							

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ANNEX 5: Questionnaire for Interviews in Les Cayes and Port-au-Prince

Role/Objective	Questions	
Surveyor		
Survey the land and demarcate borders between landowners. Certify ownership through mapping.	1. Do you do mapping of the places in which you work?	1. Faites vous des cartographies des endroits dans lesquels vous travaillez?
State surveyor, but technically any surveyor can survey in any place in Haiti	a. If so, can we see those maps?	a. Si oui, pouvez-vous nous montrer ces cartes ?
	2. How much area have you surveyed?	2. Combien de zones avez vous étudié?
	Are you the only one who surveys the land? Or, do assistants do this?	
	What is the price?	
	3. How much land in the Port-a-Piment/Port Salut area has been surveyed?	3. Combien de terrains dans la zone du Port-a-piment/Port Salut ont été étudiés ?
	4. What happens when there are disputes while they're demarcating boundaries?	4. Que se passent-ils lorsque des conflits émergent tandis qu'ils délimitent les frontières ?
	5. Who are your main clients? How do you get new clients?	5. Qui sont vos principaux clients ? Comment trouvez-vous de nouveaux clients ?
	How many of your last clients were female?	
Notary		
Certify all documents on land tenure. Documents that they have signed are the "official" land tenure documents.	1. Are you involved with land disputes?	1. Etes-vous impliqués dans des conflits de terrains ?
	2. How do you certify documents?	2. Comment certifiez-vous les documents ?
	3. How often are your documents used in court cases?	3. À quelle fréquence vos documents sont-ils utilisés lors d'affaires judiciaires ?

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	What do you have to do to leave land to your children?	
	What can you do/not do when you are renting land?	
	How are records filed, where do they send the records to be stored?	
	4. What do you do if there are competing claims? What is the process to certify disputed areas?	4. Que faites-vous lorsqu'il y a des réclamations qui s'opposent ? Quelle est la procédure suivie pour certifier les zones contestées ?
Lawyers		
Officiate between disputing parties in the court system.	1. How are different types of disputes resolved?	1. Comment sont différents types de conflits résolus ?
	2. How often are legal rulings enforced?	2. À quelle fréquence sont les décisions judiciaires renforcées ?
	3. What type of training do you receive on land tenure?	3. Quel type de formation faites-vous sur la propriété terrienne ?
	Which laws do you use when you're dealing with land tenure issues?	
	4. Do you feel like you need more training on land tenure?	4. Croyez-vous avoir besoin de plus d'heures de formation ?
	5. What is the procedure for transfer of land ownership by inheritance?	5. Quelle est la procédure suivie lors d'une cession de propriété terrienne par héritage ?
	6. Can foreigners own land, or just Haitians?	
	7. QUESTION specific to legal code- What are the main laws and how are they applied?	6. Quelles sont les lois principales et comment sont-elles appliquées ?
INARA		
	Try to understand the country-wide situation	

