

ASIA-PACIFIC

Haitians must determine the future of Haiti

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In her book *Shock Doctrine*, journalist Naomi Klein shows in detail how crises have been used as opportunities to push through controversial economic policies while people were reeling from disasters or conflict and unable to mount any opposition to reforms. This 'shock doctrine' was first used in Latin America in the 1970s to transform South American economies with large-scale privatisations and deep cuts to social spending. Klein's review of humanitarian action and economic policy cannot be dismissed as paranoid antiglobalisation rhetoric. Joseph Stiglitz, Nobel Laureate and former Chief Economist of the World Bank, has written that 'the case against these policies is even stronger than the one Klein makes'.

Unfortunately Klein is also scathing of those who see disasters as 'opportunities for change', and conflates this with predatory behaviour. There is nothing wrong with seeing disasters as opportunities for change — indeed they should be. The fact that Haiti is densely populated and its infrastructure is poorly constructed has undoubtedly contributed to the massive death toll. Reconstruction efforts that do not see the earthquake as an opportunity to 'build back better' will leave Haitians as vulnerable to the next disaster as they were to this one.

The problem with shock doctrine is not the perception that disasters are opportunities for change, but that it uses crises to push through policies that could not be pushed through in times of stability. Less overtly predatory, but equally dangerous, is the 'tyranny of urgency' that allows some humanitarian workers to overlook the right of people to determine the direction of their lives and their country in relief and reconstruction. One striking example of this arises in relation to housing and land rights in the wake of a disaster.

As in many postcolonial societies, Haiti's housing and land rights are complex and unclear. Approximately half of the country's population are subsistence farmers who depend on the land for their livelihoods. They have small, fragmented farms that are owned under 'customary' arrangements which are largely undocumented and enforced by social arrangements, rather than the government. The other half of Haiti's population lives in the Port-au-Prince metropolitan area. UN-HABITAT estimates that 40 to 85 per cent of these people live in slum and squatter settlements with poor housing conditions, an absence of basic infrastructure, and unclear property rights. These sorts of conditions tend to foster vulnerability to disaster because informal settlers are often located

on hazardous land, in poorly constructed housing and without access to basic services or the disaster risk reduction planning.

It is exactly these sorts of property rights systems that the influential Peruvian economist, Hernando de Soto, addresses in his book *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. De Soto argues that informal property systems are an impediment to economic growth and poverty alleviation, because the poor are unable to convert their assets into capital, which they can then use to invest. The solution to poverty therefore lies in documenting and registering these informal property systems, for example by giving squatters title to the land they live on so that they can use it as collateral for credit.

De Soto's thesis places law at the centre of efforts to combat poverty. He finds that legal systems have failed to address the needs of the poor by formalising their property rights, and this should be addressed by legislative and administrative changes aimed at bringing the assets of the poor into the formal legal system. This idea has met with widespread approval amongst policy-makers and donors, notably The World Bank. It is likely to become particularly attractive in the aftermath of a disaster, when foreign humanitarian workers struggle to facilitate the reconstruction of housing and the return of displaced persons in a context of unclear property rights.

There is, however, ample evidence that the kinds of reforms proposed by de Soto regularly fail those who are most vulnerable to poverty and natural disasters, particularly informal landholders, widows and orphans. Legal anthropologists and feminist legal theorists have repeatedly noted that land registration projects tend to provide opportunities for privileged members of society to strengthen their control over land, while the rights of vulnerable groups such as informal landholders and women are undermined. Ambreena Manji, for example, has pointed out that the use of land as collateral for credit tends to disadvantage women, who are often coerced into land transactions and then left to farm mortgaged land. While these theorists are often divided about the benefits of informal tenure vis-à-vis the state, they agree that land formalisation projects need to be approached with caution and with adequate measures in place to protect the rights of those most vulnerable to poverty and the effects of disaster.

The likelihood of land formalisation projects increasing, rather than reducing, vulnerability, is particularly likely in a crisis situation. While humanitarian actors have a

broad range of assessment tools to use after a natural disaster, recovery issues including land and tenure issues are regularly overlooked in the rush to complete the initial assessments. For example, after the 2004 Indian Ocean tsunami, the NGO Garansi and the Indonesian Bureau of Statistics surveyed almost 350 000 displaced persons in Aceh and Nias. This survey generated age and gender disaggregated data on land issues that was essential to subsequent reconstruction efforts. However the survey took place *after* the preparation of the Master Plan for Rehabilitation and Recovery. As a result, the Master Plan itself did not adequately identify groups vulnerable to landlessness after the disaster, including informal landholders, widows, and those whose land had been submerged. By 2006, these vulnerable groups constituted substantial residual caseloads in the temporary living centres.

One approach to dealing with complex land issues in the aftermath of a disaster is the Reconstruction of Aceh Land and Administration System project ('RALAS') after the 2004 Indian Ocean tsunami. 75 per cent of land in Aceh was held under customary law, and while the remainder was registered, most of the records were destroyed in the disaster. RALAS adopted a participatory approach of community-based land mapping, adjudication and planning. This project has not always met its targets, and there has been mixed outcomes for gender-equitable titling. However the outcomes of the project stand in stark contrast with the experience of people from coastal areas in Thailand and Sri Lanka, who returned home to find that their land had been taken over by resorts or rezoned as buffer zones. In these contexts, land formalisation occurred

without community consultation and in an inequitable manner. As a result, this form of 'building back' could hardly be said to be 'better' in terms of addressing the vulnerabilities of the affected communities.

Disaster recovery and reconstruction efforts must obviously be as timely and rapid as possible, but participatory, human rights-based approaches cannot be overtaken by the 'tyranny of the urgent'. Acting without appropriate attention to human rights issues risks imposing unpopular foreign agendas on a local population, and overlooking critical issues and vulnerable groups. It also compromises the likelihood of reducing vulnerability and increasing resilience in the long term. This applies to all areas of recovery and reconstruction, but particularly to culturally and legally complex areas such as housing and land rights.

A torrent of money and aid will pour into Haiti in the coming days, weeks and months, and the people of Haiti are not in a position to negotiate the terms of that aid. Haiti's tragedy must be seen as an opportunity for timely, participatory, human rights-based reconstruction that builds Haiti back stronger than it was before.

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