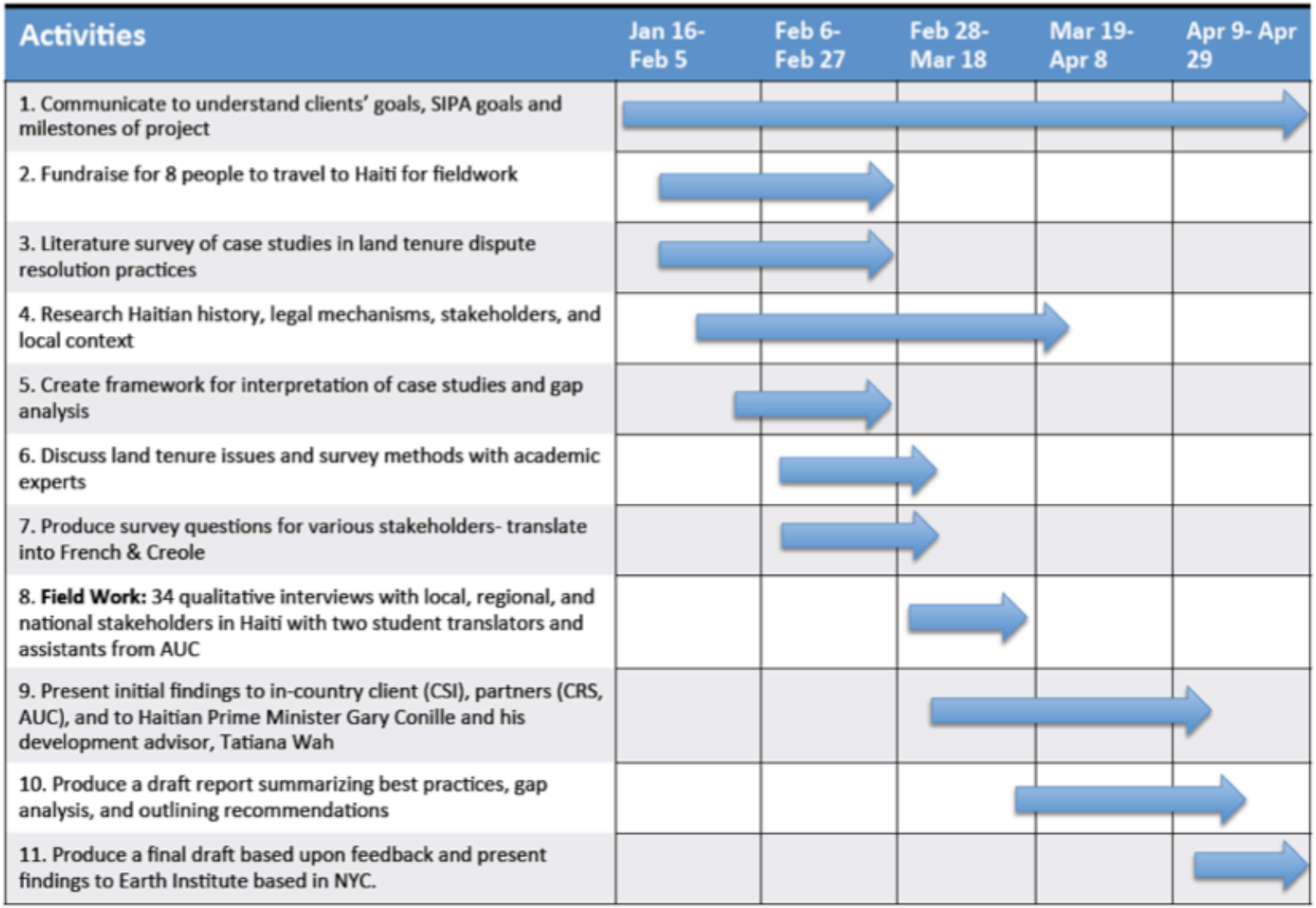
ONACA		
Try to understand how the system really works. It is not a player right now. Normally this is the org that deals with registering land, but it's not doing that now. We have to understand what ONACA is doing now, or what the state should be doing to help then work effectively. Head on ONACA has written a book-->we need to read.	1. Could you please provide an overview of the most recent developments in ONACA's project to formalize land tenure in Haiti?	1. Pouvez-vous résumer le plus récent développement qu'a connu le projet ONACA pour formaliser le droit à la terre en Haiti ?
	2. Are there any developments that are particularly relevant to the Port-à-Piment Watershed?	2. Pouvez-vous citer des développements qui seraient particulièrement pertinent concernant le Port-à-Piment Watershed ?
	3. What are the major priorities of ONACA going forward?	3. Quelles sont les principales priorités vers lesquelles ONACA avance ?
	4. What challenges does ONACA foresee in achieving these priorities?	4. Quels défi ONACA prévoit-il pour achever ces priorités ?
Courts (Judges)		
	1. How are different types of disputes resolved?	1. Comment sont la plupart des conflits résolus ?
	2. How often are legal rulings enforced?	2. À quelle fréquence les décisions judiciaires sont-elle renforcées ?
	3. What type of training do you receive on land tenure?	3. Quel type de formation recevez-vous sur le droit de terrain ?
	4. Do you feel like you need more training on land tenure?	4. Pensez-vous avoir besoin de plus d'entrainement sur ce sujet ?
	5. What is the procedure for transfer of land ownership by inheritance?	5. Quelle est la procédure suivie lors d'une cession de propriété terrienne par héritage ?
	6. Are you aware of anything that inhibits the ability of the Court to address land disputes?	6. Savez-vous ce qui pourrait entraver le pouvoir de la Cour pour adresser les conflits de terrain ?
	Court procedures	Procédure judiciaire
	Court evidence	preuve

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	Accessibility of individuals to courts	
	Average time frame for cases to be heard?	
	Arbitration mechanism?	
CIAT		
Very new. To understand what they are doing now.		
Lawyer (Port-au-Prince)		
What notaries and surveyors are doing in the system, with regards to law. She could give us some recommendations		
Architecture for Humanity		
What has his group learned over time? And where do they want to go with their work?		
Are there real estate companies?		
No school for surveyors in the South, how do they become a surveyor?	Can't just be diploma, you have to be nominated by ministry of justice	
How often are notary documents used in court cases?		

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ANNEX 6: Capstone Project Work Plan (January – May 2012)



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ANNEX 7: Works Cited

1. Adler, Daniel; Sage, Caroline; Woolcock, Michael Brooks World Poverty Institute - Interim Institutions and the Development Process: Opening Spaces for Reform in Cambodia and Indonesia (March 2009) Manchester: Brooks World Poverty Institute

2. Bloch, Peter; Lambert, Virginia; Singer, Norman Land Tenure Issues in Rural Haiti – A review of the evidence – Land Tenure Center Research Paper 94 (1988) University of Wisconsin-Madison

3. Buscaglia, Edgardo; Stephan, Paul "An Empirical Assessment of the Impact of Formal versus Informal Dispute Resolution on Poverty: A Governance-based Approach" *International Review of Law and Economics* (2005) 25; 89-106

4. CARE, 2001. "Incorporation of a Rights-Based Approach into CARE's Program Cycle: A Discussion Paper for CARE's Program Staff." July 2001. Accessed 8 Feb 2012. pp 16. < http://pqdl.care.org/Practice/Rights-Based%20Programming%20-%20Theory%20and%20Practice.pdf >

5. Center for Advanced Study Justice for the Poor? An Explanatory Study of Collective Grievances over Land and Local Governance in Cambodia (October 2006) Phnom Penh: World Bank; and

6. Daudelin, Jean Alternative Dispute Resolution in Land Conflicts

7. Dolisca, F. et al., 2007. Land Tenure, population pressure, and deforestation in Haiti: The case of Forêt des Pins Reserve. *Journal of Forest Economics* 12 (4) November

8. Environmental Law Institute (ELI), 2010. Land Tenure in Post-Earthquake Haiti: Challenges and Opportunities for Action.

9. Galanter, Marc; Krishnan, Jayanth; "Bread for the Poor: Access to Justice and the Rights of the Needy in India," *Hastings Law Journal* (2004) Vol. 55; 789-834

10. Government of Haiti, 1987. Constitution of the Republic of Haiti.

11. GTZ-Cambodia and The World Bank Towards Institutional Justice? A Review of the Work of Cambodia's Cadastral Commission in Relation to Land Dispute Resolution (October 2006) Washington: The World Bank

12. Habitat for Humanity, 2012. *Haiti Policy Report.* Habitat for Humanity International. January 5, 2012.

13. Hammergren, Linn. "Judicial training and justice reform". Center for Democracy and Governance, Bureau for Global Programs, Field Support, and Research, U.S. Agency for International Development. August 1998

14. IFC, 2011. Integrated Economic Zones in Haiti: Legal/ Regulatory/ Institutional Analysis. International Finacne Corporation. December 2011.

p

15. Jean, Leslie (ONACA Technical Director) and Williams A. Allonce (ONACA Director General). Personal interview. 16 March 2012 in Port-au-Prince, Haiti.

16. Library of Congress, 2006. *Haiti Country Profile: Haiti*. Federal Research Division, May, 2006. <http://lcweb2.loc.gov>

17. Maru, Vivek *Access to Justice and Legal Empowerment* (2009) Washington: The World Bank;

18. "NRC's Country Programme in Liberia: Fact Sheet". Norwegian Refugee Council. 15 August 2011. http://www.nrc.no/?did=9167938

19. Post Disaster Needs Assessment Group, 2010. Update, 9 March 2010. Online document. Accessed April 8, 2012 <http://groups.google.com/group/pdna-haiti2010>

20. Singhal, Arvind. "Riding High on Taru Fever." Entertainment-Education and Social Change Wisdom Series, 2010. Oxfam Novib. Pg. 2

21. Smucker, G.R. et al, 2000. *Land tenure and adoption of agriculture technology in Haiti.* CAPRi Working Paper No. 6. October GCIAR System-wide Program on Property Rights and Collective Action.; Miles, G., 2012. Personal correspondence.

22. *A Tentative Assessment* (March 2004) Ottawa: Carleton University

23. Torrel, David J. "Viewpoint: Alternative dispute resolution in public land management." Journal of Range Managemnt. 46(6), November 1993.

24. UNDP, 2011. International Human Development Indicators. Online. Accessed March 10, 2012. <http://hdrstats.undp.org/en/countries/profiles/HTI.html>

25. Unruh, Jon and Rhodri Williams. Land and Post-Conflict Peacebuilding. Page 66. Obtained from Columbia Courseworks "SIPA U9000_051_2012_1 Resources" at www.newcourseworks.columbia.edu

26. USAID, 2004. Land and Conflict: A toolkit for intervention.

27. Warzynski, Jill. "Haiti Memo: Working Paper". Environmental Law Institute.

q

ANNEX 8: Interviewees in Haiti

1. Agricultural Cooperative. Personal interview. 15 March 2012 in les Anglais, Haiti.
2. Asecs focus group. Personal interview. 16 March 2012 in Tiburon, Haiti.
3. Baguidy, Jean Marcel (*Hougan* [male voudou priest]). Personal interview. 15 March 2012 in les Cayes, Haiti.
4. Bernato, Charles Jr. Mari (Notary). Personal interview. 15 March 2012 in les Anglais, Haiti.
5. Bonhomme, Jean Edouard. (Regional Director of INARA). Personal interview. 13 March 2012 in Les Cayes, Haiti.
6. Cinea, William. (Professor of Agroforestry at the American University of the Caribbean). Personal interview. 12 March 2012 in Les Cayes, Haiti.
7. Elgorriaga, Jean Michel (CIAT). Personal interview. 16 March 2012 in Port-au-Prince, Haiti.
8. Etheart, Bernard (INARA National Director). Personal interview. 15 March 2012 in Port-au-Prince, Haiti.
9. Exantus, Gerard (President of the Courts). Personal interview. 12 March 2012 in Coteaux, Haiti.
10. Ewald, Chantal Hudicourt (Lawyer). Personal interview. 16 March 2012 in Port-au-Prince, Haiti.
11. Focus group. Personal interview. 14 March 2012 in Port-à-Piment, Haiti.
12. Fusnel, Estyl (DGI). Personal interview. 12 March 2012 in Coteaux, Haiti.
13. Gurrier, Luis Diminal (Notable pensioner). Personal interview. 15 March 2012 in les Anglais, Haiti.
14. Henry, Jean Claude Max (DGI Principle Inspector). Personal interview. 15 March 2012 in , Haiti.
15. Hypolite, Varnel (State Surveyor). Personal interview. 13 March 2012 in Les Cayes, Haiti.
16. Jean, Leslie (ONACA Technical Director) and Williams A. Allonce (ONACA Director General). Personal interview. 16 March 2012 in Port-au-Prince, Haiti.
17. Marie, Emile Rose (Deputy Mayor). Personal interview. 15 March 2012 in les Anglais, Haiti.
18. Mario, Gelvard (Judge Supplicant). Personal interview. 15 March 2012 in les Anglais, Haiti.
19. Michel, Raymond (DGI National Director of Private State Domain). Personal interview. 15 March 2012 in Port-au-Prince, Haiti.
20. Mickerlange, Elie (Movement Organization for the Development of Tiburon). Personal interview. 16 March 2012 in Tiburon, Haiti.
21. Nofeliz, Paul André (Casec) and Tymote, Luc Bertrand (Casec). Personal interview. 14 March 2012 in les Anglais, Haiti.
22. OFDAN (women's group). Personal interview. 15 March 2012 in les Anglais, Haiti.
23. Paul, Jules Esterlin (Lawyer). Personal interview. 12 March 2012 in les Cayes, Haiti
24. Raymond, Massony (*Hougan* [male voudou priest]). Personal interview. 27 March 2012 in , Haiti.
25. "Real Estate Agent" (declined to share name). Personal interview. 12 March 2012 in Les Cayes, Haiti.
26. Seigel, Frederique…. (Architecture for Humanity). Personal interview. 14 March 2012 in Port-au-Prince, Haiti.
27. Solomon, Mary Jean (Government Commissioner). Personal interview. 28 March 2012 in les Cayes, Haiti.
28. Sun, Jean (Mayor). Personal interview. 14 March 2012 in Chardonnier, Haiti.
29. Thys, Geffard (Surveyor). Personal interview. 12 March 2012 in Les Cayes, Haiti.
30. Toussaint, Godfred (Notary). Personal interview. 12 March 2012 in les Cayes, Haiti

r

31. Vanel, Louis Jean Jacques (Technical Supervisor), Kishner, Alex (Fondation Macaya) and Vital Hughes (Co-op/church member). Personal interview. 13 March 2012 in Randel, Haiti.
32. Vaval, Ezechiel (Dean). Personal interview. 13 March 2012 in Les Cayes, Haiti.
33. Vitale, Julnor (Notary). Personal interview. 12 March 2012 in Port-à-Piment, Haiti.
34. Women's Group. Personal interview. 16 March 2012 in Tiburon, Haiti.

ANNEX 9: End Notes

[1] Environmental Law Institute (ELI), 2010. Land Tenure in Post-Earthquake Haiti: Challenges and Opportunities for Action.

[2] Library of Congress, 2006. *Haiti Country Profile: Haiti*. Federal Research Division, May, 2006. <http://lcweb2.loc.gov>

[3] ELI, 2010

[4] IFC, 2011. Integrated Economic Zones in Haiti: Legal/ Regulatory/ Institutional Analysis. International Finacne Corporation. December 2011.

[5] Dolisca, F. et al., 2007. Land Tenure, population pressure, and deforestation in Haiti: The case of Forêt des Pins Reserve. *Journal of Forest Economics* 12 (4) November: 277-289.

[6] Library of Congress, 2006

[7] ELI, 2010.

[8] Post Disaster Needs Assessment Group, 2010. Update, 9 March 2010. Online document. Accessed April 8, 2012 <http://groups.google.com/group/pdna-haiti2010>

[9] Elgorriaga, Jean Michel (CIAT). Personal interview. 16 March 2012 in Port-au-Prince, Haiti.

[10] Habitat for Humanity, 2012. *Haiti Policy Report.* Habitat for Humanity International. January 5, 2012.

[11] ELI, 2010

[12] "Land Tenure in Post-Earthquake Haiti: Challenges and Opportunities for Action". Earth Institute, Columbia University and Environmental Law Institute. October 2010. Pg.6

[13] Government of Haiti, 1987. Constitution of the Republic of Haiti.

[14] Land Tenure, 2010, Pg. 21-22

[15] Land Tenure, 2010, Pg. 16

[16] Vaval, Ezechiel (Dean). Personal interview. 13 March 2012 in Les Cayes, Haiti.

[17] Haiti Organizational Frameworks: Executive, legislative, and judicial

[18] Warzynski, p. 2

[19] Land Tenure, 2010, Pg. 18

[20] Land Tenure, 2010, pp. 19-20

[21] Smucker, G.R. et al, 2000. *Land tenure and adoption of agriculture technology in Haiti.* CAPRi Working Paper No. 6. October GCIAR System-wide Program on Property Rights and Collective Action.; G. Murray (personal communication, February 2, 2012).

[22] "4. Why Land Tenure Should Be Considered in the Design of Projects." *Land Tenure and Rural Development*. Rome: Food and Agriculture Organization of the United Nations, 2002.

[23] ONACA, DGI, INARA, and CIAT

[24] OFDAN (women's group). Personal interview. 15 March 2012 in les Anglais, Haiti.

[25] Vaval, personal interview

[26] Etheart, personal interview

[27] Ewald, Chantal Hudicourt (Lawyer). Personal interview. 16 March 2012 in Port-au-Prince, Haiti.

[28] Elgorriaga, personal interview

[29] Marie, Emile Rose (Deputy Mayor). Personal interview. 15 March 2012 in les Anglais, Haiti.

[30] Ewald, personal interview

[31] Nofeliz, Paul André (Casec) and Tymote, Luc Bertrand (Casec). Personal interview. 14 March 2012 in les Anglais, Haiti.

[32] OFDAN, personal interview

[33] Vanel, Louis Jean Jacques (Technical Supervisor), Kishner, Alex (Fondation Macaya) and Vital Hughes (Co-op/church member). Personal interview. 13 March 2012 in Randel, Haiti.

[34] Ewald, personal interview

t

[35] Exantus, Gerard (President of the Courts). Personal interview. 12 March 2012 in Coteaux, Haiti.
[36] Elgorriaga, personal interview
[37] Nofeliz and Tymote, personal interview
[38] Gurrier, Luis Diminal (Notable pensioner). Personal interview. 15 March 2012 in les Anglais, Haiti.
[39] Hypolite, Varnel (State Surveyor). Personal interview. 13 March 2012 in Les Cayes, Haiti.
[40] Seigel, Frederique. (Architecture for Humanity). Personal interview. 14 March 2012 in Port-au-Prince, Haiti.
[41] P.4-6
[42] Etheart, personal interview
[43] Vanel, Kishner and Hughes, personal interview
[44] Fusnel, Estyl (DGI). Personal interview. 12 March 2012 in Coteaux, Haiti.
[45] Michel, Raymond (DGI National Director of Private State Domain). Personal interview. 15 March 2012 in Port-au-Prince, Haiti.
[46] Bonhomme, Jean Eduoard. (Regional Director, INARA). Personal interview. 13 March 2012 in Les Cayes, Haiti.
[47] Fusnel, personal interview
[48] Sun, Jean (Mayor). Personal interview. 14 March 2012 in Chardonnier, Haiti.
[49] Paul, Jules Esterlin (Lawyer). Personal interview. 12 March 2012 in les Cayes, Haiti
[50] Ewald, personal interveiw
[51] Vanel, Kishner and Hughes personal interview
[52] Exantus, personal interview
[53] ibid
[54] Elgorriaga, personal interview
[55] Fusnel, personal interview
[56] Ewald, personal interview
[57] Paul, personal interview
[58] Exantus, personal interview
[59] Ewald, personal interview
[60] Ewald, personal interview
[61] Elgorriaga, personal interview
[62] Ewald, personal interview
[63] ELI, 2010.
[64] Sun, personal interview
[65] Nofeliz and Tymote, personal interview
[66] Focus group. Personal interview. 14 March 2012 in Port-à-Piment, Haiti.
[67] Raymond, Massony (*Hougan* [male voudou priest]). Personal interview. 27 March 2012 in , Haiti.
[68] Nofeliz and Tymote, personal interview
[69] OFDAN, personal interview
[70] Women's group. Personal interview. 16 March 2012 in Tiburon, Haiti.
[71] Focus group, personal interview
[72] Sun, personal interview
[73] Raymond, personal interview
[74] Nofeliz, personal interview
[75] Raymond, personal interview
[76] Baguidy, Jean Marcel (*Hougan* [male vodou priest]). Personal interview. 15 March 2012 in les Cayes, Haiti.
[77] OFDAN, personal interview
[78] Raymond, personal interview
[79] Vaval, personal interview
[80] Vaval, personal interview. Michel, personal interview. Ewald, personal interview. Elgorriaga, personal interview.

u

[81] Ewald, personal interview
[82] ibid
[83] Exantus, Gerard
[84] Vaval, personal interview
[85] Vaval, personal interview
[86] Nofeliz and Tymote, personal interview
[87] Seigel, personal interview
[88] Ewald and Elgorriaga, personal interviews
[89] Geffard Thys, surveyor, 15 March 2012 (S-2.3) Thys, Geffard (Surveyor). Personal interview. 12 March 2012 in Les Cayes, Haiti.
[90] Etheart, personal interview
[91] Godfred Toussaint, personal interview
[92] Bernard Etheart, INARA National director, 15 March 2012 (S-10.19)
[93] Vitale, Julnore (Notary). Personal interview. 12 March 2012 in Port-a-Piment, Haiti.
[94] Etheart, personal interview
[95] ibid
[96] Nofeliz and Tymote, personal interview
[97] Exantus, Gerard (President of the Courts). Personal interview. 2 March 2012 in Coteaux, Haiti.
[98] Elgorriaga, personal interview
[99] Modernization of Cadastre and Land Rights Infrastructure in Haiti. Organization of American States. March 2010. Pg. 1
[100] Ewald, personal interview
[101] Elgorriaga, personal interview
[102] Etheart, personal interview
[103] ibid
[104] Modernization of Cadastre and Land Rights Infrastructure in Haiti. Organization of American States. March 2010. Pg. 11
[105] Thys, personal interview
[106] Jean, Leslie (ONACA Technical Director) and Williams A. Allonce (ONACA Director General). Personal interview. 16 March 2012 in Port-au-Prince, Haiti.
[107] Modernization of Cadastre and Land Rights infrastructure in Haiti
[108] Etheart, personal interview
[109] Jean and Allonce, personal interview
[110] Elgorriaga, personal interview
[111] Seigel, personal interview
[112] Jean and Allonce, personal interview
[113] ibid
[114] Hypolite, personal interview
[115] Jean and Allonce, personal interview
[116] ibid
[117] ibid
[118] Ewald, personal interview
[119] Seigel, personal interview
[120] Elgorriaga, personal interview
[121] ibid
[122] ibid
[123] ibid

[124] Modernization of Cadastre and Land Rights Infrastructure in Haiti. Organization of American States. March 2010. Pg. 12
[125] Ewald, personal interview
[126] Marie, Emile Rose (Deputy Mayor). Personal interview. 15 March 2012 in Les Anglais, Haiti.
[127] ibid
[128] Agricultural Cooperative. Personal interview. 15 March 2012 in Les Anglais, Haiti.
[129] Ewald, personal interview
[130] ibid
[131] Elgorriaga, personal interview
[132] Ewald, personal interview
[133] ibid
[134] Seigel, personal interview
[135] Ewald, personal interview
[136] Vanel, Kishner and Hughes, personal interview
[137] Gurrier, personal interview
[138] Ewald, personal interview
[139] Fusnel, personal interview
[140] Exantus, personal interview
[141] Gurrier, personal interview
[142] Henry, Jean Claude Max (DGI Principle Inspector). Personal interview. 15 March 2012 in les Anglais, Haiti.
[143] Focus group, personal interview
[144] Gurrier, personal interview
[145] Nofeliz and Tymote, personal interview
[146] OFDAN, personal interview
[147] Bernato, Charles Jr. Mari (Notary). Personal interview. 15 March 2012 in les Anglais, Haiti.
[148] Nofeliz and Tymote, personal interview
[149] OFDAN, personal interview
[150] Baguidy, personal interview
[151] Touissant, personal interview
[152] OFDAN, personal interview
[153] http://minds.wisconsin.edu/handle/1793/34172
[154] Vaval, personal interview
[155] Etheart, personal interview
[156] Ewald, personal interview
[157] Elgorriaga, personal interview
[158] Vaval, personal interview
[159] Mickerlange, Elie (Movement Organization for the Development of Tiburon). Personal interview. 16 March 2012 in Tiburon, Haiti.
[160] Gurrier, personal interview
[161] ibid
[162] Vanel, Kishner and Hughes, personal interview
[163] ibid
[164] Mario, personal interview
[165] Women's group in Tiburon, personal interview
[166] Mickerlange, personal interview
[167] Torell, David J. "Viewpoint: Alternative dispute resolution in public land management." Journal of Range Management. 46(6), November 1993. Pg. 71

w

[168] Arnold, A. 2012. "Let Me Entertain You." blogs.worldbank.org. 1/18/2012. Accessed 5/2/12. <http://blogs.worldbank.org/publicsphere/let-me-entertain-you>

[169] Hammergren, Linn. "Judicial training and justice reform". Center for Democracy and Governance, Bureau for Global Programs, Field Support, and Research, U.S. Agency for International Development. August 1998

[170] Jean and Allonce, personal interview

[171] Seigel, personal interview

[172] Seigel, personal interview

[173] "Land Tenure, pages 37-40

[174] Hammergren

[175] Unruh and Williams, p. 65-66

[176] "NRC's Country Programme in Liberia: Fact Sheet". Norwegian Refugee Council. 15 August 2011. http://www.nrc.no/?did=9167938

[177] Unruh, Jon and Rhodri Williams. Land and Post-Conflict Peacebuilding. Page 66. Obtained from Columbia Courseworks "SIPA U9000_051_2012_1 Resources" at www.newcourseworks.columbia.edu

[178] USAID, 2004. pp 16.

[179] Bloch, Peter; Lambert, Virginia; Singer, Norman Land Tenure Issues in Rural Haiti – A review of the evidence – Land Tenure Center Research Paper 94 (1988) University of Wisconsin-Madison

[180] Maru, Vivek *Access to Justice and Legal Empowerment* (2009) Washington: The World Bank;
Buscaglia, Edgardo; Stephan, Paul "An Empirical Assessment of the Impact of Formal versus Informal Dispute Resolution on Poverty: A Governance-based Approach" *International Review of Law and Economics* (2005) 25; 89-106

[181] ELI, 2010.

[182] Daudelin, Jean Alternative Dispute Resolution in Land Conflicts:
A Tentative Assessment (March 2004) Ottawa: Carleton University

[183] Galanter, Marc; Krishnan, Jayanth; "Bread for the Poor: Access to Justice and the Rights of the Needy in India," *Hastings Law Journal* (2004) Vol. 55; 789-834

[184] Center for Advanced Study Justice for the Poor? An Explanatory Study of Collective Grievances over Land and Local Governance in Cambodia (October 2006) Phnom Penh: World Bank; and
GTZ-Cambodia and The World Bank Towards Institutional Justice? A Review of the Work of Cambodia's Cadastral Commission in Relation to Land Dispute Resolution (October 2006) Washington: The World Bank

[185] Adler, Daniel; Sage, Caroline; Woolcock, Michael Brooks World Poverty Institute - Interim Institutions and the Development Process: Opening Spaces for Reform in Cambodia and Indonesia (March 2009) Manchester: Brooks World Poverty Institute

[186] Daudelin, Jean Alternative Dispute Resolution in Land Conflicts:
A Tentative Assessment (March 2004) Ottawa: Carleton University

[187] Unruh and Rhodri, p. 71

[188] ibid

[189] Inan, p. 2442

[190] Nofeliz and Tymote, personal interview

[191] *Asecs* Personal interview. 16 March 2012 in Tiburon, Haiti.

[192] http://www.fao.org/docrep/W2962E/w2962e-03.htm

[193] ibid

[194] USAID, 2004. Land and Conflict: A toolkit for intervention.